

## CHAPTER 153: ZONING CODE

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## **§153.01 GENERAL PROVISIONS**

### **(A) Short Title**

This chapter shall be known as the Zoning Code and may be referred to as the “zoning code” or this “code.”

### **(B) Interpretation and Purpose**

The provisions of this chapter shall be the minimum requirements adopted for the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare. Where this chapter imposes a greater restriction upon the use of buildings or premises or upon heights of buildings, or requires larger yards, courts, or other open spaces than are imposed or required by other provisions of law or ordinance, the provisions of this chapter shall control.

### **(C) Construction Of Language**

**(1)** General rules for construction of language. The following general rules of construction shall apply to the text of the Zoning Code:

- (a)** The particular shall control the general.
- (b)** In case of any difference of meaning or implication between the text of any provision and any caption, table, or illustration, the text shall control.
- (c)** The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (d)** References in the masculine and feminine genders are interchangeable.
- (e)** The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (f)** The word “shall” is a mandatory requirement, the word “may” is a permissive requirement, and the word “should” is a preferred requirement.
- (g)** The words “used” or “occupied” include the words “intended,” “designed,” or “arranged” to be used or occupied.”
- (h)** The word “lot” includes the words “plot” or “parcel.”
- (i)** The words “activities” and “facilities” include any part thereof.
- (j)** The term “City of Silverton” or “City” shall mean the municipality of Silverton, Ohio, regardless of the classification of municipality established by the ORC as a City or Village.
- (k)** Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:
  - (i)** “And” indicates that all connected items or provisions shall apply.
  - (ii)** “Or” indicates that the connected items or provisions shall apply singly but not in combination.
  - (iii)** “Either or” indicates that the connected items or provisions shall apply singly but not in combination.
- (l)** The word “district” means a general zoning district established by this chapter, unless otherwise indicated by specific reference to another kind of district.
- (m)** All public officials, bodies, and agencies to which reference is made are those of the city unless otherwise indicated.
- (n)** The word “City” or “Municipality” means the City of Silverton, Ohio.

**(D) Separability**

Should any section of this Zoning Code be declared by a court to be unconstitutional or invalid, such a decision shall not affect the validity of this Zoning Code as a whole or any other parts thereof, other than the part declared unconstitutional or invalid.

**(E) Sale of Land Within a Subdivision**

No owner of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of, or by the use of a plat of the subdivision before such plat has been approved and recorded in the manner prescribed in these regulations. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations.

**(F) Compliance Required**

No structure, or part thereof, shall be placed upon or moved onto land, erected, constructed, reconstructed, enlarged, or structurally altered, nor shall any building or land be used or occupied which does not comply with the district regulations established by this Zoning Code for the district in which the building, structure, and/or land is located.

**(G) Penalty**

Whoever violates any provision of this Zoning Code, and fails to conform to any provision thereof or fails to obey any lawful order of the Zoning Enforcement Officer, issued in pursuance thereof, and for which no other penalty is provided is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense such person is guilty of a misdemeanor of the third degree. Each day's violation or failure to conform shall constitute a separate offense.

**(H) Definitions**

Unless the context otherwise requires, the following definitions shall be used in the interpretation of this Zoning Code.

**Abutting**

Having a common border with, or being separated from, such a common by a right-of-way, alley, or easement.

**Accessory Structure**

Any improvement to the property other than the main building(s), with the exception of landscaping, is an accessory structure. If a temporary building is placed on a property to provide extra space for expansion of a use, the temporary building shall also be an accessory structure.

**Accessory Use**

A use incidental to and on the same lot or property as the principal use.

**Agriculture**

The use of land exclusively for agricultural purposes including: farming, agriculture, horticulture, floriculture, viticulture, dairying, pasturage, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing of the products of same; provided that the operation of such accessory uses shall be secondary to that of the normal agricultural activities. A use shall be classified as agricultural only if it is the principal or main use of the land.

**Alley**

A public or private thoroughfare which affords only a secondary means of access to a lot or abutting property and being less than 21 feet in width.

**Alteration**

Any change, addition, or modification in construction or occupancy of an existing structure.

**Animals (as Pets)**

Any species of felis catus and canis familiaris and other animals commonly kept as domestic pets.

**Animals (Exotic)**

Any cat, other than felis catus; any canine, other than canis familiaris, non-human primates; poisonous reptiles; alligators, crocodiles or lizards over two feet long; snakes over six feet long; bears; kangaroos; eagles; poisonous stinging insects; or arachnids.

**Animals (Farm)**

All species of animals not classified as an exotic animal or an animal as a pet in these definitions.

**Apartment**

See "dwelling, multiple-family," as defined in this section.

**Assisted Living Facility**

A program that provides and/or arranges for daily meals, personal and other supportive services, health care and 24-hour oversight to persons residing in a group residential facility who need assistance with the activities of daily living. The "activities of daily living" are generally considered to include eating, bathing, dressing, getting to and using the bathroom, getting in or out of bed or chair, and mobility. Assisted living facilities generally serve a broad range of elderly (60 to 90+ years of age) becoming, in effect, a bridge between active retirement living and, for some, care in a nursing facility.

**Automated Teller Machine (ATM)**

A pedestrian-oriented machine used by bank and financial service patrons for conducting transactions including deposits, fund transfers, and withdrawals without contact with financial institution personnel. The machines may be located at or within a bank, or in other locations.

**Automobile Sales**

An open space area, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done, including farm implements, boats, motorcycles, bicycles, and lawnmowers. This definition also applies to the sales of trailers.

**Automotive Gasoline Stations**

commercial business which conducts the retail sale of motor vehicle and related petroleum-based fuels including but not limited to gasoline, diesel, ethanol, and propane fuels. Automobile service and repair is not included. The sale of other commercial retail goods such as limited food, beverage, and other convenience items is permitted on a limited scale.

**Automotive Service Station**

Establishment primarily engaged in automotive repair, including the sale and installation of lubricants, tires, batteries, mufflers, and similar accessories.

**Automotive Wash or Automotive Car Wash**

See "car wash," as defined in this section.

**Awning**

A permanent shelter supported entirely from the exterior wall of a building and composed of rigid or non-rigid materials.

**Banks and Financial Institutions**

Commercial banks, savings and loan associations, credit unions, brokerage offices, and other similar financial institutions, but not including pawnshops, check cashing establishments or payday loan businesses.

**Bar, Tavern, or Cocktail Lounge**

Any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded by law. It shall not mean a restaurant wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and minors are not prohibited from dining.

**Basement**

That portion of a building below or immediately above grade and not used for habitation. A basement shall not be considered as a story, if the floor level is not less than three feet, six inches below the average grade at the exterior walls of the building.

**Bed And Breakfast Lodgings**

A dwelling wherein lodging and/or food is provided by a resident family primarily for transient guests, as distinguished from a boarding house, hotel, or motel.

**Block Face**

All lots that have frontage on the same street as the subject lot between an intersecting street or other boundary.

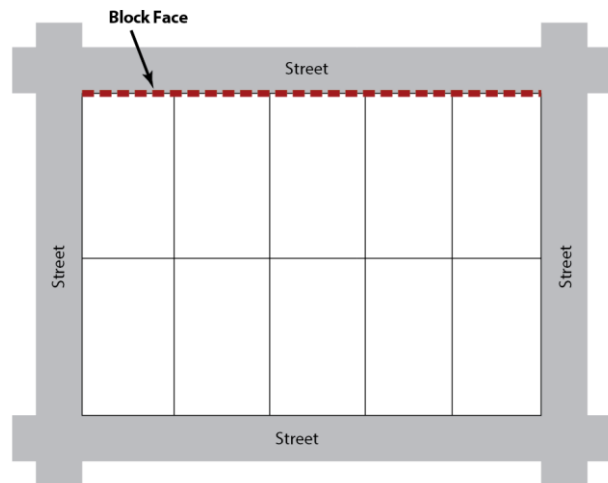


Figure A: Illustration of a block face.

**Boarding House**

A building other than a hotel, motel, or a bed and breakfast where for compensation by the week or month, meals are provided for three or more unrelated boarders or roomers at any one time.

**Buffer Area or Screening**

A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. Buffering includes fences, walls, hedges, berms, landscaping material, or a combination of these.

**Building**

Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more un-pierced walls extending from the ground up, each part is deemed a separate building with respect to the minimum side yard requirements as hereinafter provided.

**Car Wash**

An automobile service facility either manually operated or automatic for clearing interior and exterior of automobiles or other motor vehicles.

**Cemetery**

Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

**Child Care, Home Operated (Type "A")**

A residential dwelling in which child care for more than six children and no more than 12 children is provided by the permanent resident for a fee, regardless of whether the facility is licensed or not. Type A child care homes are not permitted in any residence district.

**Child Care, Home Operated (Type "B")**

A private residence, where care, supervision, and protection are provided on a regular basis from one to six infants, toddlers, pre-school children, and school children outside of school hours by a person who is not the parent but is a resident of the home. For the purposes of this definition, the resident children who are under 16 shall be included with the nonresident children when counting the number of children. A dwelling with a family with more than six children who are all living in the dwelling unit and are related shall not be considered a home operated child care. In accordance with R.C. §5104.054, the facility shall be considered a residential use of property and permitted in all residence districts.

**Child Day Care Center**

An establishment that administers to the needs of infants, toddlers, pre-school children, and school children inside and outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any part of the 24-hour day. The term "Child Day Care Center" also includes nursery schools where children under the age of five are receiving schooling. Child day care center must obtain all required licensure requirements from the State of Ohio.

**Clinic**

A place used for the care, diagnosis, and treatment of sick, ailing, or injured persons, and those who are in need of medical and surgical attention but who are not provided with board or room or kept overnight on the premises.

**Club**

A building or portion thereof or premises owned or operated for a fraternal, literary, political, or educational purpose primarily for the exclusive use of its members and their guests.

**Comprehensive Plan**

A plan, or any portion thereof, adopted by the Planning Commission and the legislative authority of the city, showing the general location and extent or present and proposed physical facilities including housing, industrial, and commercial uses, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the community.

**Convalescent Home**

See "Nursing Home," as defined in this section.

**Convenience Store**

A small-scale retail store used for the sale of goods used on an everyday basis by consumers including, but not limited to, pre-packaged food products, household items, newspapers and magazines and having a gross floor area of less than 5,000 square feet. Such store may also include gasoline pumps and/or an area used for food service provided by a restaurant.

**Cottage Industry**

A cottage industry is a more intensive form of home occupation business, having more employees, more floor area used for the business, or other signs of greater use of a residential parcel for business purposes. A cottage industry remains clearly subordinate to the use of the parcel and dwelling for residential purpose.

**Density**

The number of dwelling units per acre of the total land to be developed.

**Drive-In Restaurants**

Any restaurant, sandwich shop, dairy bar, soft drink stand, or any business establishment where prepared food or beverages are served to customers while the customers are seated in automobiles parked in the open air, or on streets or highways, or at tables placed in the open air.

**Drive-Up or Drive-Through**

An establishment that by design of physical facilities or by services or packaging procedures encourages or permit customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or be entertained while remaining in an automobile.

**Dwelling**

A building occupied as an abode by one or more persons. Any building or portion thereof designed or used as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer, modular or mobile home, or factory built dwelling (industrialized unit, industrialized dwelling) where the building or portion thereof is of closed construction necessitating disassembly, damage, or destruction of the industrial unit at the building site in order to allow the building inspector to adequately inspect its component parts, or a room in a hotel or motel.

**Dwelling Unit**

One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. A "dwelling unit" does not include mobile homes or manufactured homes that are not permanently sited, but does include industrialized units. Manufactured homes that are permanently sited are included in the definition of a dwelling unit as it relates to single-family dwellings.

**Dwelling, Multiple-Family**

A building used exclusively to provide two or more dwelling units for occupancy by three or more families.

**Industrialized Unit**

A building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity.

**Dwelling, Single-Family**

A building used exclusively to provide one dwelling unit for occupancy by one family. Single-family dwellings include manufactured homes (permanently sited) as defined and regulated in this code.

**Easement**

The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

**Educational Institution**

Public or private elementary schools, junior high schools, middle schools, high schools, junior colleges, community colleges, colleges, or universities, or other schools giving general academic instruction in several branches of learning and study required by the education code of the state.

**Family**

One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage; as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined, provided, however, that unless all members are related by blood, adoption, or marriage, no such family shall contain over five persons except for foster homes approved by the Ohio Department of Welfare.

**Floor Area**

The sum of the gross horizontal areas of each floor of the principal building measured from the exterior faces of the exterior walls or from the centerline of common walls separating two buildings. The floor area of a building shall include all livable spaces including the basement floor area when more than one-half of the basement height is above the finished grade level.

**Frontage**

All the property on one side of a street between two intersecting streets, crossing or terminating, measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead-end of a street.

**Funeral Home**

A building or part thereof used for human funeral services. Such building may contain space and facilities for: embalming and the performance of other services used in preparation of the dead for burial; the performance of autopsies and other related surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

**Garage**

An accessory building for automobiles in which no occupation or business is carried on.

**Garage, Repair**

See "automotive repair," as defined in this section.

**Garden Center or Retail Nursery**

An establishment engaged in the cultivation and retail sale of vegetation and associated items to the public. This definition does not include large scale nursery production operations selling vegetation products at a wholesale level.

**Gasoline Service Station or Filling Station**

A building or part of a building or structure or space for the retail sale of gasoline, lubricants, and motor vehicle accessories and/or for minor service and repairs not accompanied by objectionable noises, fumes, dust, or odors.

**Grade**

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 the building.

**Home Occupation**

Any occupation conducted entirely within a dwelling unit exclusive of garages or accessory buildings carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not involve any extension or modification of the dwelling which will alter its outward appearance.

**Hospital**

Any public or private institution which specializes in giving clinical, temporary and emergency services of a medical or surgical nature to injured persons and which maintains and operates 24-hour inpatient services for the diagnosis and treatment of patients. Any hospital shall be so licensed by the State Department of Health.

**Hotel**

A business which offers overnight accommodations to transient guests on a daily rate basis and often providing other services for the guests such as restaurants, meeting rooms, and recreational facilities. See also MOTEL, as defined in this section.

**Laboratory, Medical, Dental, Optical**

A place for gathering, sampling, handling, processing, observing, and testing human tissue, blood, and other similar items.

**Landowner**

The legal or beneficial owner or owners of all of the land proposed to be included in a planned unit development. The holder of an option or contract to purchase, a lessee or other person having an enforceable proprietary interest in such land, shall be deemed to be a landowner for the purposes of the Planned Unit Development Overlay District regulations.

**Lot**

A parcel of land occupied or intended to be occupied by one or more dwellings in a residential district or a permitted building or use in a commercial or industrial district, intended as a unit for transfer of ownership, together with accessory buildings and uses customarily incident thereto. A lot includes open spaces and minimum area provisions as are required by this Zoning Code for the district in which the lot is situated and having its principal frontage on a public street or public right-of-way.

**Lot (Panhandle)**

A lot whose frontage on a public street is through a narrow strip of land which is generally wide enough to accommodate a driveway but too narrow to accommodate any structures. This narrow strip of land is referred to as the panhandle and the balance of the lot is referred to as the body. These lots are also referred to as "flag" lots.

**Lot Area or Lot Size**

The total computed horizontal area contained within the lot lines or boundary lines of a lot including any portion of a lot that may exist within a public right-of-way.

**Lot of Record**

A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder; or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the County Recorder of Hamilton County, Ohio.

**Lot Width**

The distance between side lot lines measured at the front yard building line; in case of irregular shaped lots, the lot shall be measured at a point midway between the front and rear lot lines.

**Lot, Corner**

A lot having two adjacent sides abutting upon two streets.

**Lot, Double Frontage**

A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

**Lot, Interior**

A lot other than a corner lot with only one frontage on a street.



### **Manufactured Home**

A building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974, and that has a permanent label or tag affixed to it certifying compliance with all applicable federal construction and safety standards.

### **Manufactured Home (Permanently Sited)**

A permanently sited manufactured home, as defined below and in ORC Section 3781.06 (C)(6), is a manufactured home that is affixed to a permanent foundation and is connected to appropriate facilities and complies with the following:

- (1) The structure complies with the minimum dwelling size required for single-family dwellings in the applicable zoning district;
- (2) The structure has a six-inch minimum eave overhang, including appropriate guttering;
- (3) The structure was manufactured after January 1, 1995;
- (4) The structure is not located in a manufactured home park as defined by ORC Section 3733.01; and
- (5) The structure complies with all site and architectural standards applicable to single-family dwellings in the applicable zoning district.

### **Maximum Height**

Maximum height of a building is measured from grade to uppermost peak of the roof for any building. Receiving antennae, belfries, spires, and other ornament shall not be included when calculating height of the building.



*Figure B: Illustration of the measurement of building height.*

### **Maximum Lot Coverage**

The total area of a lot that is covered by permanent buildings.

### **Medical Complex**

A mixed-use medical based operation consisting of one or more medical or related institutional care uses situated in a campus setting. All uses taking place within a medical complex setting shall be integrally related to a medical or institutional use.

### **Medical Facility (Outpatient)**

Any type of medical or surgical care performed at a medical office or similar medical facility that does not involve an overnight stay. Common examples of outpatient medical facilities are an urgent primary care facility and a group medical practice.

### **Mobile Home**

A transportable, factory-built home designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974.

**Motel**

A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel. See also HOTEL as defined in this section.

**Motor Home**

See "travel trailer" as defined in this section.

**Nonconforming Use**

Any building, structure, or land lawfully occupied by a use on the effective date of this Zoning Code or any amendment or supplement thereto which does not conform to the use regulations of the district in which it is situated.

**Nursery School or Day Care Facility**

Providing care for children during daytime hours, including parent cooperative nursery schools, play groups for preschool children, afterschool care for school children, provided such establishment is institutional in character and is licensed by the state or county and conducted in accordance with state requirements.

**Nursing Home**

Any place or abode, building, institution, residence, or home used for the reception and care for a consideration of three or more persons who by reason of age or mental or physical infirmities are not capable of properly caring for themselves, or who are 65 years of age or over and for which a license, if necessary, has been issued by the Ohio Department of Public Welfare or other appropriate agency. Patron residents of a nursing home are normally characterized by a lack of ability to leave the home without assistance from a care giver.

**Office**

Office shall mean a building or portion of a building wherein services are performed involving predominantly administrative, professional and clerical operations.

**Open Space**

An area open to the sky which is or may be on the same lot with a building or structure. This area may include landscaped areas.

**Open Space, Common**

A parcel or parcels of land or any area of water, or a combination of land and water, within the site designed and intended for the use or enjoyment of occupants of the planned unit development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of occupants.

**Outdoor Dining**

Tables and/or chairs (including benches) and umbrellas associated with lawfully operating food service establishments and similar uses, in or on the public right-of-way or resting on, or projecting into, the sidewalk area, which are not physically or structurally attached to a building, retaining wall or fence.

**Parking Area (Public)**

An open area, other than a street, used for the temporary parking of more than four automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

**Parking Space, Off-Street**

An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one motor vehicle.

**Performance Bond**

An agreement by a subdivider or developer with the city for the amount of the estimated construction cost plus a contingency amount as provided for in the subdivision regulations guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.

**Pharmacy**

A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and non-prescription medicines but where non-medical products may be sold as well. A pharmacy may include accessory drive-up customer service facilities located on the same parcel.

**Planned Unit Development (PUD)**

An area of land in which a variety of uses are accommodated in a pre-planned environment under more flexible standards such, as lot sizes and setbacks, than those restrictions that would normally apply under this Zoning Code. The procedure for approval of such development contains requirements in addition to those of the standard subdivision, such as building design principles and landscaping plans.

**Professional Activities**

The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, and engineers, and similar professions.

**Professional Consultant**

A person who possesses the knowledge and skills, by reason of education, training and experience, to comprehend the full nature and extent of the project in question regarding its social, economic, physical, environmental and design characteristics and implications in order to foster a unified plan for development. The consultant may be, but is not necessarily required to be, a registered architect, landscape architect, engineer, planner, or equivalent.

**Public Museum**

A building, place, or institution devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

**Public Use**

Public parks, schools, and administrative and cultural buildings and structures, including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities, including water and sewer service facilities.

**Raising Of Animals**

The raising of farm animals, exotic animals, or the raising of any animal for commercial purposes. This definition does not pertain to domestic household pets.

**Recreation Area (Private)**

A recreation area owned and maintained by the owner of a development, business concern or property owners' association for tenants, employees, co-owners or members of an association.

**Recreation Area (Private)**

Land or facilities operated as a business and which are open to the general public for a fee that shall include, but is not limited to: roller blade rental, billiard parlors, video amusement arcades, pay-to-play athletic fields, golf courses, ice skating rinks, swimming pools, bingo parlors, lotto facilities and other businesses where the majority of business is in games of chance.

**Recreation Area (Public)**

A recreation area maintained by a public authority for public use.

**Religious Place Of Worship**

An institution that a congregation of people regularly attends to participate in or hold religious services, meetings and other activities, including buildings in which the religious service of any denomination are held.

**Residential Facility, Large**

Any residential facility meant as a permanent residence for persons, licensed by the State of Ohio, designed to allow not more than 16 persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate living activity in a non-institutional environment as regulated by Chapters 5119 and 5123 of the Ohio Revised Code.

**Residential Facility, Small**

Any residential facility meant as a permanent residence for persons, licensed by the State of Ohio, designed to allow not more than eight persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate living activity in a non-institutional environment as regulated by Chapters 5119 and 5123 of the Ohio Revised Code.

**Restaurant**

Establishments primarily engaged in the preparation and sale of food which accounts for 51% or more of the business sales and may include ancillary sale of alcoholic beverages (49% or less of total sales).

**Retail Sales (Business)**

Any business which primarily sells goods, wares or merchandise directly to the ultimate customer for direct consumption and not for resale.

**Right-Of-Way**

A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

**Roof Line**

The uppermost line or point of the facade or parapet of a flat roof structure, or the lower edge of an eave, gable or rake of a sloped roof structure.

**Satellite Dish**

A signal-receiving device whose purpose is to receive or send communications or signals from earth-orbiting satellites or other sources.

**Sign**

See the definition of "sign" and related definitions in [§153.22](#).

**Story**

That part of a building included between any floor and the floor or roof next above; provided that for any purpose of regulating the dimensions of yards and courts when the average story height of any building exceeds 12 feet, each 12 feet or fraction thereof of total building height shall be considered a separate story, except the first story, which may be 15 feet high. A mezzanine story shall be deemed a full story where it covers more than 50% of the area of the story next below. A basement shall not be counted as a story unless more than one-half of the basement height is above grade level at the front of the building.

**Street**

All property dedicated or intended for public or private use for passage or travel of motor vehicles.

**Structural Alteration**

Any change in the structural members of a building, such as walls, columns, beams, or girders.

**Structure**

Anything built or constructed which requires a permanent location on any given lot, other than landscaping. Structures include but are not limited to buildings, pools, tennis courts, storage facilities, parking lots, roadside stands, monuments, statues, flagpoles, and signs.

**Subdivision**

The division of any parcel of land shown as a unit, part of a unit or a contiguous unit on the last preceding transfer of ownership thereof.

**Subdivision, Major**

The improvement of five or more new parcels from the original parcel of land for residential use or the improvement of one or more parcels of land for commercial or industrial structures or groups of structures involving the subdivision and allocation of land as streets or other open spaces for common use by the owners, occupants or leaseholders or as easements, or for the extension and maintenance of public sewer, water, storm drainage or other public utilities and facilities.

**Subdivision, Minor**

The division of one property into four or less residential parcels, sites or lots, any one of which is less than five acres in area, for the purpose, whether immediate or future, of transfer of ownership. A minor subdivision shall also mean the division or partition of land into no more than four parcels where no new streets or roads are involved; the division of land for agricultural purposes where the resulting parcels are more than five acres or larger in size; the division of property by testamentary or interstate provisions; or the division of property upon court order.

**Swimming Pool (Portable)**

Swimming pools that are only capable of holding 18 inches or one and one-half foot of water or less, at the deepest point, and are nine feet or less in water surface diameter at the widest point, or less than 65 square feet in surface area.

**Swimming Pool (Private Residential)**

A body of water, created by artificial means designed or used for swimming or other immersion purposes, any portion of which is one-half foot deep or more. It includes a fish pond, wading pool, hot tub, or spa.

**Tattoo Parlor or Body Piercing Establishment**

An establishment or facility engaged in the method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instruments designed to touch or puncture the skin. This definition also includes body piercing or other related body art activities commonly associated with tattooing parlors.

**Travel Trailer Or Trailer**

A vehicle, whether or not it is pulled by another vehicle, used or intended for use as a conveyance upon the public streets or highways, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a movable dwelling or sleeping place.

**Tree Lawn**

That portion of a public right-of-way lying between the back face of the curb and the leading edge of the sidewalk and/or the back edge of the right-of-way, if no sidewalk is installed.

**Use**

The specific purposes for which a building or land is designated, arranged, intended, or maintained. In the classification of uses, a use may be a use as commonly understood or the name of an occupation, business, activity, or operation carried on in a building or on premises or the name of a building, place, or thing which name indicates the use or intended use.

**Variance**

A modification of the strict terms of the relevant regulations of this Zoning Code where such modification will not be contrary to the public interest. A variance is also a modification of regulations where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Zoning Code would result in unnecessary and undue hardship. Variances can only be granted by the Board of Zoning Appeals or by the Planning Commission as expressly granted under the Subdivision Regulations provisions.

**Vehicle (Motor)**

Motor vehicle means and includes automobiles, motorcycles, trucks, tractors, trailers, semi-trailers, airplanes, buses and farm implements, whether semi-propelled or designed to be pulled, pushed or carried by another motor vehicle.

**Vehicle (Recreational)**

Recreational vehicle shall be defined as any of the following: any privately owned boat, boat trailer, folding tent trailer, personal water craft, motorized home, pick-up camper, snowmobile, travel trailer, a three- or four-wheel all-terrain vehicle or other similar equipment.

**Warehouse**

A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment containing no on-site retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions. This term also includes wholesale and distribution related establishments.

**Wireless Telecommunications Equipment Shelter**

A structure in which electronic receiving and relay equipment for a wireless telecommunications facility is housed.

**Wireless Telecommunications Facility**

A facility consisting of the equipment and structures involved in receiving or relaying telecommunications or radio signals from a mobile radio communication source and transmitting those signals to a central switching computer which connects the mobile unit with land-based telephone lines.

**Wireless Telecommunications Tower**

A structure intended to support equipment used to transmit, relay, and/or receive telecommunications signals, including but not limited to monopoles, guyed, and lattice construction steel structures.

**Yard**

Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings or such projections as are expressly permitted in these regulations. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

**Yard Requirement**

The open space between a lot line and the building area within which no structure shall be located except as provided in the Zoning Code.

**Yard Setbacks**

The required minimum horizontal distance between the building line and the related front, side, or rear property line.

**Zoning Enforcement Officer**

The Zoning Enforcement Officer shall administer and enforce this Zoning Code. One or more Zoning Enforcement Officers may be designated by the City Manager. The Zoning Enforcement Officer is under the supervision of the City Manager. The City Manager may serve as the Zoning Enforcement Officer. He or she may be provided with the assistance of such other persons as the City Manager may direct.

**Zoning Map, City Of Silverton**

The zoning map for the City of Silverton showing at least the corporation limits and streets and other landmarks for reference, the property boundaries for all properties inside the city, and the zoning categories that have been adopted and are enforced for the properties contained within the city. Also referred to as the City Zoning Map.

**Zoning Permit**

A document issued by the Zoning Enforcement Officer authorizing the use of lots, structures, uses of land and structures, and the characteristic of the uses.

## **§153.02 ZONING ADMINISTRATION AND ENFORCEMENT**

### **(A) Enforcement Authority**

It shall be the duty of the Zoning Enforcement Officer to enforce this chapter by the grant and refusal of zoning permits in accordance with the provisions of this chapter. No zoning permits shall be issued for any building or parcel of land which in its construction, location, or proposed use would violate or fail to comply with the provisions of this Zoning Code.

### **(B) Zoning Enforcement Officer**

The position of Zoning Enforcement Officer is hereby established. The Zoning Enforcement Officer shall administer and enforce this Zoning Code. One or more Zoning Enforcement Officers may be designated by the City Manager. The Zoning Enforcement Officer is under the supervision of the City Manager. The City Manager may serve as the Zoning Enforcement Officer. He or she may be provided with the assistance of such other persons as the City Manager may direct. For the purpose of this Zoning Code, the Zoning Enforcement Officer's duties shall include, but not be limited to, the following:

- (1) Enforce the provisions of this Zoning Code and interpret the meaning and applications of its provisions.
- (2) Respond to questions concerning applications for amendments to the Zoning Code text and the Zoning Map.
- (3) Review and process all zoning permit applications upon which they are authorized to act by the provisions of this Zoning Code as set forth in [§153.02\(G\)](#).
- (4) Conduct inspections of buildings and uses of land to determine compliance with this zoning code, and in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
- (5) Maintain in current status, the official City of Silverton Zoning Map, which shall be kept on permanent public display in the city offices.
- (6) Maintain permanent and current records required by this Zoning Code, including but not limited to zoning permits, inspection documents, and records of all variances, text and map amendments, site plan applications, subdivision applications and conditional uses.
- (7) Make such records available for the use of the City Council, Planning Commission, Board of Zoning Appeals and the public.
- (8) Review and process to the appropriate commission or board all site plan applications, conditional use requests, variance requests, text amendment requests, and any other request pursuant to this Zoning Code.
- (9) Determine the existence of any violations of this Zoning Code and cause such notifications, revocation notices; or initiate such other administrative or legal action as needed to address such violations.

### **(C) Appeals From a Zoning Enforcement Officer Decision**

Where it is alleged by an applicant in good standing that there is an error in any interpretation, judgment, determination, or decision made by the Zoning Enforcement Officer in the administration and/or enforcement of the provisions of this Zoning Code, the applicant may file an administrative appeal to the Board of Zoning Appeals as set forth in [§153.05](#).

### **(D) Application Contents**

- (1) Applications required under this code shall be submitted to the Zoning Enforcement Officer.
- (2) All applications shall be in a form and in such numbers as established by the Zoning Enforcement Officer, and made available to the public as part of application forms.



- (3) Applications shall be accompanied by a fee, if required, in accordance with the fee ordinance adopted by City Council pursuant to [§153.02\(E\)](#).
- (4) Applications that do not contain all of the required application contents shall not be reviewed or placed on the agenda of a decision-making body until such a time as the Zoning Enforcement Officer determines that all of the required application contents have been completely submitted. The Zoning Enforcement Officer shall have the authority to accept an application without all of the required application contents if they determine that the missing information is not relevant to the application review.
- (5) The City shall not be required to process an incomplete application, forward an incomplete application to any decision-making body, or be subject to any required timelines of review for incomplete applications.
- (6) If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

**(E) Fees**

- (1) Any application for a review procedure under this code shall be accompanied by such fee as shall be specified from time to time by ordinance of City Council. There shall be no fee, however, in the case of applications filed by the Mayor, City Council, or any of the decision-making bodies.
- (2) The fees shall be in addition to any other fees that may be imposed by the City, State, or Hamilton County, or other agency having jurisdiction.
- (3) Such fees are adopted to cover the cost to the City for investigations, legal advertising, postage, consulting fees, and other expenses resulting from the administration of the applicable planning and zoning activities.
- (4) Unless otherwise identified in the fee schedule adopted by City Council, no application shall be processed or determined to be complete until the established fee has been paid.
- (5) If the City determines that the costs on a particular application will exceed the filing fee as established by City Council as a result of preparation of legal descriptions, maps, studies, or other required information, or as a result of the need for professional expert review, study, or testimony, the Zoning Enforcement Officer is authorized to collect such additional costs from the applicant.
- (6) Application fees are not refundable except where the Zoning Enforcement Officer determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.

**(F) Amendments to the Zoning Text and Zoning Map**

Whenever the public necessity, convenience, general welfare or good zoning practice require, Council may, by ordinance, after recommendation thereon by the Planning Commission and subject to the procedure provided in this chapter, amend, supplement or change the regulations, district boundaries or classifications of property, now or hereafter established by this Zoning Code or amendments thereof. It shall be the duty of the Planning Commission to submit to Council, recommendations regarding all applications or proposals for amendments or supplement. An amendment, supplement, reclassification or change may be initiated by the Planning Commission on its own motion, by motion of Council or by filing of a verified application by one or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment or supplement.

**(1) Procedure for Text And Map Amendments**

**(a) Applications**

Applications for any change of district boundaries or classifications of property as shown on the Zoning Map, and for text of this Zoning Code, shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#).

**(b) Planning Commission Public Hearing**

After receiving an application for a proposed amendment, supplement or change, and before making a recommendation to Council, pursuant to Article VII of the Silverton City Charter, the Planning Commission shall hold a public hearing on the proposed amendment, supplement or change, at least 15 days' notice of the time and place of which shall be given by publication in a newspaper of general circulation in the City as required in [§153.03\(E\)](#). If the proposed amendment, supplement or change intends to rezone or redistrict ten or less parcels of land, as listed in the tax duplicate, written notice of the hearing shall be mailed by the Commission, by first class mail, at least 15 days before the date of the public hearing to the owners of all real property within, contiguous to or directly across the street from such parcel or parcels, to the addresses of such owners appearing on the Hamilton County Auditor's current tax list and such other lists as may be required by the Commission.

**(c) Planning Commission Recommendations**

Once the Zoning Enforcement Officer determines that the application is complete pursuant to [§153.02\(D\)](#), the application shall be forwarded to the Planning Commission at its next regularly-scheduled meeting or special meeting. The Planning Commission shall review the proposed amendment and consider reports from staff and other public agencies and public comments. Following the procedure stated above, the Planning Commission may recommend that the application be granted as requested, or may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application be denied. The Planning Commission shall identify and evaluate all factors relevant to the petition and use its best efforts to report its findings and recommendations to Council within 45 days of receiving an amendment application. In considering any petition for a Zoning Map amendment, the Planning Commission's evaluation shall include, but is not limited to, the following criteria:

- (i)** Whether the proposed amendment consistent with the goals, policies, and future land use map of the Silverton Comprehensive Plan, including any subarea or corridor studies;
- (ii)** Whether the uses permitted in the proposed zoning district are compatible with the site's physical, geological, hydrological and other environmental features;
- (iii)** Whether all of the potential uses allowed in the proposed zoning district are compatible with surrounding uses and neighborhood in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values;
- (iv)** Whether the street system can safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district. A traffic impact study shall be provided if the proposed rezoning district permits uses that could generate 100 or more directional trips during the peak hour, or at least 1,000 more trips per day than the majority of the uses that could be developed under current zoning;

- (v) Whether the public utilities and city services are sufficient to accommodate the additional demand created by the uses permitted in the requested district without compromising the health, safety and welfare of city residents;
- (vi) Whether the shape and size of the property is reasonable so that the site can meet the dimensional regulations of the requested zoning district; and
- (vii) Other factors deemed appropriate by the Planning Commission.

**(d) City Council Public Hearing and Final Action**

- (i) After receiving from the Planning Commission the certificate of such recommendations on the proposed amendment, supplement or change, and before adoption of such amendment, supplement or change, Council shall hold a public hearing thereon, at least 15 days' notice of the time and place of which shall be given by publication in a newspaper of general circulation in the city. If the proposed amendment, supplement or change proposes to rezone or redistrict ten or less parcels of land, as listed in the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by certified mail, with return receipt, at least 15 days before the date of the public hearing to the owners of all real property within 300 feet of the parcel or parcels, to the addresses of the owners appearing on the Hamilton County Auditor's current tax list and such other lists as may be required by Council.
- (ii) Following such hearing and after reviewing the recommendations of the Commission thereon, Council shall consider such recommendations and vote on the passage of the proposed amendment to the text of the Zoning Code or the Zoning Map. Council may overrule the recommendations of the Commission by a majority vote by Council.

**(e) Stay of Permits on Pending Zoning Map Change**

Whenever Council has taken under advisement, a change or amendment of the Zoning Map from a less restricted district to a more restricted district classification, as evidenced by resolution of record, no zoning permit or building permit shall be issued within 75 days from the date of such resolution which would authorize the construction of a building or the establishment of a use which would become nonconforming under the contemplated redistricting plan.

**(G) Zoning Permits Required**

It shall be unlawful for an owner to use or permit the use of any land or any structure, or part thereof hereafter created, erected, converted, enlarged, or changed, wholly or partly in its use or construction, until the Zoning Enforcement Officer shall have issued a zoning permit. The zoning permit shall show that the structure or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of this Zoning Code.

**(1) Approval Of A Zoning Permit**

Within 30 days after the receipt of an application containing information and fees as required by [§153.02\(D\)](#) and [§153.02\(E\)](#), the Zoning Enforcement Officer shall either approve or disapprove the zoning permit application in conformance with the provisions of this Zoning Code. One copy of the plans shall be returned to the applicant by the Zoning Enforcement Officer after the Zoning Enforcement Officer has marked such copy either as approved or disapproved and attested to the same by his or her signature on such copy. Failure to notify the applicant in the case of such refusal or disapproval within the specified time shall entitle the applicant to submit his or her request to the Planning Commission.

**(2) Expiration Of A Zoning Permit**

If the work described in any zoning permit has not yet been substantially initiated within one year of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Enforcement Officer upon written notice given to the persons or business entity affected. If the work described in any zoning permit has not yet been substantially completed within two years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Enforcement Officer. A written notice shall be given to the persons or business entity affected, together with notice that further work, as described in the canceled permit, shall not proceed unless and until a new zoning permit has been obtained or an extension granted. The Zoning Enforcement Officer may only issue one extension for an additional calendar year based on good cause shown by the applicant. In the event a zoning permit is deemed to have expired under the provisions under this Zoning Code, any fees paid to the city required as part of the zoning permit application and review process shall be non-refundable.

**(3) Construction And Use As Provided In Applications, Plans And Permits**

Zoning permits issued on the basis of plans and applications approved by the Zoning Enforcement Officer authorize only the use and arrangement set forth in such approved plans and applications or amendments thereof and no other use, arrangement, or construction shall be allowed. Use, arrangement, or construction contrary to that authorized shall be deemed a punishable violation of this Zoning Code.

**(4) Entry And Inspection Of Property**

The Zoning Enforcement Officer is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purpose of enforcing the provisions of this Zoning Code. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Enforcement Officer shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Enforcement Officer shall request the assistance of the City Solicitor in securing a valid search warrant prior to entry.

**(5) Zoning Permit Revocation**

The Zoning Enforcement Officer may issue a revocation notice to revoke a zoning permit which was issued contrary to this Zoning Code or based upon false information or misrepresentation in the application.

**(H) Notice Of Violation**

Whenever the Zoning Enforcement Officer or his or her agent determines that there is a violation of any provision of this Zoning Code, a certified letter to the property owner shall be issued and shall serve as the notice of violation. Failure to remedy the alleged violation within the specified time frame set forth in the violation letter shall result in the levying of penalties and fines pursuant to [§153.01\(G\)](#). Such certified letter shall:

- (1)** Include a statement of the reasons why it is being issued and refer to the sections of this Zoning Code being violated.
- (2)** State the time by which the violation shall be corrected.
- (3)** If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed at a valid address, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Zoning Enforcement Officer. Service shall be deemed complete when the fact of mailing is entered in record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery. A posting of the notice of violation upon the property in a conspicuous manner shall constitute proper service under this division.

- (4) A copy of the administrative appeals procedure and documentation requirements as set forth in this Zoning Code shall be included in the certified letter.

**(I) Remedies**

In case any building or structure is or is intended to be erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is or is intended to be used, in violation of this Zoning Code, the City Solicitor, in addition to the remedies herein provided for, is authorized to institute any appropriate action or proceeding in law or equity to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use or to restrain, alteration, repair, conversion, maintenance, or use or to restrain, correct, or abate the violation.

## **§153.03 PLANNING COMMISSION**

### **(A) Establishment; Membership**

The Planning Commission shall consist of five members. One shall be a member of Council, who shall be selected by Council and shall serve until the expiration of the term of Council during which he or she is selected. The second shall be the Mayor who shall serve ex-officio. The other three shall be electors of the municipality and shall be appointed by the Mayor with the approval of Council to serve as follows in this subchapter.

### **(B) Terms of Office; Vacancies**

All Planning Commission members shall be appointed to take office effective on the last day of January following the adoption of the City Charter. One shall be appointed for a term of two years, another for a term of four years and the third for a term of six years, and their successors shall be appointed for terms of six years. Vacancies shall be filled in the manner in which the original appointments were made, to serve for the unexpired terms. The Mayor shall vote as a member of the Planning Commission only to break a tie vote.

### **(C) Election Of Members**

- (1) The Planning Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Zoning Code.
- (2) The Commission shall elect a Chairperson and Vice-Chairperson, shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Zoning Code, and appoint a secretary who may or may not be a member of the Commission. An ex-officio member of the Planning Commission shall not be eligible for election of Chairperson or Vice-Chairperson.
- (3) Planning Commission meetings shall be held on regularly scheduled dates and at such other dates as the Planning Commission may determine appropriate. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (4) The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All minutes shall be public record and immediately filed in the office of the Zoning Enforcement Officer.
- (5) The presence of three voting members shall constitute a quorum.

### **(D) Powers of the Planning Commission**

The Planning Commission shall have the power to exercise the jurisdiction over the following matters as provided for in this Zoning Code:

- (1) Initiate advisable official zoning map changes, or changes in the text of the code where same will promote the best interest of the public in general through recommendation to the City Council.
- (2) Review all proposed amendments to the text of this Zoning Code and make recommendations to the City Council.
- (3) Review and act on all site plan applications pursuant to the provisions of this Zoning Code.
- (4) Review and act on all conditional uses as identified in the respective zoning districts according to provisions and criteria stated in this Zoning Code.
- (5) Review and act on all minor and major subdivision applications pursuant to the provisions of this Zoning Code.
- (6) Carry on a continuous review of the effectiveness and appropriateness of this Zoning Code and recommend such changes or amendments as it feels would be appropriate.

- (7) Review and act on all other administrative procedures and requests as set forth in this Zoning Code.
- (8) Review and act on all applications for design review plans subject to the jurisdiction of the design review zoning district.

**(E) Public Hearings and Meetings Procedure**

Public hearings and meetings of the Planning Commission shall be public. Notice of Planning Commission public hearings of each case shall be given by publication one time in a newspaper of general circulation not less than 15 days in advance of the hearing. Concise records and minutes shall be kept as to all official acts of the Planning Commission. The Commission may recess such public hearings from time to time without making a final determination on the matter, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any interested person may appear at the public hearing in person or by attorney. Notice of such public hearings shall be given by first class mail to the parties making the request for the appeal and to the property owners within 300 feet of the property to which such appeal relates not less than 15 days in advance of the hearing. Such notification shall be sent to the names and addresses of such owners appearing on the Hamilton County Auditor's current tax list. If the address appearing on the tax list is that of a lending institution or other person or entity clearly recognizable as not being the owner, then written notice shall be mailed to such institution, person, or entity at the listed address and to the named owners at the street address of the property. Failure of delivery of such notice shall not invalidate action taken on such application.

**(F) Appeals From the Planning Commission**

The Board of Zoning Appeals shall hear and decide appeals where it is alleged that there is an error in any interpretation, judgment, determination, or decision made by the Planning Commission in the administration and/or enforcement of the provisions of this Zoning Code. The procedure pertaining to initiating administrative appeals is set forth in [§153.05](#).

## **§153.04 BOARD OF ZONING APPEALS**

### **(A) Establishment; Membership**

A Board of Zoning Appeals is hereby created. It shall consist of five members, to be appointed by the Mayor.

### **(B) Terms of Office; Vacancies**

- (1) One member shall be appointed for one year; one for two years; one for three years; one for four years; and one for five years; and their successors for five years each. The term of the member of the Planning Commission shall expire at the same time as his term of the Commission.
- (2) A member appointed to fill a vacancy shall serve for the unexpired term.

### **(C) Election of Members**

The Board of Zoning Appeals shall organize annually and elect a Chairperson and Vice-Chairperson. The Chairperson, or in his or her absence the officer presiding, may administer oaths and compel the attendance of witnesses.

### **(D) Powers of the Board of Zoning Appeals**

- (1) Powers of jurisdiction. The Board of Zoning Appeals shall have the power to exercise the jurisdiction over the following matters as provided for in this Zoning Code.
  - (a) To hear and decide upon requests for area variances from an eligible provision of this Zoning Code. The procedure for variance application and review is set forth in [§153.05](#).
  - (b) To hear and decide appeals where it is alleged that there is an error in any interpretation, judgment, determination, or decision made by the Zoning Enforcement Officer or the Planning Commission in the administration and/or enforcement of the provisions of this Zoning Code. The procedure pertaining to administrative appeals is set forth in [§153.05](#).
  - (c) Where the street or lot layout actually on the ground or as recorded differs from the street and lot lines as shown on the building zone map, the Board of Zoning Appeals, after due notice by registered mail to the record owners of the property, shall interpret the map in a way as to carry out the intent and purpose of this chapter and map for the particular section or district in question.
- (2) In exercising its jurisdiction, it shall adopt from time to time such general rules and regulations relating to its procedure as it may deem necessary.



**(E) Public Hearings and Meetings Procedure**

Public hearings and meetings of the Board of Zoning Appeals shall be public. Notice of hearings of each appeals case shall be given by publication one time in a newspaper of general circulation not less than 15 days in advance of the hearing. The Board shall act by resolution, in which three members shall concur. Concise records and minutes shall be kept as to all official acts of the Board. The Board may recess such public hearings from time to time without making a final determination on the matter, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any interested person may appear at the public hearing in person or by attorney. Notice of such public hearings shall be given by first class mail to the parties making the request for the appeal and to the property owners within 300 feet of the property to which such appeal relates not less than 15 days in advance of the hearing. Such notification shall be sent to the names and addresses of such owners appearing on the Hamilton County Auditor's current tax list. If the address appearing on the tax list is that of a lending institution or other person or entity clearly recognizable as not being the owner, then written notice shall be mailed to such institution, person, or entity at the listed address and to the named owners at the street address of the property. Failure of delivery of such notice shall not invalidate action taken on such application.

**(F) Appeals from the Board Of Zoning Appeals**

The Court of appropriate jurisdiction as set forth in the Ohio Revised Code shall hear and decide administrative appeals where it is alleged that there is an error in any interpretation, judgment, determination, or decision made by the Board of Zoning Appeals in the administration and/or enforcement of the provisions of this Zoning Code. The procedure for filing such appeal shall be determined by the applicable statutes of the Ohio Revised Code.

## **§153.05 APPEALS AND VARIANCES**

### **(A) Appeals to the Board of Zoning Appeals**

Appeals to the Board of Zoning Appeals may be submitted by any person, firm or corporation, including the City Council, deeming himself or itself to be adversely affected by a decision of the Zoning Enforcement Officer or the Planning Commission.

### **(B) Initiation of an Appeal**

Applications for an appeal shall be filed with the Zoning Enforcement Officer and with the Board of Zoning Appeals within 20 days after the date of any adverse order, requirement, decision, or determination. The application for appeal shall include reference to the decision and the provision of this Zoning Code from which the appeal is sought. The application for appeal shall also contain a detailed written description of the alleged error and may include supporting documentation including, but not limited to, photographs, maps, site plans, drawings, correspondence and any other materials deemed to be relevant to the alleged error. The Zoning Enforcement Officer shall transmit to the Board of Zoning Appeals all papers constituting the record upon which the action being appealed was taken. Failure to submit the administrative appeal within the 20-day period shall forfeit the applicant's right from seeking an administrative appeal under this section.

### **(C) Application for an Area Variance**

Applications for an area variance shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#).

### **(D) Public Hearing by the Board**

When an application for appeal or an area variance has been filed in the proper form with the Board of Zoning Appeals and the application fee has been paid, the Zoning Enforcement Officer shall place the request upon the calendar for public hearing before the Board of Zoning Appeals pursuant to the procedural requirements set forth [§153.04\(E\)](#).

### **(E) Stay of Proceedings**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer shall certify to the Board of Zoning Appeals after the notice of the appeal has been filed, that by reason of facts stated in the permit, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by a court having appropriate jurisdiction.

### **(F) Review of an Appeal**

(1) The Board of Zoning Appeals shall review the appeal. To aid in their review, the Board may transmit the application to appropriate administrative departments and professional consultants for review and comment. Any reports, comments, or expert opinions shall be compiled by the Zoning Enforcement Officer and transmitted to the Board prior to the time of the Board's review.

#### **(2) Decision of the Board**

Within the limits of the powers set forth in this Zoning Code, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination being appealed, and to that end shall have all the powers of the officer from whom the appeal is taken, and it may direct the issuance of a zoning permit.

- (a) Any decision by the Board of Zoning Appeals requires the concurrence of a majority of the members present for the vote. The Board shall render a decision on the appeal within 30 days from the date the Board closes the public hearing, unless an extended period of time is mutually agreed upon by the applicant and the Board.
- (b) The Board of Zoning Appeals shall notify the applicant in writing of the decision of the Board, which shall include the reasons for the action taken.

**(3) Review Criteria**

An administrative order, decision, determination or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination or interpretation fails to comply with either the procedural or substantive requirements of this Zoning Code.

**(G) Review of Area Variances**

The Board of Zoning Appeals may authorize upon appeal in specific cases of an area variance from the terms of this Zoning Code as will not be contrary to the public interest according to the following procedures:

**(1) Definition**

Area variances shall be considered those variances from a zoning regulation that establishes minimum or maximum areas, heights, distances, separation volume or any other measurement, which is expressed in terms of a geometric measurement.

**(2) Review by the Board**

The Board of Zoning Appeals shall hold a public hearing and give notice of the same pursuant to [§153.04\(E\)](#). The Board shall review each application for an area variance to determine if it complies with the purpose and intent of this Zoning Code and evidence demonstrates that the literal enforcement of this Zoning Code will result in practical difficulty. The following factors shall be considered and weighed by the Board to determine practical difficulty:

- (a) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions;
- (b) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (c) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
- (d) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
- (e) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup;
- (f) Whether the property owner purchased the property with knowledge of the zoning restrictions;
- (g) Whether special conditions or circumstances exist as a result of actions of the owner;
- (h) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- (i) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and

- (j) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

**(3) Requests for Additional Information**

The Board of Zoning Appeals may request that the applicant supply additional information that the Board deems necessary to review and evaluate the request for a variance.

**(4) Conditions and Safeguards**

The Board may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulation(s) or provision(s) to which the variance applies will be met.

**(5) Action by the Board**

The Board shall either approve, approve with conditions as specified in paragraph (4), above, or disapprove the request for an area variance. In no case shall the Board of Zoning Appeals approve a variance that establishes a nonconforming use of land, building or structure where one had not previously existed.

**(6) Term and Extension of Variance**

Area variances shall be non-assignable without the written approval of the Board of Zoning Appeals and shall expire one year from the date of the variance issuance, unless prior thereto, the applicant substantially initiated work within one year in accordance with the granted variance or an extension of time has been granted by the Board of Zoning Appeals. "substantially initiated" shall mean expending monies towards completing the project equal to at least 25% of the value of the total work to be performed. A variance shall also expire if the applicant fails to substantially complete the work within two years from the date of the variance issuance. "substantially completed" shall mean expending monies towards completing the project equal to at least 90% of the value of the total work to be performed. Once the time limit pursuant to this section has expired, a request for a variance shall be considered to be a new application for a variance and shall meet all requirements for application and review pursuant to this section. Area variances approved in conjunction with a site plan shall remain valid for a one-year period.

**(H) Use Variances**

The granting of use variances shall be prohibited. An applicant seeking to use a structure or parcel of land in a manner that is not consistent with the permitted uses or conditional uses for the zoning district in question, may seek a change in land use through an amendment of the zoning map or zoning text following the procedure set forth in [§153.02\(F\)](#).

**§153.06 SITE PLAN REVIEW**

**(A) Site Plan Review Applicability**

- (1) In order to administer the provisions of this Zoning Code and to evaluate site plans in the interest of the public health, safety and general welfare, this subchapter shall apply to new property development and any collective substantial expansion of existing structures, new or expanded parking lots consisting of the creation of five new parking spaces or more, except for individual single-family dwellings and two-family dwellings (duplexes). Substantial expansion of existing structures shall be defined based on the criteria established below:

| <b>Table 1: Substantial Expansion of Existing Structures</b> |                                    |
|--|------------------------------------|
| <b>When the Existing Structure is:</b>                       | <b>A Substantial Expansion is:</b> |
| 0 - 1,000 sq. ft.  | 50% or greater                     |
| 1,001 - 10,000 sq. ft.                                       | 40% or greater                     |
| 10,001 - 25,000 sq. ft.                                      | 30% or greater                     |
| 25,001 - 50,000 sq. ft.                                      | 20% or greater                     |
| 50,001 sq. ft. and larger                                    | 10% or greater                     |

- (2) Furthermore, no building shall be erected or structurally altered on any lot or parcel in cases where a site plan review is required, except in accordance with the regulations of this section and all other applicable sections within this Zoning Code and an approved site plan. No zoning permit shall be issued prior to the approval of a site plan.

**(B) Procedure For Site Plan Review**

**(1) Pre-Application Conference (Optional)**

- (a) Prior to filing a site plan review application, an applicant may request a meeting with the Zoning Enforcement Officer for a pre-application conference to provide an opportunity to conceptually discuss a proposed development and to provide general guidance to assist in the preparation of a formal site plan. The Zoning Enforcement Officer may invite additional City staff or review agencies to participate in the discussion.
- (b) An applicant may also request a pre-application meeting with Planning Commission or City Council to discuss the concept of the proposed development. The applicant may request such meeting by submitting a written request, along with any supporting documents, to the Zoning Enforcement Officer for placement on the agenda of the next regularly scheduled meeting or any special meeting that may be called by Planning Commission or City Council.
- (c) No action can be taken by the administrative staff, Planning Commission, or City Council until the applicant submits an actual site plan application. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff, Planning Commission, or City Council that occur prior to the submission of an actual application are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.

**(2) Application**

- (a) Applications for site plan review shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#).
- (b) For developments also requiring conditional use approval, applications for site plan review and conditional use permit review may be submitted simultaneously.

- (c) After determining a site plan application is complete, the Zoning Enforcement Officer shall transmit copies of the site plan to individual departments and agencies to solicit comments to be transmitted to the Planning Commission prior to their review.

**(3) Planning Commission Review**

- (a) The application shall be placed on the Planning Commission's next regularly scheduled meeting or at a special meeting, as may be necessary.
- (b) Site plans shall be reviewed during a public meeting. No public hearing shall be required unless the proposed use requires a conditional use permit approval, which is to be reviewed concurrently, in which case, the site plan review and approval shall take place under the procedure established in [§153.16\(C\)](#).
- (c) Within 45 days following the determination that the application is complete, one of the following actions shall be taken:
  - (i) Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and the plan meets the standards set forth in this Zoning Code;
  - (ii) Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in all applicable chapters of this Zoning Code;
  - (iii) Approval of the site plan subject to any conditions, modifications, and restrictions as required to guarantee that the project meets the standards for review; or
  - (iv) Tabling of the site plan application for a period not to exceed 90 days to provide the applicant additional time to address one or more deficiencies identified in the site plan application.
- (d) If the site plan is disapproved, the specific basis for such disapproval shall be provided, along with a clear description of how the site plan could be modified to be approved. Appeals from Planning Commission decisions may be made in the manner specified in [§153.05](#).

**(C) Amendment to an Approved Site Plan**

- (1) Minor changes to approved site plans may be reviewed and decided by the Zoning Enforcement Officer, provided such changes comply with all applicable requirements of this Zoning Code and all other federal, state, county or township laws and regulations.
- (2) Major changes must be submitted to the Planning Commission for review in the same manner as the original application was submitted or reviewed. Major changes include but are not limited to:
  - (a) Increases in the scope or density of land use, land area, or building size;
  - (b) The addition of uses and/or buildings not authorized by the original approval;
  - (c) The rearrangement of lot lines or building locations by more than five feet;
  - (d) Changes in the character or function of access drives;
  - (e) Significant changes in the concept of the development; or
  - (f) Any changes which the Zoning Enforcement Officer refuses or fails to approve.

**(D) Standards for Site Plan Review**

The following standards shall be utilized by the Planning Commission in the review of all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of the site plans as well as for the Planning Commission in making their decision. Site plans should demonstrate:

- (1) Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
- (2) Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment; adequate parking, adequate lighting, and internal traffic control.
- (3) Reasonable demands placed on municipal services and infrastructure.
- (4) Adequacy of methods for sewage and refuse disposal and the protection from pollution of both surface water and groundwater. This includes controlling soil erosion both during and after construction.
- (5) Protection of abutting properties from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, storm water runoff, and the like. The performance standards set forth in [§153.18\(G\)](#) may apply to the site plan application.
- (6) Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
- (7) The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside planting, and the retention of open space.
- (8) The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape.

**(E) Site Plan Development Standards**

In addition to other standards from this Zoning Code that may apply to the proposed development, the following additional standards shall apply:

**(1) Streetscape Improvements**

- (a) The applicant shall be required to install improvements along the public street area of the subject site that conform to the city's Streetscape Plan. These items may include pavers, sidewalks, street trees, street lighting and planters consistent with the specifications found in the Streetscape Plan.
- (b) The Planning Commission may permit the applicant to make a streetscape improvement payment-in-lieu request where one or all of the required streetscape improvements are deemed to be premature relative to adjacent property development or the status of the overall streetscape construction phasing. In this event, the city shall transfer these monies to the City Streetscape Improvement Fund and hold the funds for no more than five years. The monies placed in this fund shall be used exclusively for streetscape improvements benefitting the applicant's property. If the streetscape improvements are not made within the five-year period, the city shall promptly return those remaining streetscape improvement funds to the applicant.

**(2) Outdoor Lighting Standards**

The outdoor lighting guidelines shall apply to all new projects and qualified expansion projects subject to this site plan review process.

- (a) Lighting must be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited. Non-cutoff light fixtures shall be prohibited. A decorative light pole and fixture utilizing a traditional design style approved by the Planning Commission must be utilized for all lighting not affixed to a structure.

- (b) Sidewalks and parking areas shall be properly lighted to facilitate the safe movement of pedestrians and vehicles and provide a secure environment. In parking areas, the light intensity shall average a minimum of 0.5-foot candles, measured five feet above the surface. In pedestrian areas, the light intensity shall average a minimum of 2.0 foot candles, measured five feet above the surface. Lighting levels shall not exceed 0.5 foot-candles at any common property line with property zoned or used for residential uses.
- (c) All freestanding light poles and fixtures shall not exceed 20 feet.
- (d) Any freestanding light pole and fixture shall be placed a minimum of ten feet from any property line when proposed to be located adjacent to a residential land use. There shall be no setback requirements for any freestanding light poles and fixtures when abutting any non-residential land use.

### **(3) Access Control Requirements**

General standards for parking areas, circulation, and access shall be incorporated as part of the site plan. These standards are found in [§153.19](#). As part of the site plan review process, access shall be reviewed relative to the distance from other drive approaches and from roadway intersections. The preferred method of providing access to parcels is to minimize or eliminate driveways by using service roads, rear access roads, or shared driveways. The Planning Commission may, as part of the site plan review process, require that existing driveways be moved, combined, re-aligned, or eliminated to reduce the potential for accidents.

- (a) As part of the site plan review process, the Planning Commission may approve a site plan with a specific driveway location with the condition that an agreement be first entered into between the property owner and the city, requiring that if a service road is constructed in the future, or if the opportunity for a shared driveway should present itself with development of adjacent property, one or more approved driveways shall be closed and measurements taken to utilize such service road or shared drive. Approval of driveways may also include restrictions on turning movements, locations, or other requirements to ensure safe and efficient traffic movement.
- (b) When a service road is required, such improvement shall be constructed by the developer of the involved property before any occupancy or use of the parcel or structure is permitted. When a service road is provided, all access to an adjacent property shall use that service road and no direct access to the main thoroughfare shall be provided.

### **(4) Traffic Impact Study**

A traffic impact study shall be a requirement for site plan review if the expected trip generation of the land use is 100 or more cars per hour as identified in the Institute of Traffic Engineers (ITE) Manual. A traffic impact study shall be prepared by a qualified professional engineer registered in the State of Ohio at the developer's expense. The traffic impact study shall investigate the feasibility and benefits of improvements such as signals, turn lanes, driveway movement limitations, and other relevant information to the site to protect the safety of the traveling public. The traffic impact study shall include the following elements:

- (a) A description of the site and study area;
- (b) Anticipated development of adjacent parcels;
- (c) Trip generation and distribution, including a description of all assumptions used to generate findings of trip distribution;
- (d) Modal split, if applicable;
- (e) Traffic assignment resulting from the development;
- (f) Projected future traffic volumes;



- (g) An assessment of the impact that would result from driveway alternatives;
- (h) Recommendations for site access and transportation improvements needed to maintain traffic flow within and past the site at an acceptable and safe level of service; and
- (i) An evaluation of the effects the proposed development will have on the level of service and roadway capacity.

**(F) Conformity to an Approved Site Plan**

- (1) Property subject to site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which have received the approval of the Planning Commission.
- (2) If construction and development does not conform with the approved site plan, the approval of the site plan shall be revoked by the Zoning Enforcement Officer by written notice of the revocation being posted upon the premises involved, and mailed to the owner at his or her last known address. Upon revocation of this approval, all construction activities shall cease upon the site until the time the violation has been corrected or the Planning Commission has, upon a proper site plan application being filed by the owner, approved a modification to the site plan to coincide with the owner's construction, or altered plans for construction to be in compliance with the criteria contained in the site plan approval provisions and with the spirit, purpose, and intent of this Zoning Code.
- (3) Approval of the site plan shall be valid for a period of one year beginning from the date of Planning Commission approval. If a building permit has not been obtained and substantial on-site development actually commenced within one year, the site plan approval shall become void and a new application for site plan approval shall be required and new approval obtained before any construction or site preparation work is commenced upon the site.
- (4) The city shall require the posting of a surety bond, letter of credit or other similar performance guarantee to ensure that required infrastructure improvements within the public right-of-way are completed in the event that the project is abandoned. The city may suspend the zoning permit when work is not performed as required by an approved site plan.

**§153.07 ZONING DISTRICTS**

**(A) Classes of Districts**

For the purpose of this chapter, the city is hereby divided into eight classes of districts as follows:

| <b>Table 2: Zoning Districts</b> |  |
|----------------------------------|--|
| <b>Abbreviation</b>              | <b>Zoning District Name</b>            |
| R-1                              | Single-Family Residential District     |
| R-2                              | Multi-Family Residential District      |
| C-1                              | Neighborhood Commercial District       |
| C-2                              | Highway Commercial District            |
| SRD                              | Silverton Renaissance Overlay District |
| PUD                              | Planned Unit Development District      |
| RE                               | Recreation - Education District        |

**(B) Map and Boundary Lines**

The boundaries of the city's zoning districts are established as shown on the zoning map which is hereby made a part of this chapter as if fully set forth herein. Where a district boundary line divides a lot which was in a single ownership and of record on the effective date of this chapter the use authorized on and the district requirements of the least restricted portion of the lot shall be construed as extending to the entire lot; provided that the extension shall not include any part of the lot which is more than 25 feet from the district boundary line. Questions concerning the exact location of district boundary lines shall be determined by the Board of Zoning Appeals, as provided in [§153.05](#).

**(C) Exceptions**

- (1)** No building shall be erected, reconstructed, or structurally altered for any use nor shall any building or premises be used other than as permitted in the district in which such buildings or premises are located.
- (2)** No building shall be erected, reconstructed, or structurally altered to exceed the height limits herein established for the district in which that building is located.
- (3)** Every building hereafter erected shall be erected upon a lot having a frontage of not less than 15 feet on a public street or an unobstructed easement of access or right-of-way at least 15 feet wide to a public street, in addition to any other open space requirements of this chapter.

## **§153.08 GENERAL STANDARDS FOR ALL ZONING DISTRICTS**

### **(A) Lot Size Measurements**

- (1)** The lot size, or lot area calculation, includes the total horizontal surface area within the lot's boundaries (lot or parcel lines).
- (2)** No lot shall be reduced in area or dimensions so as to make said area or dimensions less than the minimum required by this code; and, if already less than the minimum required by this code, said area or dimensions shall not be further reduced. Exceptions to this standard shall only be granted if a reduction is approved as part of a PUD or variance approval.

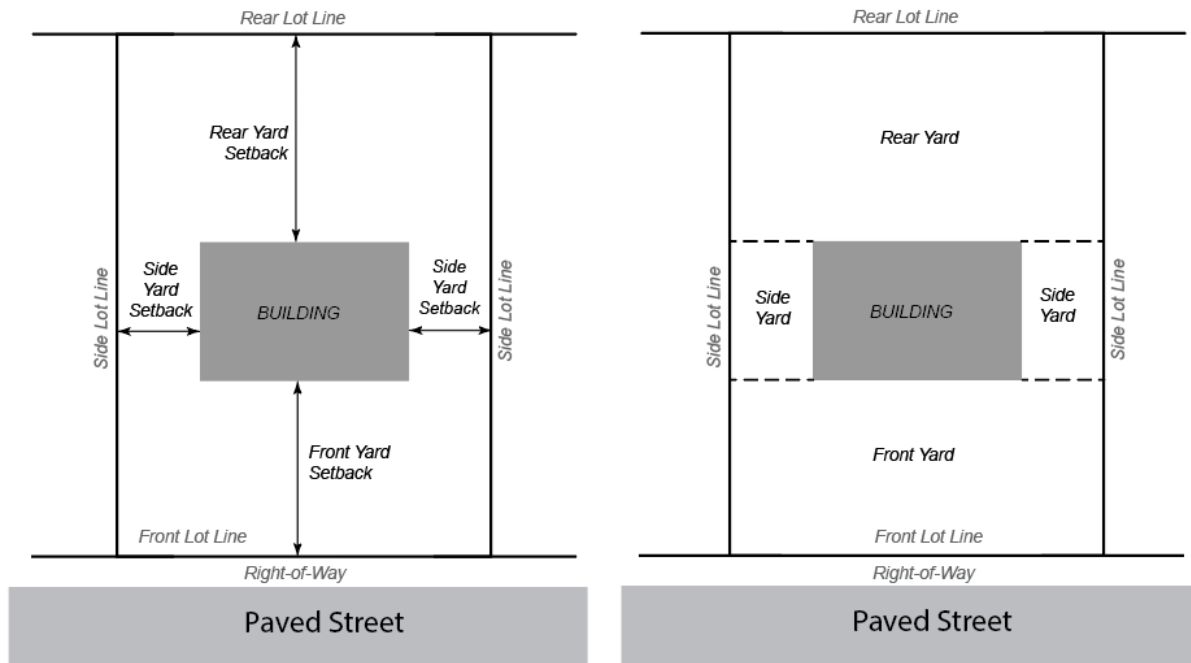
### **(B) Setbacks and Yards Required for Buildings**

- (1)** A yard is the open area created by the required setbacks. Where required, a yard for any structure shall be located on the same lot as the structure and shall not include any yard or open space areas from an adjacent lot.
- (2)** While a yard is defined as an open area, certain structures and uses may be permitted in required yards as specified in this code.
- (3)** A setback shall not be reduced in any manner to less than the required dimensions for the district in which it is located, and a setback of less than the required dimensions shall not be further reduced in any manner unless otherwise noted in this code (e.g., nonconforming structures, PUDs, or by variance).

**(4) Lot Configurations and Rules for Setbacks and Yards**

**(a) Interior Lots**

- (i) Unless otherwise stated, the required minimum front yard setback shall be measured from the street right-of-way or, where a right-of-way is not identified, the front lot line. See [Figure C](#).
- (ii) The lot line located directly opposite the front lot line, shall be the rear lot line and the rear yard setback shall be applied. See [Figure C](#).
- (iii) All other lot lines shall be considered the side lot line and the side yard setback shall be applied. See [Figure C](#).

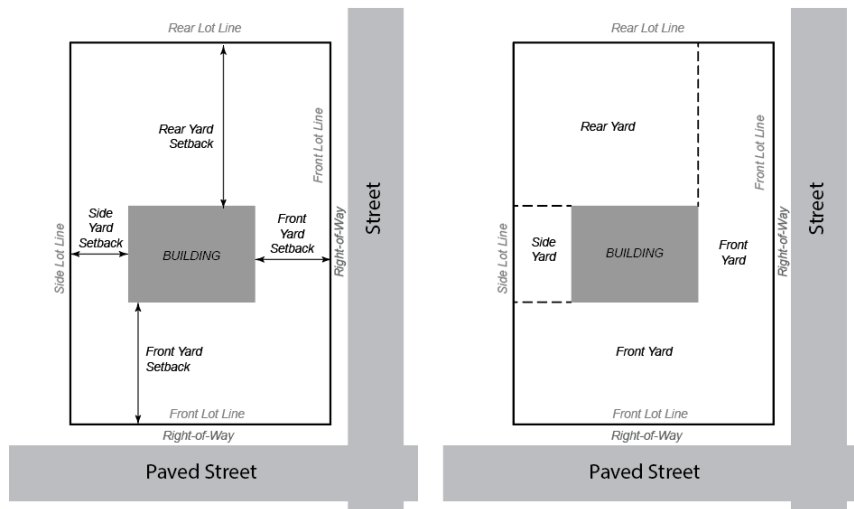


*Figure C: Typical setback and yard locations for an interior lot.*

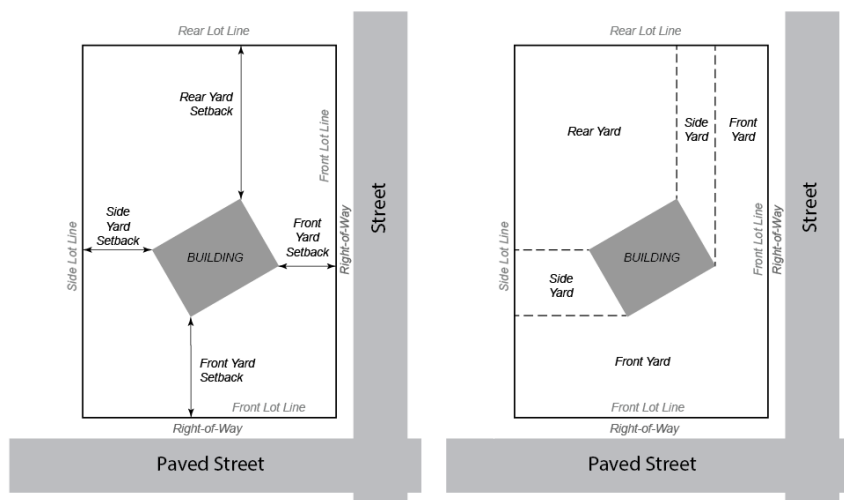
**(b) Corner Lots**

Lots that have street frontage on two intersecting streets shall be considered a corner lot, subject to the following:

- (i) Unless otherwise stated, the required minimum front yard setback shall be measured from both street rights-of-way or, where a right-of-way is not identified, the front lot line. See [Figure D](#).
- (ii) The lot line that runs parallel with the front facade of the building on the rear of the lot shall be the rear lot line, and the minimum rear yard setback shall be applied from such lot line. See [Figure D](#).
- (iii) All other lot lines shall be a side lot line, and the minimum side yard setback shall be applied from such lot lines. See [Figure D](#).
- (iv) An alley shall not be considered a street for the purposes of determining a corner lot.
- (v) Such setbacks and yard locations shall apply, regardless of the orientation of the building.



*Figure D: Typical setback and yard locations for a corner lot.*



*Figure E: Typical setback and yard locations for a corner lot where the building is oriented toward the corner of the lot.*

**(c) Double Frontage (Through) Lots**

Double frontage lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Planning Commission. Double frontage lots shall be subject to the following regulations:

- (i) Where a lot is considered a double frontage (through lot) lot, the required minimum front yard setback shall be provided on all lot lines that abut a street. See [Figure F](#).
- (ii) The remaining lot lines not abutting a public road right-of-way shall be considered as side yards and shall have the required minimum side yard setback provided for each side lot line. See [Figure F](#).
- (iii) For the purposes of allowing accessory uses and fences, which are allowed in a rear yard, the yard that is located to the rear of the principal building shall be considered the rear yard and the applicable rear yard setback shall apply to all accessory uses or structures. Additionally, the maximum height of fences shall be as allowed in rear yards in [§153.18\(E\)](#). Such accessory uses or structures shall not be permitted in the required front yard areas adjacent to each street.
- (iv) Where alleys exist in the City, any lots that have frontage along the alley shall not be considered a double frontage (through) lot and shall either be regulated as an interior lot or corner lot depending on the location of the subject lot within the block.

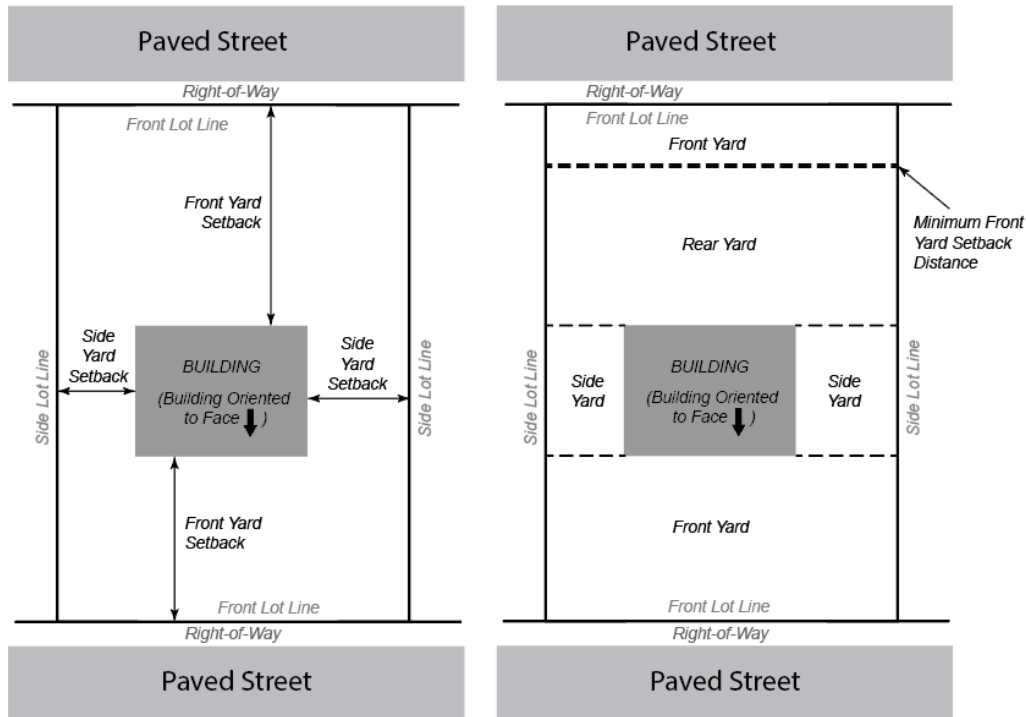
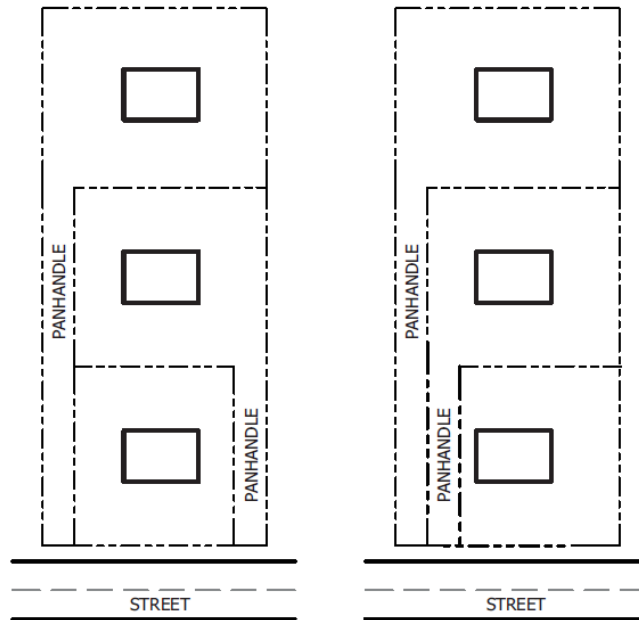


Figure F: Typical setback and yard locations for a double frontage (through) lot.

**(d) Flag (Panhandle) Lots**

Panhandle lots (flag) lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Code Enforcement Officer. Panhandle (flag) lots shall be subject to the following regulations:

- (i) Panhandle (flag) lots shall not be used to avoid the construction of a street.
- (ii) The area of the “panhandle” portion of the lot connecting the lot to the public street shall not be included in the area of the lot for the purposes of determining compliance with the required minimum lot area for the district in which the lot is located.
- (iii) The stacking of panhandle (flag) lots shall be prohibited. See [Figure G](#).



*Figure G: The above illustration shows the stacking of flag (panhandle) lots, which is prohibited.*

- (iv) The panhandle shall have a minimum width of 20 feet along the entire width of the panhandle. The maximum width shall be 40 feet and anything with a width of 40 feet or greater shall be considered an interior, corner, or double frontage lot as may be applicable.
- (v) No structures, except for fences and walls allowed by this zoning code, shall be permitted in the panhandle portion of the lot.
- (vi) The minimum front yard setback requirement shall be measured from the lot line that creates the rear lot line of the adjacent lot as illustrated in [Figure H](#).

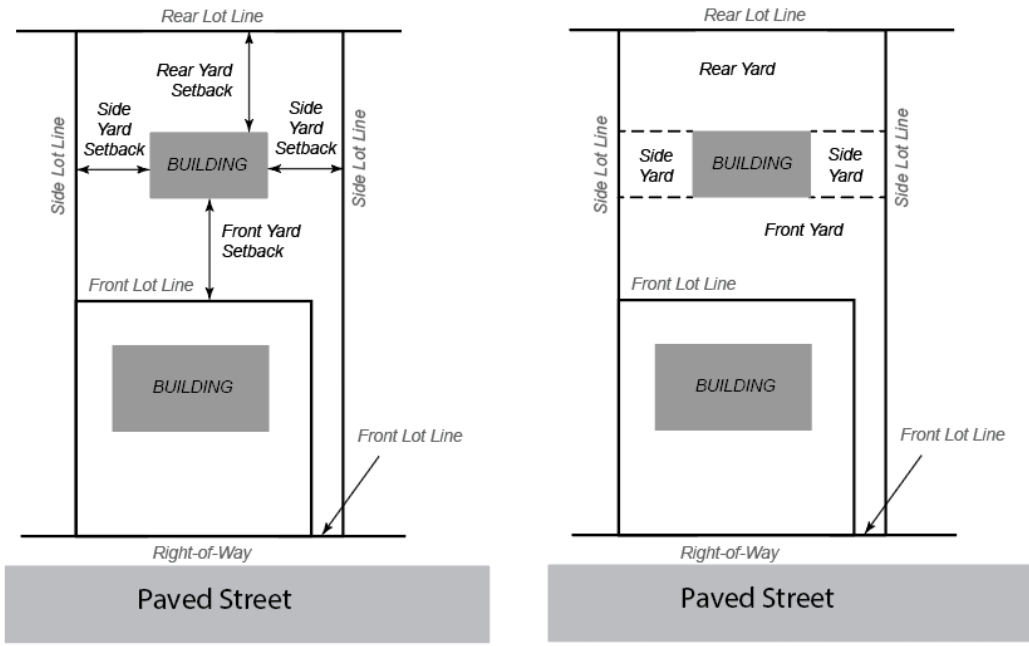


Figure H: Typical lot lines and setback locations for a flag (panhandle) lot (left image) and typical yard locations (right image).

**(e) Cul-de-Sac or Curved-Street Lot**

- (i) For a cul-de-sac lot or a lot abutting a curved street, the front-yard setback shall follow the curve of the front property line (lot line). See [Figure I](#).
- (ii) On a cul-de-sac roadway, knuckle, or eyebrow, the required street frontage shall be required and measured at the street right-of-way on the curve of the cul-de-sac, knuckle, or eyebrow.

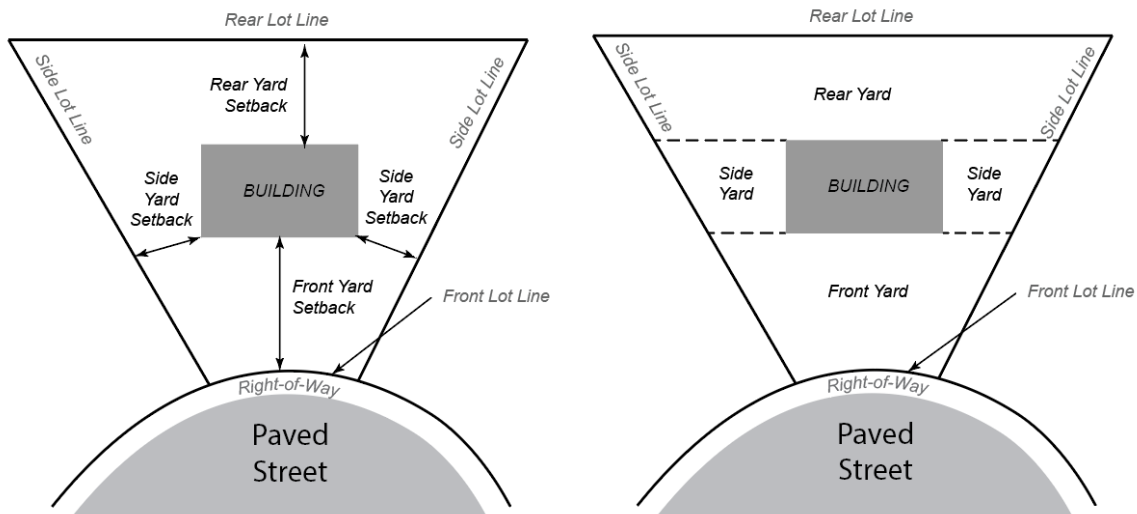


Figure I: Typical setback and yard locations for a curved street or cul-de-sac.



**(f) Other Lot Configurations**

Where there is an instance of a lot configuration not addressed in the previous sections (e.g., interior, corner, etc.), or where there is an atypical building orientation on any lot, the Zoning Enforcement Officer shall have the authority to make a determination regarding where front, rear, and side yard setbacks are required.

**(5) Minimum Dwelling Area Calculation**

- (a)** The minimum floor area of a dwelling unit shall include all finished and habitable spaces including the basement floor area when more than one-half of the basement height is above the finished lot grade level at the front of the building.
- (b)** Garages, outdoor patios, porches, or decks, and accessory buildings shall not be included in the minimum floor area of a dwelling.
- (c)** Such requirements shall only apply to single-family dwellings, two-family dwellings, rowhouse dwellings, multi-family dwellings, and dwelling units located in mixed-use buildings. These requirements shall not apply to hospitals, nursing homes, or similar types of residential uses that are institutional in nature.

**(6) Maximum Lot Coverage Measurement**

Where there is a maximum lot coverage established for certain buildings and structures, the lot coverage shall be that portion of a lot, which when viewed directly from above, would be covered by the footprint of the principal building, or the accessory building where stated. Decks, pervious paver blocks, driveways, patios, parking lots, and structures that are not buildings shall not count toward lot coverage.

## **§153.09 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT**

### **(A) Purpose**

The purpose of the R-1 Single-Family Residential District is to retain and continue an existing suburban residential character, and to encourage the maintenance of single-family detached dwellings and individual multi-family structures in areas where appropriate community facilities are available and urban services can be efficiently provided.

### **(B) Permitted Uses**

A building or lot within an R-1 Single-Family Residential District shall be used only for the following purposes:

- (1) A detached single-family dwelling;
- (2) A small residential facility; and
- (3) Public park and recreation facilities.

### **(C) Conditional Uses**

The following conditional uses may be approved in accordance with the regulations and procedure set forth in [§153.16](#).

- (1) Private parks, recreational, and community center buildings not owned or operated by a public entity;
- (2) Churches and other places of worship, Sunday school buildings, and parish houses;
- (3) Schools, educational institutions, and colleges, including dormitories, public libraries, public museums, and public art galleries;
- (4) Restricted parking lots where the area is adjacent to a business district or is separated by a street or alley not over 30 feet in width, subject to conditions and limitations of the off-street parking standards set forth in [§153.19](#);
- (5) Bed and breakfast operations; and
- (6) Home occupations.

### **(D) Accessory Uses**

Accessory uses and structures customarily incidental to any single-family dwelling, approved conditional use, or legal non-conforming use and being located on the same lot therewith shall be permitted subject to the regulations set forth in [§153.17](#).

### **(E) Minimum Yard Sizes**

The required minimum lot and yard sizes for the principal structure located within an R-1 District shall be as follows:

#### **(1) Front Yard Setback**

The minimum front yard setback distance shall be the average distance of the front yard setback for all lots in the same zoning district, along the same block face. For block faces that have more than 10 lots in the same zoning district, the average distance of the front yard setback shall be based on the nearest 10 dwellings located on the same block face.

#### **(2) Side Yard Setback**

The minimum side yard setback distance shall be five feet from each side lot line. A reduced setback on one side yard setback may be authorized by the Planning Commission with a conditional use approval if the Planning Commission finds that reduced setback on one side of the lot reflects the predominant character of the dwellings along the same block face.

**(3) Read Yard Setback**

The minimum rear yard setback distance shall be 30 feet.

**(F) Maximum Lot Coverage**

The maximum lot coverage for a principal building located in this district shall be 30% of the applicable lot.

**(G) Maximum Structure Height**

The maximum height of a principal structure located in this district shall be 35 feet and contain no more than two and one-half occupied stories.

**(H) Minimum Lot Area**

The minimum lot area for a single-family dwelling shall be 9,000 square feet. Larger lot areas may be required for approved conditional uses as established in [§153.16](#).

**(I) Minimum Dwelling Area**

- (1)** Permitted single-family dwellings shall have a minimum livable floor area of 1,200 square feet, exclusive of garages, cornices, eaves, gutters, porches, balconies, terraces, or outside enclosures.
- (2)** Permitted single-story ("ranch style") single-family dwellings shall have a minimum livable floor area of 1,100 square feet, exclusive of garages, cornices, eaves, gutters, porches, terraces, or outside enclosures.

**(J) Architectural And Exterior Material Standards**

**(1) Architectural Standards**

All new principal buildings shall comply with the following architectural standards:

- (a)** All new principal structures permitted in this district shall be constructed using a minimum 6/12 pitched roof design including the roof area located over the garage. The roof area located over any porch and entrance portions of the dwelling may be constructed using a minimum 4/12 pitch design.
- (b)** Minimum overhang length of 12 inches shall be provided over all faces of the exterior walls of a dwelling.

**(2) Exterior Building Materials**

- (a)** All new principal buildings constructed in this zoning district shall be constructed of the following exterior materials: brick, natural stone and cultured stone products, brick or stone veneer, wood, or cement siding products featuring a simulated wood appearance.
- (b)** Vinyl and aluminum siding is prohibited for use on principal buildings unless it is used on areas of a facade that are located above the first and are difficult to cover in the approved materials due to locational difficulties or serve strictly as trim, as determined by the Zoning Enforcement Officer. In such cases, the use of vinyl or aluminum siding shall not cover more than 10% of the total facade. See [Figure J](#).



*Figure J: Two images of the acceptable use of vinyl as trim in circled areas*

- (c) Vinyl used on principal buildings, where allowed, shall be insulated vinyl or have a minimum thickness of 0.046 inches.
- (d) Accessory structures may be constructed using any traditional building materials including vinyl and aluminum siding.

**(3) Nonconforming Structures**

Principal buildings that do not conform to these architectural and building material standards on the date these standards became effective shall be considered nonconforming. Any such building damaged to the extent of 50% or greater of its fair market value shall be required to be reconstructed in compliance with these standards in accordance with [§153.21](#).

## §153.10 R-2 MULTI-FAMILY RESIDENTIAL DISTRICT

### (A) Purpose

The purpose of the R-2 Multi-Family Residential District is to provide suitable areas for multi-family residential development and thus to broaden the range of housing choices in the community. An additional purpose is to assure the location of such development in areas where traffic congestion may be avoided and adjacent uses are of compatible character and scale with higher-density housing types.

### (B) Permitted Uses

A building or lot within an R-2 Multi-Family Residential District shall be used only for the following purposes:

- (1) A single-family dwelling;
- (2) A multi-family dwelling for two or more family occupancy ; and
- (3) Public park and recreation facilities.

### (C) Conditional Uses

The following conditional uses may be approved in accordance with the regulations and procedure set forth in [§153.16](#).

- (1) Private parks, recreational and community center buildings not owned or operated by a public entity;
- (2) Churches and other places of worship, Sunday school buildings, and parish houses;
- (3) Schools, educational institutions, and colleges, including dormitories, public libraries, public museums, and public art galleries;
- (4) Restricted parking lots where the area is adjacent to a business district or is separated therefrom by a street or alley not over 30 feet in width, subject to conditions and limitations of the off-street parking standards set forth in [§153.19](#);
- (5) A large residential facility; or
- (6) Home occupations.

### (D) Accessory Uses

Accessory uses and structures customarily incidental to any multi-family dwelling, permitted conditional use, or legal non-conforming use and being located on the same lot therewith shall be permitted subject to the regulations set forth in [§153.17](#).

### (E) Minimum Yard Sizes

The required minimum lot and yard sizes for the principal structure located within an R-2 District shall be as follows:

#### (1) Front Yard Setback

The minimum front yard setback distance shall be the average distance of the front yard setback for all lots in the same zoning district, along the same block face. For block faces that have more than 10 lots in the same zoning district, the average distance of the front yard setback shall be based on the nearest ten dwellings located on the same block face.

#### (2) Side Yard Setback

The minimum side yard setback distance shall be five feet from each side lot line. A reduced setback on one side yard setback may be authorized by the Planning Commission with a conditional use approval if the Planning Commission finds that reduced setback on one side of the lot reflects the predominant character of the dwellings along the same block face.

**(3) Rear Yard Setback**

The minimum rear yard setback distance shall be 35 feet.

**(F) Maximum Lot Coverage.**

The maximum lot coverage for a principal building located in this district shall be 50% of the applicable lot.

**(G) Maximum Structure Height**

The maximum height of a principal structure located in this district shall be 45 feet and contain no more than three and one-half occupied stories.

**(H) Minimum Lot Area**

The minimum lot area for a multi-family dwelling shall be 3,000 square feet per dwelling unit not to exceed a maximum of 12.0 units per acre. (Example: A multi-family structure containing four dwelling units requires a minimum lot area of 12,000 square feet.) Larger lot areas may be required for approved conditional uses as established in [§153.16](#).

**(I) Minimum Dwelling Unit Area**

Permitted multi-family dwelling units shall have a minimum livable floor area based on the following schedule:

- (1) One bedroom unit: The minimum livable floor area shall be 800 square feet.
- (2) Two-bedroom unit: The minimum livable floor area shall be 950 square feet.
- (3) Three-bedroom unit: The minimum livable floor area shall be 1,100 square feet.
- (4) Add 100 square feet for every additional bedroom beyond a three-bedroom unit.

**(J) Architectural and Exterior Material Standards**

All principal buildings and accessory structures in the R-2 district shall be subject to the same architectural and exterior material standards as the R-1 District. See [§153.09\(J\)](#).

## §153.11 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

### (A) Purpose

The purpose of the C-1 Neighborhood Commercial District is to provide a planned, mixed-use and pedestrian-oriented commercial district. This district shall be organized to function as a cohesive destination-based shopping, entertainment and employment center serving a local and semi-regional market area. Thus, retail uses shall be encouraged which provide specialty and some major purchase goods, and which individually complement other uses in the district to allow maximum lot coverage for clustered sales space and utilization of shared parking facilities. Land uses within this district shall also include personal services, professional services and office uses that may attract a non-local customer base while maintaining the appropriate development scale and intensity desired for this district. Residential dwelling units located above first floor retail or office uses shall also be encouraged to assist in creating a residential critical market mass within the district. Areas included in this district will be readily accessible via major and minor arterial streets and shall be organized to facilitate nuisance-free circulation of traffic and to avoid adverse impact on the utilization of adjacent areas.

### (B) Permitted Uses

A building or lot within a C-1 Neighborhood Commercial District shall be used only for the following purposes:

- (1) Shops and stores for the retail sale of hardware, groceries and other food products, bakery goods (excluding their manufacture), drugs, liquors and beverages, periodicals, stationery books, tobacco, antiques, furniture, floor coverings, general dry goods and specialized clothing, shoes, lighting supplies and fixtures, cameras and photographic supplies, glassware, household appliances, jewelry, leather goods and luggage, music equipment and records, pets, toys, sporting goods, paints and wallpaper, plants and garden supplies, art supplies and art work, coffee shops, limited office supplies and specialized foods;
- (2) Restaurants of appropriate scale and character for the district, excluding drive-in restaurants and auto restaurants, as defined in this Zoning Code;
- (3) Personal services, including barber, beautician, nail and tanning salons, and dry cleaning services, including tailor, photographer, caterer, health clubs, and travel agencies, and excluding auto detailing or car wash uses;
- (4) Repair services such as shops for appliances, watches, guns, bicycles, shoes, locks, and furniture, including refinishing;
- (5) Banks and related savings and loan institutions that accept deposits;
- (6) Residential dwelling units when located on the second floor or third floor of a structure that contains a first-floor permitted retail, service or office use as provided for under this section. First floor residential dwelling units are prohibited in this district;
- (7) Professional services, including offices of realtors, physicians, lawyers, veterinarians, dentists, insurance agents, architects and engineers, accounting and bookkeeping services, security and commodity brokers, investment services, advertising and public relations services, employment services, business and management consulting services, and business associations;
- (8) Business and administrative offices, including those of professional organizations, labor unions, civic associations, other general administrative offices, and broadcasting studios and other communication studios excluding transmitting or receiving towers; and
- (9) Drive-thru or drive-in facilities shall be expressly prohibited in this district unless authorized as a conditional use in [§153.11\(C\)](#).

**(C) Conditional Uses**

The following conditional uses may be approved in accordance with the regulations and procedure set forth in [§153.16](#).

- (1) Existing single- and multi-family dwelling units in buildings originally designed for residential purposes and existing at the time of enactment of this section, or the demolition and reconstruction of similar residential dwelling units that existed at the time of enactment of this section, including accessory uses such as:
  - (a) Private garages and parking;
  - (b) Structures such as fences and walls; and
  - (c) Buildings such as storage sheds.
- (2) A large or small residential facility in buildings originally designed for residential purposes that existed at the time of enactment of this section;
- (3) Recreation uses or spaces including indoor motion picture theaters, ice and roller skating rinks, bowling alleys, billiard halls, auditoriums, exhibition halls, and other public assembly spaces;
- (4) Automotive service stations;
- (5) Drive-in banking facilities that accept deposits;
- (6) Nursery and child-care centers;
- (7) Churches and other places of worship, Sunday School buildings, and parish houses;
- (8) Mortuaries or funeral homes;
- (9) Dwelling units occupied by owner-operators of attached permitted uses in the district, provided the building was originally designed for residential use, including accessory uses appropriate to the dwelling unit;
- (10) Small scale cottage industry style uses involving the creation of retail goods typically catering to a specialized niche market or consumer;
- (11) Low intensity service establishments limited to the repair, servicing and installation of the following types of mechanical services including electrical systems, heating, ventilation, air conditioning units, fire suppression systems, plumbing, and building automation; and
- (12) Any substantially similar use which the Planning Commission determines to be of the same character and nature as those permitted in the C-1 Neighborhood Commercial District may be permitted in accordance with the conditional use standards set forth in [§153.16\(F\)\(14\)](#).
- (13) A private parking lot providing required parking spaces for an otherwise permitted land use on an unattached parcel.

**(D) Accessory Uses**

Accessory uses, buildings, and structures which are customarily incidental and subordinate to any of the permitted uses in the C-1 Neighborhood Commercial District are permitted subject to the accessory use standards set forth in [§153.17](#).

**(E) Minimum Yard Sizes**

The required minimum lot and yard sizes for the principal structure located within a C-1 District shall be as follows:

**(1) Front Yard Setback**

The front face of the building shall be placed at the front yard line and maintain zero front yard setback. In the event the lot's front yard line is located within a public right-of-way easement, then the front face of the building shall be placed at the edge of the public right-of-way easement.



**(2) Side Yard Setback**

There shall be no minimum side yard setback requirement when abutting a non-residential use or non-residential zoning district. When a side yard abuts a residential use or residential zoning district, then the bufferyard requirements set forth in [§153.20\(D\)](#) shall apply.

**(3) Rear Yard Setback**

There shall be no minimum rear yard setback requirement when abutting a non-residential use or non-residential zoning district. When a rear yard abuts a residential use or residential zoning district, then the bufferyard requirements set forth in [§153.20\(D\)](#) shall apply.

**(F) Maximum Lot Coverage.**

The maximum lot coverage for a principal structure located in this district shall be 80% of the applicable lot.

**(G) Maximum Structure Height**

The maximum height of a principal structure located in this district shall be 60 feet and contain no more than five occupied stories.

**(H) Minimum Lot Area**

There shall be no minimum lot area for this district.

**(I) Minimum Dwelling Unit Area**

Residential dwelling units when located on the second floor or third floor of a structure that contains a first floor permitted retail, service or office use as provided for under this subchapter shall have a minimum livable floor area based on the following schedule:

- (1)** One-bedroom unit: The minimum livable floor area shall be 800 square feet.
- (2)** Two-bedroom unit: The minimum livable floor area shall be 950 square feet.
- (3)** Three-bedroom unit: The minimum livable floor area shall be 1,100 square feet.
- (4)** Add 100 square feet for every additional bedroom beyond a three-bedroom unit.

**(J) Architectural and Exterior Material Standards**

**(1) Architectural Standards**

All new principal and accessory structures permitted in this zoning district should be designed to conform to the following architectural standards in order to achieve a uniform and well-planned community appearance.

- (a)** Vary the planes of the exterior walls. Walls shall not run in one direction for more than 50 feet without an offset.
- (b)** Vary the height of buildings so that they appear to be divided into distinct massing elements.
- (c)** Articulate the different parts of a buildings' exterior by use of color and material changes, trim accents, window placement and other facade elements.
- (d)** All building faces shall receive architectural treatment, not just the street face of the building. Walls and roof lines should have varied planes.
- (e)** Rooflines should not run in a continuous plane for more than 50 feet without off-setting or jogging the roof plane.

- (f) All roof-mounted equipment shall be screened from public view by materials similar to those used on the principal structure. Mechanical equipment should be located below the highest vertical element of the building. Rooftop solar panels may be visible from public view provided the connections securing the solar panels to the rooftop are approved by the Zoning Enforcement Officer.
- (g) Where appropriate, the use of awnings is encouraged. Awning color and form should be consistent. Plexiglas, metal and glossy vinyl awning are prohibited, while canvas, fabric, and matte finish vinyl awnings are encouraged.
- (h) The use of standardized corporate architectural styles associated with chain restaurants and stores is discouraged. Effort should be made to integrate the building design into the established architectural context of the surrounding neighborhood and the city as a whole.
- (i) Glass windows shall occupy at least 75% of the front elevation of the first floor of a building in this district. All windows located above the first floor shall have a coordinated appearance that remains in context with the first-floor window design and placement.

**(2) Exterior Building Materials**

All principal buildings and accessory structures in the C-1 district shall be subject to the same exterior material standards as the R-1 District. See [§153.09\(J\)\(2\)](#).

**(3) Nonconforming Structures**

Principal buildings that do not conform to these architectural and building material standards on the date these standards became effective shall be considered nonconforming. Any such building damaged to the extent of 50% or greater of its fair market value shall be required to be reconstructed in compliance with these standards in accordance with [§153.21](#).

**(K) Site Design Standards**

Design and placement of new buildings in this district must consider the existing built environment of the surrounding area, in particular existing setbacks, building size and massing. Towards this end, the following objectives should be considered:

- (1) Buildings should be sited in a manner that complements adjacent structures. Sites should be developed in a coordinated manner to provide order and diversity and avoid an unplanned, confused development pattern.
- (2) When a development site features multiple integrated buildings and other structures, a visual link between separate buildings and structures should be established, by various means, including stamped concrete walkways, arcade systems, trellises or other open structures.
- (3) Buildings should be sited to minimize conflicts between pedestrians and vehicle traffic. Buildings can be linked to adjoining street sidewalks with textured paving, landscaping and trellises.
- (4) Outdoor spaces between buildings should be recognized as outdoor "rooms" that have clear recognizable shapes, as opposed to being considered as "left over" areas. These spaces can be used to provide important pedestrian amenities such as benches, trellises, fountains, artwork, etc.
- (5) Freestanding structures should be oriented with the main entry towards the street and should have the main facade parallel to the street.
- (6) Structures located on a corner lot shall orientate the primary access and building entry in a manner that fronts the street corner when feasible.

## **§153.12 C-2 HIGHWAY COMMERCIAL DISTRICT**

### **(A) Purpose**

The purpose of the C-2 Highway Commercial District is to provide for those types of small- to medium-scale office, transportation, warehouse, light industrial, and related service uses which are based in low rise structures or land-extensive facilities and which benefit from direct accessibility to regional transportation systems. Uses in this district shall be organized to encourage sharing of access routes and accessory uses, when possible, and to provide direct and hazard- or nuisance-free circulation of traffic into and through the district.

### **(B) Permitted Uses**

The following uses are permitted by right in the C-2 Highway Commercial District in accordance with its stated purpose:

- (1) Professional services, including offices of realtors, physicians, lawyers, veterinarians, dentists, insurance agents, architects and engineers, accounting and bookkeeping services, security and commodity brokers, investment services, advertising and public relations services, employment services, business and management consulting services, and business associations;
- (2) Business and administrative offices, including those of professional organizations, labor unions, civic associations, other general administrative offices, and broadcasting studios and other communication studios excluding transmitting or receiving towers;
- (3) Wholesale storage and distribution of goods and materials, including warehouses, moving services, delivery services, and similar uses. The storage of flammables, explosives, or materials which create dust, odors, or fumes shall be expressly prohibited in this district;
- (4) Light industrial operations not involving the manufacture of new goods, materials or products;
- (5) Miscellaneous repair shops and related services provided all operations occur within a building;
- (6) Vehicle repair services, garages, and body shops provided all operations occur within a building;
- (7) Retail nurseries and garden centers;
- (8) Research and development uses, including associated laboratories;
- (9) Outpatient medical facilities; and
- (10) Convenience stores.

### **(C) Conditional Uses**

The following conditional uses may be approved in accordance with the regulations and procedure set forth in [§153.16](#).

- (1) Public or private recreation uses.
- (2) Automotive service stations.
- (3) Automotive gasoline stations.
- (4) Wireless telecommunication facilities (See [§153.23](#)).
- (5) Automobile sales.
- (6) Hospitals.
- (7) Tattoo parlors or body piercing establishments.
- (8) Any substantially similar use which the Planning Commission determines to be of the same character and nature as those permitted in the C-2 Highway Commercial District may be permitted in accordance with the conditional use standards set forth in [§153.16\(F\)\(14\)](#).

**(D) Accessory Uses**

Accessory uses, buildings, and structures which are customarily incidental and subordinate to any of the permitted uses in the C-2 Highway Commercial District are permitted subject to the accessory use standards set forth in [§153.17](#).

**(E) Minimum Yard Sizes**

The required minimum lot and yard sizes for the principal structure located within a C-2 District shall be as follows:

**(1) Front Yard Setback**

The minimum front yard setback distance shall be 20 feet.

**(2) Side Yard Setback**

The minimum side yard setback distance shall be ten feet measured from the side yard property line to the side building face. When a side yard abuts a residential use or residential zoning district, then the bufferyard requirements set forth in [§153.20\(D\)](#) shall apply.

**(3) Rear Yard Setback**

The minimum rear yard setback distance shall be ten feet measured from the rear yard property line to the rear building face. When a rear yard abuts a residential use or residential zoning district, then the bufferyard requirements set forth in [§153.20\(D\)](#) shall apply.

**(F) Maximum Lot Coverage**

There shall be no maximum lot coverage for this district except as provided in the yard setback, off-street parking regulations and any other applicable regulation found in this Zoning Code.

**(G) Maximum Structure Height**

The maximum height of a principal structure located in this district shall be 75 feet and contain no more than five occupied stories.

**(H) Minimum Lot Area**

There shall be no minimum lot area for this district.

**(I) Architectural And Exterior Material Standards**

**(1) Architectural Standards**

All new principal and accessory structures permitted in this zoning district should be designed to conform to the following architectural standards in order to achieve a uniform and well-planned community appearance. As a category of structural types, industrial buildings house a variety of uses or uses that maintain a high level of land use intensity, and as such, often present unattractive and monotonous facades. However, there are a variety of design techniques that can be utilized to promote visual variety and facilitate a cohesive, attractive design statement:

- (a)** Avoid long, blank building facades, particularly on walls visible from the public right-of-way. Facades with varied setbacks are encouraged. If possible, wall planes should not run in one continuous direction for more than 50 feet without an offset.
- (b)** All elevations to a building should be architecturally treated to avoid monotonous overall design.

- (c) Windows and doors are key elements of a building's form and should relate to the scale of the facade on which they appear. Windows and doors can help establish character by their rhythm, spacing, and variety. Recessed openings further work to provide depth and contrast on elevation planes.
- (d) Metal buildings should be architecturally designed, providing variety and visual interest to the streetscape.
- (e) All roof-mounted equipment shall be screened from public view by materials similar to those used in the overall structure. Mechanical equipment should be located below the highest vertical element of the building. Rooftop solar panels may be visible from public view provided the connections securing the solar panels to the rooftop are approved by the Zoning Enforcement Officer.
- (f) Building entries shall be readily identifiable through the use of canopies, marquees and architectural treatment.
- (g) It is encouraged that the front and two side elevations of all buildings and structures be constructed of brick, architectural block or architectural precast concrete. Painted or natural utility concrete panels or masonry units should be confined to rear elevations and in loading dock areas where applicable.
- (h) Glass windows or some similar architectural treatment shall occupy at least 10% of the front elevation of a building.
- (i) Design elements which are undesirable and should be avoided include:
  - (i) Highly reflective surfaces;
  - (ii) Large blank, unarticulated wall surfaces; and
  - (iii) Exposed, treated block walls.

**(2) Exterior Building Materials**

All principal buildings and accessory structures in the C-1 district shall be subject to the same exterior material standards as the R-1 District. See [§153.09\(J\)\(2\)](#).

**(3) Nonconforming Structures**

Principal buildings that do not conform to these architectural and building material standards on the date these standards became effective shall be considered nonconforming. Any such building damaged to the extent of 50% or greater of its fair market value shall be required to be reconstructed in compliance with these standards in accordance with [§153.21](#).

## **§153.13 (SRD) SILVERTON RENAISSANCE OVERLAY DISTRICT**

### **(A) Purpose**

The purpose of the Silverton Renaissance Overlay District is to provide for a planned, pedestrian-oriented mixed-use district offering convenience goods and personal services for the everyday living needs of local residents and merchants while encouraging the efficient use of land and coordination of uses to avoid unnecessary duplication of services. This district shall also provide for residential dwelling units located above permitted non-residential uses. Areas included in this overlay district will be readily accessible via major and minor arterial roads and shall be organized to facilitate nuisance-free circulation of traffic and to avoid adverse impact on the utilization of adjacent areas. Except as otherwise provided in this chapter, all regulations of the underlying district shall apply to and control property in the Silverton Renaissance Overlay District; provided, however, that in the case of conflict between the provisions of an underlying zoning district and this overlay district, the provisions of the Silverton Renaissance Overlay District shall govern.

### **(B) Permitted Uses**

- (1)** Shops for the retail sale of antiques, furniture, floor coverings, general dry goods and specialized clothing, shoes, lighting supplies and fixtures, glassware, hardware, jewelry, leather goods and luggage, music related items, pets, toys, sporting goods, bicycles, paints and wallpaper, florists, art supplies and art work, specialized foods, groceries and other food products, baked goods (excluding their manufacture for sale off-site), coffee, packaged liquors and beverages, stationery, books and periodicals, and tobacco.
- (2)** Artisan studios for the production of wares to be sold on site.
- (3)** Professional services, including interior decoration/design, optician services and optical supplies, real estate services and travel agencies/services.
- (4)** Personal services, including barber shops, hair salons and their associated services, dry cleaning services (excluding coin-operated laundries) including custom tailoring and shoe repair, and photography studios and supplies. Personal services shall exclude tattoo parlors or similar body art related establishments.
- (5)** Health clubs.
- (6)** Post offices, municipal administration buildings, and police and fire stations.
- (7)** Libraries, museums, art galleries, and similar cultural facilities open to the general public.
- (8)** Offices and office buildings for all purposes, including medical/dental offices, and medical laboratories but excluding veterinary services.
- (9)** Financial institutions that accept deposits.
- (10)** Restaurants, taverns, and micro-breweries and caterers.
  - (a)** Restaurants, taverns and microbreweries shall devote no more than 45% of their floor area to food preparation, related activities and other space not accessible to the public.
  - (b)** No more than 35% of the restaurant's sales by dollar volume may be carryout whereby patrons are served with single-use utensils, plates and beverage containers.
  - (c)** Drive-through windows and the consumption of food or beverage in automobiles parked upon the premises are prohibited.
- (11)** General business services, including radio and television studios.
- (12)** Medical supplies outlets and pharmacies.
- (13)** Printing establishments.
- (14)** Residential units, provided such units are located on the second story or above of a building. First floor residential dwelling units are prohibited in this overlay district.

**(C) Conditional Uses**

- (1)** The following conditional uses and their appropriate accessories are permitted provided the activity is an integral and subordinate function of the commercial business, service and office uses permitted by right in the district; the activity will enhance the ability of the Silverton Renaissance Overlay District to provide community commercial, service and office needs substantially similar to the uses permitted in this district and that will not detract from the creation of a compact pedestrian-oriented commercial center; and the arrangement of any conditional use, building, or structure will be mutually compatible with the organization of permitted and accessory uses to be protected in the district.
- (a)** Outdoor dining, in connection with a restaurant, provided that such area meets the following minimum requirements:
    - (i)** Such area shall be designed to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility;
    - (ii)** Such area shall not exceed 25% of the maximum seating capacity of the indoor dining area;
    - (iii)** Entertainment, music, and sound amplifying systems shall not be permitted within the outdoor dining area;
    - (iv)** Such area shall not be permitted to locate within any minimum required front, side, or rear yard setbacks, except where a variance has been approved by the Board of Zoning Appeals;
    - (v)** Outdoor dining areas shall be operated no later than 10:00 p.m. on Sunday through Thursday inclusive, and no later than 11:00 p.m. on Friday and Saturday; and
    - (vi)** A minimum of three feet sidewalk clearance must be maintained for pedestrian use. Further, compliance with the Ohio Uniform Traffic Code is required.
  - (b)** Nursery and child care centers, provided parking and loading/unloading may be achieved in the rear of the building.
  - (c)** Drive-in banking facilities that accept deposits.
  - (d)** Community centers for recreation, meeting, and education purposes of community residents.
  - (e)** Off-street public parking areas, off-street commercial parking areas, subject to all applicable regulations set forth in [§153.19](#).
  - (f)** Exhibition and convention halls, music halls, general purpose auditoriums.
  - (g)** Churches and other places of worship, Sunday school buildings, and parish houses.
  - (h)** Multi-family dwelling units, tower apartments, inns, and hotels provided all ground floor street frontage shall be restricted to retail, personal, offices, business services and hotels, except as otherwise provided in this chapter.
  - (i)** Dwelling units occupied by owner-operators of attached permitted uses in the district, provided the building was originally designed for residential use, including accessory uses appropriate to the dwelling unit.
  - (j)** Small scale cottage industry style uses involving the creation of retail goods typically catering to a specialized niche market or consumer.
  - (k)** Small scale movie theaters restricted to three or less viewing screens.
  - (l)** Any substantially similar use which the Planning Commission determines to be of the same character and nature as those permitted in the Silverton Renaissance Overlay District may be permitted in accordance with the conditional use standards set forth in [§153.16\(F\)\(14\)](#).
- (2)** Approval of these conditional uses is subject to the procedures and requirements of [§153.16](#).

**(D) Accessory Uses**

Accessory uses, buildings, and structures which are customarily incidental and subordinate to any of the permitted uses or conditionally permitted uses in the Silverton Renaissance Overlay District are permitted subject to the accessory use standards set forth in [§153.17](#).

**(E) Minimum Yard Sizes**

The required minimum lot and yard sizes and maximum lot coverage for the principal structure located within the Silverton Renaissance Overlay District shall be as follows:

**(1) Front Yard Setback**

The front face of the building shall be placed at the front yard line and maintain zero front yard setback. In the event the lot's front yard line is located within a public right-of-way easement, then the front face of the building shall be placed at the edge of the public right-of-way easement.

**(2) Side Yard Setback**

There shall be no minimum side yard setback requirement when abutting a non-residential use or non-residential zoning district. When a side yard abuts a residential use or residential zoning district, then the bufferyard requirements set forth in [§153.20\(D\)](#) shall apply.

**(3) Rear Yard Setback**

There shall be no minimum rear yard setback requirement when abutting a non-residential use or non-residential zoning district. When a rear yard abuts a residential use or residential zoning district, then the bufferyard requirements set forth in [§153.20\(D\)](#) shall apply.

**(F) Maximum Lot Coverage**

There shall be no maximum lot coverage for this district except as provided in the yard setback, off-street parking regulations and any other applicable regulation found in this Zoning Code.

**(G) Maximum Structure Height**

The maximum height of a principal structure located in this district shall be 60 feet and contain no more than five occupied stories.

**(H) Minimum Lot Area**

There shall be no minimum lot area for this district.

**(I) Minimum Dwelling Unit Area**

Residential dwelling units when located on the second floor or third floor of a structure that contains a first-floor permitted retail, service or office use as provided for under this subchapter shall have a minimum livable floor area based on the following schedule:

- (1)** One-bedroom unit: The minimum livable floor area is 800 square feet.
- (2)** Two-bedroom unit: The minimum livable floor area is 950 square feet.
- (3)** Three-bedroom unit: The minimum livable floor area is 1,100 square feet.
- (4)** Add 100 square feet for every additional bedroom beyond a three-bedroom unit.

**(J) Architectural And Exterior Material Standards**

**(1) Purpose**

Development within the Silverton Renaissance Overlay District must comply with the standards prescribed in this section. These standards are intended to:

- (a)** Protect and enhance the physical character of the area within this overlay district;



- (b) Prevent the deterioration of property and nuisance conditions;
- (c) Encourage private investment to improve and stimulate the economic vitality and social character of the district;
- (d) Ensure that renovations and infill developments do not adversely affect the physical character of the area; and
- (e) Function in conjunction with the goals and objectives of the Downtown Revitalization Program and the Silverton Comprehensive Plan.

**(2) Building Height, Shape And Scale**

- (a) Minimum building height shall be one story for the front facade (as seen from the street). Maximum height shall be determined by the existing skyline of adjoining buildings and/or across the street, and in no case shall exceed 25 feet as measured from the grade line to the gutter. Additional stories are permissible for the rear or side facades when lower grade lines allow, but in no case shall exceed 60 feet.
- (b) On buildings taller than 15 feet, second-story windows shall be used in combination with other architectural detailing to create the appearance of a second story.
- (c) Buildings vertical and horizontal dimensions shall be in proportion to one another without over-emphasis of either dimension. Horizontally long buildings shall be broken up, through use of recesses or setback variations, to cause the facade to appear as a series of proportionally correct masses.
- (d) Overall building mass must consider the depth of a building in relation to both adjoining buildings and the lot upon which the building is intended. This building mass must be in appropriate proportion to other buildings adjoining this structure, the lot upon which the building is intended, as well as other similar buildings in the district.
- (e) The cornice of new buildings shall be strong, well-articulated and proportional to the building.
- (f) The shape and configuration of windows and doors for either new construction or rehabilitation shall be based on traditional or classical design. The first and upper floor openings shall have a strong relationship to one another.
- (g) The use of standardized corporate architectural styles associated with chain restaurants and stores is discouraged. Effort should be made to integrate the building design into the established architectural context of the surrounding neighborhood and the city as a whole.

**(3) Construction Materials**

- (a) District buildings shall have as primary construction material brick, stone, traditionally applied stucco and cement siding products, natural wood clapboard, wood shingles, and wood board and batten may be used in trim detail. The use of vinyl, aluminum, or steel siding, along with standard concrete masonry units and tilt-up concrete construction shall be prohibited in this district.
- (b) Brick used in new buildings or additions must be similar in color, size and texture of brick-and-mortar joint detail to the surrounding structures. Unpainted brick is preferred, unless the building has been previously painted.
- (c) Wood clapboard siding and brick shall be used on the exterior of frame buildings, must be run horizontally, and shall have appropriate lap exposure on siding or course height of brick.
- (d) Slate, copper, wood or standing seam metal roofs are preferred; however, asphalt or fiberglass shingles may be used as well. Flat or shallow pitched roofs are permitted only when ornamented with shaped parapets or cornice treatments. Gambrel roofs are prohibited within the district.

**(4) Building Colors**

- (a)** Base building colors shall be the natural color of the material if it is brick or stone, or a neutral muted palette when another approved material is used. Brighter, more vivid colors shall be expressly reserved for limited use as building trim or accent.
- (b)** Fluorescent, reflective or neon colors are prohibited in the district.

**(5) Awning Standards**

- (a)** Awnings shall project no more than two-thirds the width of the sidewalk or six feet, whichever is less and shall run parallel to the face of the building.
- (b)** Awnings shall be located within the existing building framework, between columns and below spandrel panels.
- (c)** Awning colors and design shall be compatible with the colors and design of the building. Structural supports for all awnings shall be contained within the awning covering.
- (d)** Each storefront bay shall have a similar awning to the other storefront bays on the same building.
- (e)** Awnings shall be designed to be harmonious with the architecture of the building that they are to be placed on. They shall relate in shape and proportion to the building's architectural elements such as window and opening shapes, facade articulation and general character of the building and shall not cover architectural features.
- (f)** Any proposed awning constructed of fabric shall utilize weather resistant waterproof acrylic fabrics with a minimum five-year manufacturer's warranty on the fabric.

**(K) Landscape/Accessory Elements and Structures**

- (1)** Improvements in the public right-of-way must conform to the streetscape plan adopted by the city and any applicable street right-of-way typical standards set forth in the Subdivision Regulations.
- (2)** The materials used for fences, non-structural walls, railings, and trellises are limited to natural materials or painted iron.
- (3)** Accessory structures shall be limited to the rear yard. Such structures shall not exceed one and a half stories in height. Roof style shall be limited to either gable or shed roof designs. Flat or gambrel roofs are not permitted.
- (4)** Detached garages shall be limited to two cars in size and may be limited to one car based upon the size of the principal structure.

**(L) Exterior Lighting**

- (1)** Exterior lighting poles and fixtures shall be substantially similar to those poles and fixtures designated in the city streetscape plan.
- (2)** Lighting shall be used in a very limited manner, and only to highlight architectural details on a building, illuminate a sign, or to illuminate walkways and/or parking areas.
- (3)** The use of incandescent, natural gas or halogen lights is permitted, but sodium, colored or neon lights are prohibited. Lighting must also comply with other sections of this code.
- (4)** Additional exterior lighting standards may apply in [§153.19\(G\)](#).

**(M) Mechanical Equipment and Utility Standards**

Mechanical equipment, including air conditioning, piping, ducts, and conduits external to the building shall be concealed from view from adjacent buildings or street level by an enclosure constructed using the same exterior materials utilized in the construction of the principal building. Electric and other utility service connections shall be placed underground for new construction and expansion projects and shall be encouraged for all other utility service connection changes. Rooftop solar panels may be visible from public view provided the connections securing the solar panels to the rooftop are approved by the Zoning Enforcement Officer.

**(N) Window and Door Standards**

- (1) Windows and doors shall occupy a minimum area of 30% of residential building facades.
- (2) Windows and doors for commercial buildings, particularly those on the first story at street level, may be larger than those typical of residential buildings. They must show proportion and symmetry to the building and to the windows of any other stories.
- (3) Replacement windows shall fit the size and style of the original openings.
- (4) Original window and door openings shall not be enclosed or bricked-in on the street elevation nor on any street exposure. Where openings on the sides or rear of the building are to be closed, the infill materials shall match that of the wall and be recessed a maximum of three inches within the opening.
- (5) Mirrored glass is prohibited in this district. Dark or opaque glass is appropriate only for false windows on secondary facades.
- (6) Glass windows shall occupy at least 75% of the front elevation area of the first floor of a building in this district. All windows located above the first floor shall have a coordinated appearance that remains in context with the first-floor window design and placement.
- (7) Windows on the first floor shall be a minimum of two feet above the finished floor level.
- (8) The main entry of a building shall face the street. The entry of a corner building shall be located at an angle to the corner. Entries may be flush with the building or recessed.

**(O) Exterior Renovation or Alterations of Existing Structures**

- (1) Renovations, alterations or additions shall be designed and executed in a manner that is sympathetic to the particular architectural character of the structure being worked on. Architectural elements shall be sensitively designed to reflect the detailing and materials associated with the particular style of the building.
- (2) Renovations and restorations of older buildings shall respect the original building design, including structure, use of materials and details. New materials or signs shall not cover original materials and detailing. Materials, such as brick, slate, glass, stone, and the like shall be retained in their original state and shall not be covered with any other contemporary materials. Materials that are incompatible with the historic character of the building shall be removed from the facade upon significant exterior renovation or restoration of the existing structure.

**(P) New Construction**

- (1) New buildings shall be compatible with their surroundings. Architectural style, bulk, shape, massing, scale and form of new buildings and the space between and around buildings shall be consistent with the area, and shall be in harmony with neighboring buildings.

- (2) New buildings shall respond to the pattern of window placement in the district. The designs of new buildings shall avoid long unrelieved expanses of wall along the street by maintaining the rhythm of windows and structural bays in the district. The preferred pattern of ground floor windows is open show windows, with inset or recessed entryways; and landscaping, lighting and other amenities equivalent to those existing in the district. First floor window placement, design and quantity shall be compatible with the window placement, design and quantity on the second and above floor levels of a building.
- (3) Buildings shall de-emphasize secondary rear or side door entrances to commercial space, unless the entrances are associated with public parking areas.

**(Q) Parking**

The preferred location for off-street parking is at the rear of the site, but in certain circumstances featuring a unique site constraint, the Planning Commission may permit off-street parking areas located in a side yard. In no case shall off-street parking be permitted in the front yard area site.

**(R) Site Design Standards**

Design and placement of new buildings in this district must consider the existing built environment of the surrounding area, in particular existing setbacks, building size and massing. Towards this end, the following objectives should be considered:

- (1) Buildings should be sited in a manner that compliments adjacent structures. Sites should be developed in a coordinated manner to provide order and diversity and avoid an unplanned, confused development pattern.
- (2) When a development site features multiple integrated buildings and other structures, a visual link between separate buildings and structures should be established, by various means, including stamped concrete walkways, arcade systems, trellises or other open structures.
- (3) Buildings should be sited to minimize conflicts between pedestrians and vehicle traffic. Buildings can be linked to adjoining street sidewalks with textured paving, landscaping and trellises.
- (4) Outdoor spaces between buildings should be recognized as outdoor "rooms" that have clear recognizable shapes, as opposed to being considered as "left over" areas. These spaces can be used to provide important pedestrian amenities such as benches, trellises, fountains, artwork, etc.

**(S) Applications Subject To Review**

- (1) The Zoning Enforcement Officer has the duty to review the following permits in the Silverton Renaissance Overlay District for compliance with the base requirements of the district and any other applicable sections of this Zoning Code.
  - (a) Permits for the installation of all signs.
  - (b) Permits for the installation of all awnings.
  - (c) Permits for the installation of all exterior mechanical equipment and utility service connections.
  - (d) Permits for the installation of replacement windows.
  - (e) Permits for exterior renovations, alterations, or additions.
  - (f) Permits for restaurants, taverns and bars.
  - (g) Permits for parking facilities to serve adjoining commercial and/or residential uses.
- (2) All other proposed changes to a site or structure located in this district is subject to the applicability requirements of the site plan review subchapter set forth in [§153.06](#).

## **§153.14 (RE) RECREATION-EDUCATION DISTRICT**

### **(A) Purpose**

The purpose of the Recreation-Education District is to identify, provide for, and protect those lands and structures within the community which are devoted to recreation, education, and general open space uses.

### **(B) Minimum Standards**

All permitted uses, buildings, and structures in this Recreation-Education District are subject to the off-street parking and loading, signage, and height, yard, and court regulations and any other applicable regulations of this Zoning Code.

### **(C) Permitted Uses**

The following uses are permitted by right in the Recreation-Education District:

- (1) Parks, recreational and community center buildings, and grounds for games or sports, except those the chief activity of which is carried on, or is one customarily carried on primarily for gain;
- (2) Swimming pools and playgrounds;
- (3) Public and private educational institutions, libraries, and museums; and
- (4) Historic sites, structures, monuments, and other exhibits available for public viewing.

### **(D) Conditional Uses**

(1) The following conditional uses and their appropriate accessories are permitted, provided the activity is of integral relation to the permitted uses; the activity will add to facilities serving the community's recreational or educational needs; and the arrangement of the use, building, or structure is mutually compatible with the organization of permitted and accessory uses to be protected in the Recreation-Education District:

- (a) Eating and drinking establishments primarily serving the users of permitted recreational or educational facilities;
- (b) Retail sale and rental of sporting and athletic goods for the benefit of users of permitted facilities;
- (c) Churches and other places of worship, Sunday School buildings, and parish houses;
- (d) Country clubs, clubhouses, and lodges; and

(2) Wireless telecommunications facilities may be considered as a stand-alone conditional use in the R-E District pursuant to [§153.23](#).

(3) Approval of these conditional uses is subject to the procedures and requirements of [§153.16](#).

### **(E) Accessory Uses**

Accessory uses, buildings, and structures which are customarily incidental and subordinate to any of the permitted uses or conditionally permitted uses in the Recreation-Education District are permitted subject to the accessory use standards set forth in [§153.17](#).

### **(F) Minimum Yard Sizes**

The required minimum lot and yard sizes for the principal structure located within a RE District shall be as follows:

#### **(1) Front Yard Setback**

The minimum front yard setback distance shall be 50 feet.

**(2) Side Yard Setback**

There shall be no minimum side yard setback requirement when abutting a non-residential use or non-residential zoning district. When a side yard abuts a residential use or residential zoning district, then the bufferyard requirements set forth in [§153.20\(D\)](#) shall apply.

**(3) Rear Yard Setback**

There shall be no minimum rear yard setback requirement when abutting a non-residential use or non-residential zoning district. When a rear yard abuts a residential use or residential zoning district, then the bufferyard requirements set forth in [§153.20\(D\)](#) shall apply.

**(G) Maximum Lot Coverage**

The maximum lot coverage for a principal structure located in this district shall be 50% of the applicable lot.

**(H) Maximum Structure Height**

The maximum height of a principal structure located in this district shall be 45 feet and contain no more than four occupied stories.

**(I) Minimum Lot Area**

There shall be no minimum lot area for this district.

## **§153.15 (PUD) PLANNED UNIT DEVELOPMENT DISTRICT**

### **(A) Purpose**

- (1)** It is the purpose and intent of this Planned Unit Development (PUD) District to permit and encourage the orderly, cooperative, and flexible development and expansion of certain medical, office, retail, and residential land uses in a planned environment. It is further the intent of this district:
  - (a)** To insure compatible relationships between land use activities;
  - (b)** To insure the compatible orientation of one building to another in regard to building bulk, architecture and open space;
  - (c)** To provide for visually pleasing and functional treatment of open areas;
  - (d)** To provide for an efficient and safe circulation system for pedestrians, bicycles and vehicles;
  - (e)** To provide adequate and flexible parking space for immediate and future needs;
  - (f)** To ensure that signs are adequate, but properly controlled to prevent them from detracting from the appearance of the development;
  - (g)** To encourage cooperation among individual owners, and/or developers to achieve the above listed objectives;
  - (h)** To permit flexibility of design in the placement and use of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of site characterized by special features of geography, topography, size or shape; and
  - (i)** To provide flexibility in the application of certain provisions of this Zoning Code.
- (2)** Because of the special characteristics of a PUD, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this subchapter and those of other subchapters in this chapter, the provisions of this subchapter shall prevail for the development of land for PUD developments.

### **(B) Scope and Applicability**

- (1)** The intent of the PUD regulations is to provide a means for applying comprehensive and flexible planning and design techniques on properties substantially sized to accommodate such a plan. As such, the minimum size of any PUD project or plan shall be one acre
- (2)** Any Planned Unit Development District (PUD), Planned Institutional Development District (PID), or Planned Mixed Use Development District (PMUD) approved prior to the effective date of this amendment shall carry forward with the approved plans and be considered a PUD. All future construction or changes in previously approved PUDs, PIDs, or PMUDs shall comply with the applicable approved plan unless a modification is required, in which case, the modification shall be reviewed in accordance with this section.

### **(C) Project Ownership**

The project land may be owned, leased, or controlled by a single person or corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation.

### **(D) Application Procedure; Zoning Approval Process**

Whenever PUD is proposed, before a permit for the erection of a permanent building in such PUD shall be granted, and before a subdivision plat of any part thereof may be filed in the office of the Zoning Enforcement Officer, the applicant or their authorized agent shall apply for and secure approval of such PUD in accordance with the following procedures:

**(1) Step 1 - Pre-Application Meeting Required**

- (a)** Prior to filing an application for a PUD, an applicant shall meet with the Zoning Enforcement Officer for a pre-application conference to provide an opportunity to conceptually discuss a proposed development and to provide general guidance to assist in the preparation of a formal site plan. The Zoning Enforcement Officer may invite additional City staff or review agencies to participate in the discussion.
- (b)** An applicant may also request a pre-application meeting with Planning Commission or City Council to discuss the concept of the proposed development. The applicant may request such meeting by submitting a written request, along with any supporting documents, to the Zoning Enforcement Officer for placement on the agenda of the next regularly scheduled meeting or any special meeting that may be called by Planning Commission or City Council.
- (c)** No action can be taken by the administrative staff, Planning Commission, or City Council until the applicant submits an PUD application. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff, Planning Commission, or City Council that occur prior to the submission of an actual application are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.

**(2) Step 2 – PUD Development Plan and Zoning Map Amendment Review**

**(a) Application**

- (i)** Applications for a PUD shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#).
- (ii)** After determining a PUD application is complete, the Zoning Enforcement Officer shall transmit copies of the plans to individual departments and agencies to solicit comments to be transmitted to the Planning Commission prior to their review.

**(b) PUD Development Agreement Submission**

- (i)** As part of the information to be transmitted to the Planning Commission, the Zoning Enforcement Officer shall provide the Planning Commission with a draft of the PUD Development Agreement. The development agreement will provide for various development related items, including, but not limited to:
  - A. PUD waivers as mutually negotiated between the City and the applicant;
  - B. Operational details of the proposed uses for the site;
  - C. Site inspection details and procedure;
  - D. Project construction phasing details and
  - E. Any other details relevant to the timing and construction of the proposed development as agreed upon by the City and the applicant.

**(c) PUD Development Plan Review and Zoning Map Amendment Review**

- (i)** The PUD Development Plan approval procedure involves a zoning map amendment to rezone the subject property to a PUD with an approved PUD Development Plan.
- (ii)** The procedure for this stage shall comply with the requirements of [§153.02\(F\)](#).



- (iii) In accordance with the zoning map amendment review procedure, the Planning Commission shall hold a public hearing to review the PUD Development Plan and make a recommendation to City Council to approve, approve with modifications, or deny the application. The recommendation shall be made based on review of the application using the criteria contained in [§153.15\(E\)](#). The Planning Commission may, in its recommendation to City Council, authorize that zoning permit applications (Step 3) may be submitted in stages upon evidence assuring completion of the entire development in accordance with the PUD Development Plan and a phased development schedule.
- (iv) In accordance with the zoning map amendment review procedure, City Council shall hold a public hearing on the PUD Development Plan and PUD zoning map amendment and decide to approve, approve with modifications, or deny the recommendation of the Planning Commission using the criteria contained in [§153.15\(E\)](#).
- (v) In making its recommendations or decisions, the Planning Commission and/or City Council may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards of this zoning code and to the Comprehensive Plan. In so doing, the Planning Commission and/or City Council may require that the applicant to revise the plan and resubmit it as a PUD Development Plan within 60 days of such action.

**(d) PUD Development Agreement Action**

- (i) As part of the PUD Development Plan review and decision, the City Council shall also act on the PUD Development Agreement. Upon an approval of the PUD Development Plan, the applicant shall cause the final PUD Development Agreement document to be recorded at the Hamilton County Recorder's office no later than 90 days upon the date the PUD zoning map amendment is legal as evidenced by the running of the mandatory 45-day referendum period.
- (ii) In the event a valid referendum petition has been submitted and the question is certified as a ballot issue being placed on the next eligible general election, the applicant shall not have the responsibility to record the PUD Development Agreement document until such time as the PUD may be approved by the voters at the next eligible general election.

**(3) Step 3 – Zoning Permit Review**

- (a) Zoning permits shall be required for any PUD development activities, as established in [§153.02\(G\)](#).
- (b) The applicant may submit a zoning permit application after approval of the PUD Development Plan and zoning map amendment, however, no such permit may be issued during the mandatory 45-day referendum period.
- (c) A zoning permit shall not be issued until the lot or applicable subdivision has been fully recorded in the office of the Hamilton County Recorder's Office, and public improvements have been installed in accordance with the applicable subdivision regulations.
- (d) Zoning permits shall only be issued when the application demonstrates compliance with the approved PUD Development Plan.

**(E) PUD Review Criteria and Factors for Consideration**

The Planning Commission and City Council may call upon other public and/or private consultants necessary to provide a sound review of the plan. The Planning Commission and City Council shall consider the following criteria in making their recommendations and decisions:

- (1) Land use and density compliance with the Silverton Comprehensive Plan;

- (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls;
- (3) Adequacy and arrangement of pedestrian traffic access and circulation including: separation of pedestrian from vehicular traffic and pedestrian convenience;
- (4) Location, arrangement, appearance and sufficiency of off-street parking and loading;
- (5) Location, arrangement, size and placement of the lot layout, buildings and lighting;
- (6) Arrangement of landscape features;
- (7) Adequacy of storm water and sanitary waste disposal facilities;
- (8) Adequacy of structures, roadways in areas with moderate to high susceptibility to flooding and ponding and/or erosion;
- (9) Reasonable demands placed on municipal services and infrastructure.
- (10) Adequacy of methods for sewage and refuse disposal and the protection from pollution of both surface water and groundwater. This includes controlling soil erosion both during and after construction.
- (11) Protection of abutting properties from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, storm water runoff, and the like. The performance standards set forth in [§153.18\(G\)](#) may apply to the application.
- (12) Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
- (13) The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside planting, and the retention of open space.
- (14) The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape.
- (15) Conference with other specific changes of the Council which may have been stated in the zoning resolution; and
- (16) In its review, the Planning Commission and City Council may consult with representatives of county, federal and state agencies (including the Soil Conservation Service and the Department of Conservation). The Planning Commission and City Council may also require such additional provisions and conditions that appear necessary for the public health, safety and general welfare.

**(F) Time Limits**

- (1) An approved PUD Development Plan shall be valid for a period of two years after the date of approval by City Council. If construction of 25% of the total cost of the project or 25% of the construction cost for the first phase of a project has not been completed within two years after approval is granted, the approved PUD Development Plan shall lapse and be of no force and effect.
- (2) Two one-year extensions of the time limit set forth in section [§153.15\(F\)\(1\)](#), above, may be granted by the Planning Commission if such extension is not in conflict with the most current comprehensive land use plan and if such extension is in the best interests of the entire community. The developer/owner shall apply for an extension and shall state the reason for the extension.
- (3) If an approved PUD Development Plan lapses as provided in this section, then notice of such lapse shall be filed by the Planning Commission and forwarded to the City Council.

- (4) Voiding of the PUD Development Plans shall not rezone the property. After such plans are voided, the Planning Commission, City Council, or property owners may initiate a rezoning to a base zoning district in accordance with Section [§153.02\(F\)](#), or the property owner, or their agent, may resubmit a PUD Development Plan in accordance with the procedures of [§153.15\(D\)](#).

**(G) Changes to Approved PUDs**

- (1) A PUD shall be constructed and completed in accordance with the approved PUD Development Plan including all supporting data and conditions. The PUD Development Plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assignees, and shall limit and control the use of premises (including the internal use of buildings and structures) and the location of structures in the PUD as set forth therein.
- (2) Where a property owner on a lot in a PUD seeks a variance from the applicable standards for an individual property that will not apply to any other property in the PUD, the property owner shall request such variance in accordance with [§153.05](#).
- (3) Any request to change or otherwise modify the approved PUD Development Plan as it applies to more than one property owner, shall be reviewed based on whether the change is considered major or minor, in accordance with this subsection. The Zoning Enforcement Officer shall have the authority to determine if a proposed change is a minor or major change.

**(4) Minor Changes**

- (a) Minor changes are those proposed by the developer/owner which do not disturb or affect the basic design and approved PUD Development Plan, and which are essentially technical in nature, as determined by the Zoning Enforcement Officer.
- (b) Examples of minor changes include, but are not limited to, changes in the intensity of lighting, changes in the size or location of water and sewer lines within approved easements, and changes in the location or number of fire hydrants.
- (c) Additionally, the Zoning Enforcement Officer shall have the authority to approve structural dimensional changes that do not increase density, that do not change building height by more than five feet, or that do not change building or perimeter setbacks by more than five feet when necessary to accommodate minor shifts in the location of improvements or infrastructure.
- (d) The Zoning Enforcement Officer shall have the authority to forward any change to the Planning Commission and City Council if they cannot make a determination that the proposed change is minor.
- (e) The Zoning Enforcement Officer shall notify the Planning Commission of all such approved minor changes.

**(5) Major Change**

Major changes to a PUD require the prior approval of the Planning Commission and the City Council in the same process, and with the same hearings, as was used to review of the PUD Development Plan in [§153.15\(D\)\(2\)\(c\)](#). Major changes include any change that is not determined to be minor pursuant to this section.

**(H) Permitted Principal Uses**

- (1) Only those uses listed in this code, under the various zoning districts, as a permitted use, whether permitted as-of-right, permitted with standards, or permitted as a conditional use, may be considered in the application of a PUD.

- (2) In general, any standards that apply to a specific use in this code shall also apply to those same uses in a PUD. However, the Planning Commission and City Council may adjust or waive any of those use-specific standards as part of the PUD Development Plan approval based on unique circumstances specific to the applicable development.
- (3) As part of any approval, the Planning Commission and/or City Council may restrict the uses permitted within an individual PUD by adopting a list of uses permitted within the PUD, particularly for nonresidential buildings where uses may change in the future.
- (4) Any changes in uses within an approved PUD shall be required to be reviewed as part of a major PUD amendment.
- (5) The following uses are explicitly prohibited from being established in a PUD District:
  - (a) Single-family detached dwellings;
  - (b) Drive-thru or drive-in restaurants;
  - (c) Gas stations unless secondary and accessory to another principal use
  - (d) Free-standing pharmacies that are not located in a building containing a principal use. Pharmacies that are accessory to another principal use, and where the pharmacy is located within the building are permitted; and
  - (e) Any use that the Zoning Enforcement Officer determines is not listed as a permitted use or a conditionally permitted use in any other zoning district (i.e., not listed as allowed anywhere in the City).

**(I) Permitted Accessory Uses**

Any accessory use that the Zoning Enforcement Officer determines to be a traditional accessory use to a principal use allowed in the PUD.

**(J) Development Standards**

This PUD district allows for a master planned blend of commercial and residential uses within a property, area, or building. Development proposed under this PUD district shall comply with the development standards herein and any other applicable zoning regulation or standard provided in this Zoning Code, unless specifically waived by the Planning Commission and City Council as part of the review process. The Planning Commission and City Council shall have the authority to waive any zoning requirement as part of the PUD Development Plan approval. Development standards shall include, but are not limited to the following:

**(1) Minimum Lot Size**

There shall be no specific minimum lot area required in a PUD district except that there shall be sufficient area to satisfy any off-street parking loading or landscaping requirements as established in this Zoning Code.

**(2) Height**

Structures shall provide for adequate light and air, and shall provide for considerations of solar access from adjacent properties. The maximum height of a principal structure located in this district shall be 55 feet and contain no more than five occupied stories.

**(3) Density**

The maximum density of a development shall be set by the approval of the PUD Development Plan. In general, the following guidelines shall apply:

- (a) Densities shall reflect the recommendations of the Silverton Comprehensive Plan.
- (b) Residential density of PUDs surrounded by R-1 Districts shall not exceed five units per acre.
- (c) Residential densities of PUDs surrounded by R-1 and R-2 Districts shall not exceed 12 units per acre.

- (d) Residential densities that are adjacent to nonresidential zoning districts shall not exceed 16 units per acre.
- (e) Planning Commission and City Council may approve increased densities from those established above based on the specific design of the PUD and the provision of adequate buffering from less intense uses.

**(4) Setbacks**

- (a) Principal buildings may have a build-to line of zero feet except that the front or corner side street facades of such buildings may be set back to accommodate pedestrian oriented outdoor uses and amenities, as determined are appropriate to an urban setting, such as outdoor patio dining areas, plazas and courtyards, fountains, public art, entry forecourts, and landscaping.
- (b) The scale and relationship to the development pattern of adjoining property shall be used to evaluate the required setback. Design emphasis shall be placed on enhancing a pedestrian environment with adequate sidewalk width, street trees, and pedestrian scaled signs and building facades.
- (c) The PUD review process shall be used to assure that buildings are designed and oriented on lots to provide adequate light and air, assure sufficient distance between adjoining uses to minimize any incompatibility, and to promote excellence of development.
- (d) The PUD shall be designed to have sufficient setbacks and buffering between adjacent properties with a less intense use.

**(5) Yards/Setbacks**

- (a) Buildings with ground floor residential uses shall have a maximum front yard and corner side yard of ten feet to accommodate stairs, landings, porches, covered architectural entry features, and similar building features.
- (b) When provided, the front or corner side yard shall include landscaping or a hard-surface expansion of the sidewalk. Walkway connections to building entrances shall include special paving treatment or materials. The use of awnings, canopies, and arcades shall be incorporated as appropriate to provide visual interest, shade, and protection of pedestrians from the elements.
- (c) All other buildings shall generally have no required yard and be located adjacent to the sidewalk to facilitate pedestrian access to the public realm. Portions of the front or corner-side street facades may be set back to allow for pedestrian-oriented outdoor areas and amenities only, such as plazas and courtyards, outdoor patio dining areas, public art, fountains, entry forecourts, landscaping, or other amenities appropriate to an urban setting. When provided, such yards shall generally be no more than ten feet, except where ground floor building space is occupied by retail or other pedestrian-oriented uses with entrances opening directly to a plaza or courtyard. In such cases, the plans may allow for the maximum front or corner-side yard to be extended.

**(6) Lot Coverage**

There shall be no specific maximum lot coverage in this zoning district except as follows:

- (a) Sufficient space shall be provided to satisfy off-street parking and loading area requirements;
- (b) Undeveloped areas and redeveloped areas shall be designed with low impact development principals where possible; and
- (c) Standards for open space are met.

**(7) General Site Planning**

The location of structures and other site improvements shall create a pedestrian-oriented environment with safe, pleasant, convenient, and accessible pedestrian routes to public sidewalks, transit facilities, and adjacent uses. Site planning shall incorporate the following when feasible:

- (a)** Structures shall be sited along street frontages of sites with parking in the rear or in limited circumstances to the side. Placing parking areas behind rather than in front of buildings helps preserve an attractive streetscape and improves pedestrian access to surrounding activities and uses. It also provides an urban border for the street.
- (b)** Placement of structures, entrances, and open space areas, such as plazas and courtyards, shall be oriented to provide direct access to public sidewalks, and provide midblock corridors and streets to the maximum extent possible to facilitate pedestrian access and movement between adjacent uses.
- (c)** Buildings shall be arranged to create a sense of unity and overall harmony with adjacent structures. A visual link between separate structures can be established through the use of an arcade system, trellis, or similar feature.
- (d)** Buildings shall be sited in a manner that maximizes visibility of plazas, courtyards, streets, and alleys to provide opportunities for people engaged in their normal behavior to observe the spaces around them.
- (e)** The location of outdoor spaces shall have clear, recognizable shapes that reflect careful planning and are not simply left over areas between structures. Such spaces shall provide pedestrian-oriented amenities such as shaded areas, art, benches, fountains, landscaping, and the like.

**(8) Privacy for Residences**

- (a)** Windows should be oriented away from loading, service, recycling and solid waste disposal areas.
- (b)** Views from public right-of-way or other businesses or residences into primary living areas should be avoided by:
  - (i)** Locating residences on the upper floor(s);
  - (ii)** Orienting windows away from other adjacent windows;
  - (iii)** Using translucent, louvered or offset windows;
  - (iv)** Incorporating privacy screening with landscaping, fencing or in combination with garden walls for outside private open space areas.
- (c)** To the extent residential windows face the windows of an adjacent dwelling unit, the windows shall be offset or incorporate other features to provide privacy.

**(9) Mixed Use Buildings Programming**

Where there is a mix of uses in a single structure that includes residential uses, the ground floor land uses situated along public street frontage shall include permitted nonresidential uses only. Permitted ground floor residential uses situated along public street frontage may be permitted if approved by the Planning Commission. Residential dwellings, storage and parking should be oriented at the rear or interior building frontages. Residential dwellings may be allowed above the first floor or to the rear or side of the commercial use on the ground floor.

- (a) The main building entrance or entrances shall be oriented to the street or plazas, as applicable, to maximize natural surveillance and provide "eyes on the street." The main entries to buildings shall be clearly demarcated, visible and accessible from the street or pedestrian walkways. Main entries shall be recessed or framed by a sheltering element such as an awning, arcade, porch, or portico. Such entrances shall open directly to the outside and shall not require a pedestrian to first pass through a garage, parking lot, or loading area to gain access to the entrance from the street. Secondary building entries may be from parking areas.
- (b) All residential dwellings fronting on streets shall have a main entrance opening onto the front or corner side facade of the dwelling at the ground floor level. Such an entrance shall open directly to the outside. The entrance may be above grade level through a porch, stoop, portico, or similar architectural feature. Ground floor single-family attached dwellings fronting on a street shall have separate entries directly from the sidewalk or a pedestrian walkway. Upper story and ground floor residential dwelling units in a multifamily or mixed-use building fronting on streets may share one or more entries accessible directly from the street.
- (c) Multifamily residential buildings with facades over 150 feet in length facing a street frontage shall provide a minimum of two or more pedestrian building entrances on that frontage.
- (d) Entrances to residential units shall be physically separated from the entrance to the permitted commercial uses and clearly marked with a physical feature incorporated into the building or an appropriately scaled element applied to the facade.
- (e) Structures and buildings with ground floor residential uses shall have a front and corner side yards of at least five feet, but no greater than ten feet. Stairs, landings, patios, unenclosed porches and architectural entry features, landscaping and similar features may occupy such yards.

**(10) Mass, Scale And Facade**

- (a) The mass and scale of a new development shall be compatible with adjacent neighborhoods and surrounding developments and not overwhelm them with disproportionate size or a design that is out of character or obstructs solar access.
- (b) Building scale shall be reduced through the proper use of window patterns, structural bays, roof overhangs, awnings, moldings, fixtures, and other details that promote a human scale.
- (c) Building design shall avoid large monotonous facades, long straight-line building fronts, plain box shapes, and barren exterior treatment. All building facades visible from streets or public areas such as plazas shall be highly articulated, and incorporate the chosen design theme in a consistent manner.

**(11) Pedestrian Orientation**

- (a) Windows on public street frontages should be at a height that enables pedestrians to easily view retail products and services within the building.
- (b) Darkly tinted and mirrored windows that obstruct two-way visibility are prohibited on the ground floor facing streets and pedestrian corridors.
- (c) Pedestrian linkages between buildings and uses shall include features such as walkways, corner entrances, paseos, outdoor patios, water features, benches and tangible public art in mixed-use developments.

**(12) Treatment Adjacent to Residential Districts**

- (a) To provide privacy for adjacent dwelling units, windows on the second and higher floors of buildings, which directly face or abut residential zones, should be designed either as translucent, louvered, offset from existing residential windows, or utilizing another solution to achieve privacy for the adjacent dwelling units.
- (b) Parking areas shall be located and designed to be convenient in order to minimize parking problems in adjacent residential neighborhoods.
- (c) Building facades and garages that face existing dwelling units shall be designed to be compatible with the setbacks and scale of the existing development.

**(13) Signs**

Signs shall be allowed in accordance with [§153.22](#) unless otherwise modified through the PUD Development Plan approval.

**(14) Other Site Development Standards**

- (a) All public and private utility facilities and structures required to be newly constructed or relocated as a result of the project shall be placed underground within the project area and within any public right-of-way located adjacent to the project boundaries. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if it is determined that such exemption will not violate the intent or character of the proposed planned development.
- (b) All external light fixtures and mounting structures shall conform to the standards set for in [§153.06\(E\)\(2\)](#).
- (c) General standards for parking areas, circulation, and access shall be incorporated as part of the site plan following the standards set forth in [§153.06\(E\)\(3\)](#) including those applicable off-street parking and loading facilities standards contained in [§153.19](#).
- (d) A traffic impact study shall be a requirement for the PUD Development Plan application if the expected trip generation of the land use is 100 or more cars per hour as identified in the Institute of Traffic Engineers (ITE) Manual. The proposed project's land uses as provided for on the Stage II Preliminary Development Plan shall be used to calculate any traffic impact study analysis. The traffic impact study standards set forth in [§153.06\(E\)\(4\)](#) shall apply.
- (e) All permitted uses in the PUD district must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

**(K) Architectural and Exterior Material Standards**

**(1) Architectural Standards**

- (a) All new principal and accessory structures permitted in this zoning district should be designed to conform to the following architectural standards in order to achieve a uniform and well-planned community appearance.
- (b) As a category of structural types, nonresidential buildings may house a variety of uses or uses that maintain a high level of land use intensity, and as such, often present unattractive and monotonous facades. However, there are a variety of design techniques that can be utilized to promote visual variety and facilitate a cohesive, attractive design statement:



- (i) Avoid long, blank building facades, particularly on walls visible from the public right-of-way. Facades with varied setbacks are encouraged, if possible, wall planes should not run in one continuous direction for more than 50 feet without an offset.
- (ii) All elevations to a building should be architecturally treated to avoid monotonous overall design.
- (iii) Window and doors are key elements of a building's form and should relate to the scale of the facade on which they appear. Windows and doors can help establish character by their rhythm, spacing, and variety. Recessed openings further work to provide depth and contrast on elevation planes.
- (iv) Metal buildings should be architecturally designed, providing variety and visual interest to the streetscape.
- (v) All roof-mounted equipment should be screened from public view by materials similar to those used in the overall structure. Mechanical equipment should be located below the highest vertical element of the building.
- (vi) Building entries should be readily identifiable through the use of canopies, marquees and architectural treatment.
- (vii) Glass windows or some similar architectural treatment should occupy at least 10% of the front elevation of a building.
- (viii) Design elements which are undesirable and should be avoided include:
  - A. Highly reflective surfaces.
  - B. Large blank, unarticulated wall surfaces.
  - C. Exposed, treated block walls.

**(2) Exterior Building Materials**

All principal buildings and accessory structures in PUD shall be subject to the same exterior material standards as the R-1 District, unless waived by the Planning Commission and City Council as part of the PUD Development Plan approval. See [§153.09\(J\)\(2\)](#).

**(L) Common Open Space**

- (1) A minimum of 5% of the total land area developed in any PUD project shall be reserved for common open space for the users of the area being developed.
- (2) Functional use of open space should be developed in favor of placement of landscaping in unusable areas or passive landscape area.
- (3) The design of the common usable open space shall complement the street pedestrian realm with plazas, pocket parks, public gathering spaces, street furniture, multi-purpose drainage facilities and landscaping.
- (4) Nonresidential and mixed-use projects are encouraged to incorporate plazas and courtyards, which are oriented to the public realm/sidewalks, into their design. Buildings may be clustered to create usable pedestrian areas.
- (5) The design shall provide visual and physical cues that demark the public space from the private space.
- (6) To integrate new buildings within the surrounding area, such buildings are encouraged to provide passageways that allow for light and air to adjacent buildings.
- (7) In mixed-use residential and residential projects, common usable open space shall be provided in large, meaningful areas that are visible from the residential dwellings they serve.
- (8) Common open space areas shall be convenient to the majority of dwellings and shall contain amenities appropriate to the project's size.

- (9) In mixed use and residential projects, private usable open space shall be contiguous to the dwelling unit it serves and be screened from public view for privacy. All balconies and patios that front a public street shall be designed to screen items being stored on the balcony or patio.
- (10) Rooftop open space may be used as common usable open space or private usable open space, when directly accessible to the dwelling unit(s) it serves.

**(11) Disposition of Open Space**

The required amount of common open space reserved under a planned unit development shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development, or be dedicated to the city and retained as common open space for parks, recreation and related uses. All land dedicated to the city must meet the Planning Commission's requirements as to size, shape, and location. Public utility and similar easements and rights-of-way, for water courses and other similar channels, are not acceptable for common open space dedication to the city, unless such land or right-of-way is useable as a trail or other similar purpose and approved by the Planning Commission. City Council shall have the discretion to accept or deny any common open space proposed to be dedicated to the city.

**(12) Maintenance of Open Space**

The responsibility for the maintenance of all open spaces shall be specified by the developer as part of the Development Agreement.

**(M) Utility Requirements**

All public and private utility facilities and structures required to be newly constructed or relocated as a result of the project shall be placed underground within the project area and within any public right-of-way located adjacent to the project boundaries. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Planning Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.

**(N) Financial Responsibility for Public Improvements**

No building permits or zoning permits shall be issued for construction within a PUD until required public improvements are installed or performance bond posted in accordance with the same procedures as provided for by the City Engineer. Other such requirements may also be established from time to time by the City Engineer.

**(O) Public Improvements Security**

If the applicant is required to install any public infrastructure at a condition of an approved plan or Development Agreement under this PUD section, the City shall require the posting of a surety bond, letter of credit or other similar performance guarantee to ensure that required infrastructure improvements within the public right-of-way are completed in the event that the project is abandoned. This security must be established prior to a zoning permit or building permit being issued. The City may suspend the zoning permit when work is not performed as required by an approved PUD plan.

## **§153.16      CONDITIONAL USE STANDARDS**

### **(A)    Purpose**

The purpose of this subchapter is to establish the procedure for approval of uses conditionally permitted under the provisions of the various districts created by this chapter. These sections are necessary because of the considerable impact certain uses which might be appropriate in the district might have on other permitted uses.

### **(B)    Application for Conditional Use**

Applications for a conditional use permit shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#).

### **(C)    Conditional Use Permit Procedure**

- (1) Prior to authorizing a conditional use, the Planning Commission shall conduct a public hearing after notice of said hearing has been given in accordance with [§153.03\(E\)](#). The Zoning Enforcement Officer shall issue a conditional use permit for the conditional use following the hearing and upon an affirmative vote by the Planning Commission that such conditional use satisfies the requirements of this subchapter.
- (2) The Planning Commission, as part of an affirmative vote, is authorized to attach reasonable conditions to a conditional use permit application to meet the overall spirit and intent of the zoning district for which the conditional use is proposed to be located, and to comply with the objectives of this Zoning Code and the Silverton Comprehensive Plan.

### **(D)    Appeals of Decisions Concerning Conditional Use Permits**

Appeals of decisions made by the Planning Commission concerning conditional use permits shall be made in writing to the Board of Zoning Appeals within 30 days from the date of the official Planning Commission decision to either approve or disapprove the conditional use application. In reviewing conditional use decisions by the Planning Commission, the Board of Zoning Appeals shall apply the general conditional use standards and the applicable specific conditional use standards provided for in this subchapter.

### **(E)    General Standards Applicable to Consideration of Conditional Uses**

In reviewing the applications for conditional use permits, the Planning Commission shall consider whether there is adequate evidence that the proposed conditionally permitted use is consistent with the following standards:

- (1) The proposed use is a conditional use as established under the provisions of district use regulations;
- (2) The proposed use will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan and Zoning Code of the city;
- (3) The proposed use will be designed, constructed, operated, and maintained in a manner harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area;
- (4) The proposed use will not be hazardous or disturbing to existing or future neighborhood uses;
- (5) The proposed use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any of those services;
- (6) The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

- (7) The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (8) The proposed use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
- (9) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (10) When applicable, minimum standards for parking and loading shall be as required in the off-street parking and loading facilities subchapter of this Zoning Code;
- (11) When applicable, parking areas shall not encroach upon any bufferyard required in the landscape and bufferyard standards subchapter of this Zoning Code;
- (12) When applicable, minimum standards for landscaping shall be as required in the landscaping and bufferyard standards subchapter; and
- (13) When applicable, minimum standards for architectural or exterior material requirements and site design guidelines provided for in the zoning district for which the proposed conditional use may be located shall apply.

**(F) Specific Standards for Certain Conditional Use**

The following minimum requirements shall be imposed on certain specified conditional uses. All conditional uses are subject to the general standards identified in Section [§153.16\(E\)](#), above, and the lack of specific standards in this section shall not imply a lack of standards at all. Additional requirements may be imposed by the Planning Commission if deemed appropriate to meet the spirit and intent of this Zoning Code and the Silverton Comprehensive Plan. In granting any conditional use, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Zoning Code.

**(1) Automated Teller Machines (ATMs).**

- (a) No stand-alone automated teller machine structure nor any portion of an automated teller machine constructed as part of a building facade shall exceed 15 feet in height.
- (b) All structures and activity areas, except off-street parking, shall be located no less than 50 feet from all lot lines abutting any residential zoning district and no less than 35 feet from all lot lines abutting non-residential zoning districts.
- (c) The Planning Commission may require that a photometric analysis be provided in order to ensure that the foot candle measurement at any property line abutting against any residential use or zoning district does not exceed 0.5-foot candles.

**(2) Automobile Sales**

- (a) The minimum lot size shall be four acres.
- (b) The building setback for such establishments shall be located a minimum of 150 feet from any residential district and the minimum parking setback shall be 50 feet.
- (c) All work shall be performed entirely within an enclosed building. During the time work is performed on a vehicle, the vehicle shall be entirely within the building.
- (d) Vehicle parking areas, vehicle and equipment storage areas, maneuvering lanes and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.
- (e) No scrap metal, scrap or salvaged parts, junk vehicles nor used oil, antifreeze, transmission or other such fluids shall be stored above ground on the site.

- (f) Parking areas shall not exceed the required number of off-street parking spaces set forth in the off-street parking and loading facilities subchapter.
- (g) Any proposed loudspeaker system shall be approved as part of the site plan and may require conditions regulating the hours of usage and maximum decibel levels.

**(3) Automotive Gasoline Or Automotive Service Station**

- (a) No structure shall exceed 25 feet in height.
- (b) All structures and activity areas, except off-street parking, gasoline pump islands and canopies, shall be located no less than 40 feet from all lot lines. Gasoline pump islands shall be located no less than 25 feet from the road right-of-way. Canopies shall be located no closer than 15 feet from the road right-of-way. Where the property abuts any residential zoning district or residential use, the Planning Commission shall decide on setback requirements taking into account surrounding properties and the Silverton Comprehensive Plan.
- (c) There shall be no more than two ingress/egress drives onto the property. No drive shall exceed 35 feet in width.
- (d) Lubrication, washing and other incidental servicing of motor vehicles and all supply and merchandise storage shall be completely within an enclosed building except as otherwise provided herein.
- (e) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare that would constitute a nuisance to any residential use or hazard to traffic on any public thoroughfare.
- (f) Employee vehicles and vehicles awaiting servicing or return to customers following servicing shall be parked in areas indicated for such parking on the approved site plan. Such parking areas shall be located no less than 50 feet from the road right-of-way.
- (g) The sale of motor vehicles on automotive service station premises shall be prohibited.
- (h) The outdoor storage of any materials, part or the outdoor display of goods and merchandise for sale shall be prohibited.
- (i) Notwithstanding any other provision of this or any other subchapter relating to the development of automotive service stations, no signs, product displays, parked vehicles or other obstructions which adversely affect visibility at intersections or at station driveways shall be permitted.
- (j) Underground tanks must be removed if the property is to be converted to another use.
- (k) As a condition of approval under this section, an automobile gasoline or service station shall provide a performance bond to the city in an amount equal to the estimated removal cost of any underground storage containers or other site element remediation or abatement that may require specific costs to fully bring the site in full compliance with all local, state and federal environmental laws and guidelines. Such performance bond must remain in effect until the site ceases to be used as an automobile gasoline or service station. Changes in ownership of the property and/or the business entity shall require the submission of a new or modified performance bond to the city within 30 days upon change of ownership.
- (l) The following shall regulate the abandonment of automobile gasoline and automobile service stations:
  - (i) If any automotive gasoline or service station is abandoned for a period of at least six consecutive months, such station shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property or general welfare of the community and shall be abated.

- (ii) Such abandoned condition shall be abated within 60 days either by placing the station in operation in accordance with this section and other applicable laws and regulations of the city and state, adopting and using the building or structure for another permitted use in the district in which it is located, or by razing the station, removing the pumps and signs, abandoning the underground storage tanks in accordance with safe accepted practices as prescribed by the National Fire Protection Association and filling depressions to the grade level of the lot; however, if the station is in operation at the time notice is given and remains in operation for 90 consecutive days thereafter, the provision of this division shall not apply. Whenever the Zoning Enforcement Officer shall find any automotive service station to be abandoned, the Zoning Enforcement Officer shall give notice in the same manner as service summons in civil cases, or by certified mail addressed to the owner of record of the premises at the last known address to which tax bills are sent, or by a combination of the foregoing methods.
- (iii) An abandoned automobile gasoline or service station site shall comply with any applicable Federal or State of Ohio Environmental Protection Agency laws, rules and provisions prior to being granted a non-abandoned status by the Zoning Enforcement Officer.
- (iv) On the failure, neglect or refusal of any owner to comply with the notice to abate such abandonment, the Zoning Enforcement Officer may take action as may be necessary to abate such nuisance.

**(4) Bed And Breakfast Lodgings**

- (a) The minimum lot area shall be 20,000 square feet.
- (b) All structures and activity areas, except off-street parking, shall be located no less than 35 feet from all lot lines.
- (c) There shall be no more than one ingress/egress drive onto the property. No drive shall exceed 35 feet in width.
- (d) Central facilities for the collection and disposal of trash shall be provided and shall be located in the rear yard only.
- (e) The maximum number of employees shall be two, other than occupants or owners.
- (f) No more than two adult persons shall be permitted per room.
- (g) There shall be a maximum of eight guest bedrooms permitted in a bed and breakfast lodging establishment.
- (h) No receptions, private parties or any other type of guest paid activity shall be permitted.

**(5) Cottage Industries**

- (a) Not more than two outside persons may be employed on the premises in addition to the members of the family residing on the premises.
- (b) The cottage industry shall be clearly incidental and subordinate to the residential use of a parcel containing a dwelling occupied as a principal residence of the owner or operator of the cottage industry.
- (c) Multiple uses are permitted within the cottage industry. The total area occupied by all uses within the cottage industry, including storage, shall not exceed 1,000 square feet.
- (d) All aspects of the cottage industry shall be located and conducted within a dwelling unit or enclosed accessory building(s), with the exception of outdoor storage of materials, products or vehicles as specifically provided by the conditional use permit. There shall be no other change in the outside appearance of the building or premises, except that the placement of one non-illuminated wall sign not exceeding four square feet may be permitted.

- (e) The sale of merchandise not produced on the premises (except mail order businesses) shall be incidental and accessory to the merchandise or service produced by the cottage industry.
- (f) Not more than three delivery vehicles shall access the premises each day.
- (g) The use and parking of large vehicles or construction equipment (such as trucks of over one ton rating) or vehicles being repaired shall be regulated by the conditional use permit.
- (h) No equipment or process used in the cottage industry shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood, nor shall noise exceed the levels normally found in residential districts at the property line.

**(6) Educational Institutions.**

- (a) The minimum lot area shall be five acres for elementary schools, ten acres for junior high schools and 15 acres for senior high schools.
- (b) All structures and activity areas, except off-street parking, shall be located no less than 40 feet from the front lot line and no less than 100 feet from all other lot lines. Where the property abuts any residential zoning district or residential use, the Planning Commission shall decide on setback requirements taking into account surrounding properties and the Silverton Comprehensive Plan.
- (c) There shall be no more than three ingress/egress drives onto the property. No drive shall exceed 35 feet in width.
- (d) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare that would constitute a nuisance to any residential use or hazard to traffic on any public thoroughfare.

**(7) Funeral Homes**

- (a) The minimum lot area shall be 20,000 square feet.
- (b) All structures and activity areas, except off-street parking, shall be located no less than 35 feet from all lot lines. Where the property abuts any residential zoning district, the Planning Commission shall decide on setback requirements taking into account surrounding properties and the Silverton Comprehensive Plan.

**(8) Home Occupations**

- (a) Home occupations shall be clearly incidental and subordinate to the use of the property for residential purposes and shall be wholly conducted within the dwelling.
- (b) No more than the equivalent of 25% of the gross floor area of any dwelling shall be utilized for a home occupational use.
- (c) The external appearance of the structure in which the home occupation is conducted shall not be altered.
- (d) There shall be no outside storage of any kind related to the home occupational use and only commodities made on the premises or commodities, which are considered accessory to the services provided (i.e. shampoo in a beauty salon), may be sold on the premises. No display of the products shall be visible from the street.
- (e) All parking requirements of a home occupation shall be provided for by utilizing either existing residential driveways or on-street parking spaces. No expansion of off-street parking areas shall be permitted in connection with a home occupation use.
- (f) No equipment, process, materials, or chemicals which create offensive noises, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, or electrical disturbances shall be utilized in the home occupation.

- (g) Not more than one person, who is not a resident of the premises, may participate in the home occupation as an employee or volunteer.
- (h) No more than one home occupation shall be permitted within any single dwelling unit.
- (i) Delivery of any materials necessary for a home occupation shall be limited to automobiles, light duty pick-up trucks or vans.
- (j) Hours of operation for a home occupation that entails client visits or incoming deliveries are restricted to no earlier than 8:00 a.m. and no later than 8:00 p.m. each day of the week, except that operation on Sundays is restricted to 12:00 p.m. to 6:00 p.m.
- (k) The Zoning Enforcement Officer may waive the requirement for public notice and public hearing as set forth in [§153.16\(C\)](#) for those home occupations that will not have an Adverse Impact Upon Adjacent properties and surrounding areas.

**(9) Hospitals**

- (a) The minimum lot area shall be five acres.
- (b) No structure shall exceed 70 feet in height.
- (c) All structures and activity areas, except off-street parking, shall be located no less than 100 feet from the front lot line and no less than 40 feet from all other lot lines. Where the property abuts any residential zoning district or residential use, the Planning Commission shall decide on setback requirements taking into account surrounding properties and the Silverton Comprehensive Plan.
- (d) Loading and unloading areas shall be a minimum of 75 feet from any residential use or residential zoning district.

**(10) Low Intensity Service Establishments**

- (a) The minimum lot area shall be 25,000 square feet.
- (b) No structure shall exceed 20 feet in height.
- (c) All structures and activity areas, except off-street parking, shall be located no less than 30 feet from any side or rear lot line. Where the property abuts any residential zoning district or residential use, the Planning Commission may require a more restrictive setback requirement than those provided for in [§153.20\(D\)](#) taking into account surrounding properties and the Silverton Comprehensive Plan.
- (d) Loading and unloading areas shall be a minimum of 75 feet from any residential use or residential zoning district.
- (e) Outdoor storage of any materials, products or equipment is limited to the rear yard area only and shall be fully enclosed with an eight-foot-high solid wood privacy fence. Outdoor storage may include vehicles if equipment, materials or products are stored upon the vehicle in an openly visible manner.
- (f) The architectural and exterior material requirements set forth in [§153.11\(J\)](#) shall apply to low intensity service establishments.

**(11) Nursery Schools/Day Care Facilities**

- (a) The minimum lot area shall be 10,000 square feet.
- (b) All structures and activity areas, except off-street parking, shall be located no less than 50 feet from the front lot line and no less than 40 feet from all other lot lines. Where the property abuts any residential district or residential use, the Planning Commission shall decide on setback requirements taking into account surrounding properties and the Silverton Comprehensive Plan.
- (c) Outdoor play areas shall be permitted in the side and rear yards only and shall be enclosed with a fence or wall of a minimum of five feet in height.



- (d) Unloading and loading of children from vehicles shall only be permitted in the approved parking area of the facilities. An on-site drop off area sufficient to accommodate four vehicles shall be provided.

**(12) Private Recreation Areas**

- (a) No structure shall exceed 35 feet in height.
- (b) All structures and activity areas, except off-street parking, shall be located no less than 75 feet from all lot lines.
- (c) There shall be no more than two ingress/egress drives onto the property. No drive shall exceed 35 feet in width.
- (d) Only retail uses which are customarily accessory or incidental to the main recreational use shall be permitted and shall include such uses as refreshment stands, souvenir stands and concession stands.

**(13) Religious Places Of Worship**

- (a) The minimum lot area shall be 30,000 square feet with a minimum lot width of 125 feet.
- (b) The main structure of a religious place of worship or any other building shall not exceed 40 feet in height with the exception of a steeple or tower, which may not exceed 75 feet in height.
- (c) All structures and activity areas, except off-street parking, shall be located no less than 35 feet from all lot lines. Where the property abuts any residential district or residential use, the Planning Commission shall decide on setback requirements taking into account surrounding properties and the Silverton Comprehensive Plan.
- (d) There shall be no more than two ingress/egress drives onto the property. No drive shall exceed 35 feet in width.
- (e) Such uses shall be encouraged to locate adjacent to parks and other nonresidential uses such as schools and shopping facilities where use could be made of joint parking facilities.

**(14) Substantially Similar Uses**

- (a) All applications for a zoning permit for a building or use not specifically listed in this Zoning Code shall be subject to approval by the Planning Commission in accordance with the following conditions:
  - (i) Such use is not specifically listed in any other zoning district as a permitted use, conditional use or accessory use.
  - (ii) Such use is similar in nature and has the same characteristics of a use listed in this Zoning Code.
- (b) If the Planning Commission determines that the subject use is similar to a listed use, the subject use shall be required to conform to the same regulations as the listed use.

**(15) Tattoo Parlors And Body Piercing Establishments**

- (a) Each operator of a business that offers tattooing or body piercing services shall do all of the following:
  - (i) Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly;
  - (ii) With respect to tattooing services, maintain written records that include the color, manufacturer, and lot number of each pigment used for each tattoo performed;
  - (iii) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in rules adopted under R.C. §3730.10;

- (iv) Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in rules adopted under R.C. §3730.10; and
- (v) Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In having the devices tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.
- (b) Each operator of a business that offers ear piercing services performed with an ear-piercing gun shall require the individuals who perform the ear-piercing services to disinfect and sterilize the ear-piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in rules adopted under R.C. §3730.10.
- (c) Hours of operation are restricted to 8:00 a.m. until 9:00 p.m.
- (d) As a condition of approval, each operator of a business that offers tattooing or body piercing services shall provide the Planning Commission with evidence documenting the attainment of all required Ohio State Board of Health approvals as required to offer tattooing and body piercing services in the state.

**(G) Addition To Or Expansion Of A Conditional Use**

Additions to or expansions of approved conditional uses shall not be undertaken until a new conditional use permit application reflecting those additions or expansions is granted by the Planning Commission. The conditional use permit application referred to in this section shall comply with the procedural and substantive requirements of this subchapter.

**(H) Exemption Of Existing Conditional Uses**

Those uses which are classified as conditional uses in this subchapter and exist in a district at the time of enactment of this section shall be considered nonconforming until that time as they are granted a conditional use permit.

**(I) Expiration Of Conditional Uses**

- (1) A conditional use permit shall be deemed to authorize only one conditional use and such conditional use permit shall automatically expire if, for any reason, one of the following occurs:
  - (a) The conditional use has ceased by discontinuance or abandonment for a period of more than six months;
  - (b) Such use violated the conditions established in this chapter; or
  - (c) Change of ownership of the property unless the new owner intends to maintain the same conditional use under any approved standards or conditions.
- (2) Once a conditional use expires, the owner must reapply for a conditional use permit as set forth in the subchapter to re-establish the conditional use.

## **§153.17 ACCESSORY USE STANDARDS**

### **(A) Purpose**

In addition to the principal uses expressly included in the zoning districts such use types shall be deemed to include such accessory uses which are specifically identified by these accessory use regulations; and such other accessory uses which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to, such principal uses. When provided by these regulations, it shall be the responsibility of the Zoning Enforcement Officer to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, based on the Zoning Enforcement Officer's evaluation of the resemblance of the proposed accessory use to those uses specifically identified as accessory to the principal uses and the relationship between the proposed accessory use and the principal use.

### **(B) Zoning Permit Required**

Unless otherwise expressly stated, a zoning permit shall be required for the construction or establishment of an accessory use or structure.

### **(C) Accessory Use Standards**

In all districts, except as specified in each district, accessory uses and structures shall be subject to the following requirements:

- (1)** No accessory building or use shall be constructed or established prior to the start of construction of the principal building or use to which it is accessory.
- (2)** Accessory structures shall be located on the same parcel for which the principal structure is found and shall be in compliance with the following requirements:
  - (a)** In all residential districts, an accessory building shall not be located closer than three feet to a rear or side lot line.
  - (b)** In all non-residential districts, an accessory building shall not be located closer than ten feet to a rear or side lot line when abutting any residential use or residential zoning district. When an accessory use abuts a non-residential use or zoning district, there shall be no side yard or rear yard setback requirements for an eligible accessory use.
- (3)** An accessory building shall not be located within a front yard or side yard in any residential zoning district. An accessory building or structure shall not be located in the front yard of any non-residential zoning district.
- (4)** No accessory building shall be located closer than six feet to the principal building.
- (5)** In all residential districts, accessory buildings shall not occupy more than 25% of the rear yard area.
- (6)** The height of accessory structures shall not exceed the following:
  - (a)** In all residential districts, an accessory building or structure shall not exceed a height of 15 feet.
  - (b)** In all non-residential districts and except for fences and signs, an accessory structure shall not exceed a height of 15 feet.
- (7)** The measurement of the height of an accessory structure shall be measured from the lowest ground level to the highest point of the structure.

### **(D) Special Accessory Use Building Standards**

The following buildings and structures may be located within the required yards specified, subject to the special conditions indicated.

**(1) Canopy, Gas Pump Island**

Unenclosed canopies over gas pump islands may be located within the required front yard or side yard, provided at street intersections.

**(2) Ornamental Features**

Light fixtures, flag poles, arbors, trellises, fountains, sculptures, plant boxes, plants, trees, and other similar ornamental features may be located within any yard. In no case shall any ornamental feature more than two and one-half feet in height above the curb level be located so as to block the sight distance at street or drive intersections within the designated "No Accessory Structure Zone". In the case of a street intersection, the sight triangle shall consist of the area between points 35 feet from the right-of-way line along both intersecting streets.

**(3) Decks and Stoops**

Porches, balconies, decks and stoops which are uncovered, may extend into any yard, provided that such projections shall not extend into a front yard more than eight feet. Stoops may extend into a side yard not more than two feet.

## **§153.18 SUPPLEMENTAL REGULATIONS**

### **(A) General**

The purpose of supplementary district regulations is to set specific conditions for various uses, classification of uses, or areas where problems are frequently encountered.

### **(B) Conversion of Dwellings to More Units**

A residence shall not be converted to accommodate an increased number of dwelling units unless:

- (1)** The yard dimensions still meet the yard dimensions required by the zoning regulations for new structures in that district.
- (2)** The lot area per dwelling equals the lot area requirements for new structures in that district.
- (3)** The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district.
- (4)** The conversion is otherwise in compliance with this Zoning Code (e.g., property is zoned for two-family or multiple-family use) and all other relevant codes and ordinances.

### **(C) Private Residential Swimming Pools**

No private residential swimming pool, exclusive of portable/blow-up/wading/kiddie pools, shall be allowed in any district, except as an accessory use and unless it complies with all the following conditions and requirements:

- (1)** The pool is to be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.
- (2)** The pool may not be located in the front yard or side yard area; nor, closer than five feet to a rear or side lot line.
- (3)** Every swimming pool, including existing pools, shall be completely enclosed by a fence or other permissible barrier of sturdy construction, the top of which shall not be less than 48 inches (four feet) above the level of the ground where located, which shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such barrier. Rails are not permitted in place of a wall or fence. Such fence or other barrier shall be of conventional design and each gate in it shall be provided with a self-closing, self-latching gate with secure lock and shall be kept locked at all times, unless such pool is under the immediate observation and supervision of a responsible person. The latch shall not be lower than 48 inches and located on the inside of the gate, not accessible to a small child. In the case of pools which are partially or completely above-ground, in lieu of a fence or other permissible barrier, the outside structure of the pool wall may constitute part of the conventional barrier but must have a permissible topper-barrier, so that the complete barrier, measured from the adjacent grade or the highest point of access to the pool, is not less than 72 inches or six feet. The steps or ladder can be designed to be secured, locked or removed to prevent access, or the steps or ladder can be surrounded by and completely enclosed by a fence or other permissible barrier with gate as stated above. Temporary, portable, blow-up and/or wading pools are excluded from this option.
  - (a)** Spas, hot tubs, and similar water recreational devices, having a span of nine feet or less at the widest point, shall be locked with a top specifically made from the manufacturer of the spas or hot tubs, in lieu of a fence, whenever not in the immediate supervision of a responsible adult. Spas or hot tubs and similar water recreational devices having a span greater than nine feet at any point, shall be considered a swimming pool and must adhere to the swimming pool guidelines.
  - (b)** No part of any barrier shall be located between the building setback line as established by this Zoning Code and the street on which the lot or parcel abuts.

- (4) Required fencing and/or other permitted barriers must be in place within 24 hours after the swimming pool has been constructed or filled.
- (5) Prior to the construction or erection of any private residential swimming pool, the applicant shall obtain a zoning permit under [§153.02\(G\)](#), and all permit fees shall be paid.
- (6) Portable, blow-up, wading or kiddie pools shall meet all of the following requirements:
  - (a) Pools that are only capable of holding 18 inches or one and one-half foot of water or less, at the deepest point, and are nine feet or less in water surface diameter at the widest point, or less than 65 square feet in surface area;
  - (b) Pools that are not erected, whether containing water or not, on one's property, when not wholly enclosed inside of a building, except for between and including the dates of May 1 through September 30 of the same calendar year;
  - (c) Shall not create any safety or health hazards. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard;
  - (d) Portable, blow-up, wading or kiddie pools are not permitted in front yards;
  - (e) Water recirculating system or involve structural materials shall not be utilized; and
  - (f) It may be required to be removed or required to adhere to the swimming pool regulations if all criteria are not met as determined by the Zoning Enforcement Officer. No zoning permit required.

**(D) Temporary Buildings**

Temporary buildings, construction trailers, equipment and materials used in conjunction with construction work only, may be permitted in any district during the period construction work is in progress; but such temporary facilities shall be immediately removed upon completion of the construction work. Storage of such facilities or equipment beyond the completion date of the project shall require a zoning permit authorized by the Planning Commission.

**(E) Fence and Wall Regulations**

Fences, walls, plant materials designed in a manner similar to a fence, and similar screening devices shall be subject to the following:

- (1) For the purposes of this section, the terms "fence," shall include walls, plant materials designed in a manner similar to a fence (e.g., hedge), and similar screening devices, and all are subject to the standards of this section.
- (2) Fences are prohibited in the front yard. See [§153.08\(B\)\(4\)](#) for information on the location of the front yard.
- (3) Fences located in any side yard or rear yard of a lot in a R-1 and R-2 District, or a lot used for residential purposes in a PUD shall not exceed six feet in height. Fences located in any side yard or rear yard of a lot in a C-1, C-2, or R-E District, or a lot used for nonresidential purposes in a PUD shall not exceed eight feet in height.
- (4) Fences may be placed on top of a retaining wall, but in no case shall the fence portion exceed the height allowed above. The total height of any retaining wall with a fence on top shall not exceed 10 feet in height.
- (5) Fence height shall be measured as the vertical distance between the grade of the ground abutting the fence and the top edge of the fence material including any ornamental or decorative extensions of a fence.
- (6) The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. If a fence has two similarly finished sides, either side may face the adjacent property.
- (7) All electric and barbed wire fences shall be prohibited.

- (8) All fences shall be properly maintained by the owners of the property on which they are located. Such maintenance shall include painting, cleaning, and structural soundness in the case of a fence, wall, or other man-made object; and trimming, pruning, cutting, and other landscaping in the case of a hedge or other planting so that there is no aesthetic detriment to the surrounding area.
- (9) All fences, regardless of type or height, require an approved fence permit on a form provided by the Zoning Enforcement Officer, and including all applicable fees. Fence permits shall be reviewed in the same manner as a zoning permit.
- (10) It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence does not deviate from the plans as approved by the Zoning Enforcement Office issuing the permit, and that the fence does not encroach on another lot or existing easement. The issuance of the permit and any inspection by the City shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on him or her herein.
- (11) Fences shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district. Fences may be permitted to include outlets at the bottom of the fence or wall to eliminate the possibility of the accumulation of water and allow for natural drainage past the wall or fence.
- (12) Walls shall be prohibited within all utility easements. Fences that are placed in utility easements shall require the written permission from the applicable utility and without such permission, are subject to removal without notice by utility companies or the City when work is being done in the utility easements. Fences shall not be placed in any City easement unless the plat specifically permits the placement of such fence. Replacement of fences removed by the City or utility company shall be at the property owner's expense.

**(F) Architectural Projections**

Open structures such as fireplace chases, porches, canopies, balconies, platforms, carports, covered patios, and similar architectural projections shall be considered parts of the building to which they are attached and shall not project into the required minimum front, side, or rear yards.

**(G) Performance Standards**

It is the purpose of the performance standards to provide for the peaceful and quiet enjoyment of property and to set forth regulations so that no use shall be constructed or operated so as to create a nuisance or to create any noxious, objectionable or other undesirable effect on persons or property outside of the lot line of said use. Materials, uses and products produced shall be adequately housed, shielded or screened so that the health, safety and welfare of persons occupying the property or adjacent properties are not jeopardized.

**(1) Applicability And Compliance**

The performance standards are applicable to all land uses in all zoning districts within the city, and both initial and continued compliance is required. Any condition or land use falling under the jurisdiction of the standards of this Zoning Code and not in conformance with these standards shall be brought into full compliance immediately upon discontinuance of the existing use of land, structure or building. Any change in the principal use of land, a structure or a building shall constitute a discontinuance and be fully subject to these standards and provisions.

**(2) Noise**

No business or commercial operation or residential use shall create a persistent or recurring noise which is a nuisance. No business or commercial operation or residential use may raise the noise level more than two decibels above the normal background level (measured at any lot line).

**(3) Odors**

No use shall cause or allow the emission of odorous air contaminants from any source sufficient to result in detectable odors beyond any lot line on which the use occurs.

**(4) Vibrations**

Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on or outside the property line of the property on which the use is located.

**(5) Glare And Heat**

Any operation producing intense light or heat, including high temperature processes such as combustion or welding, shall not be visible or felt beyond any lot line bounding the property wherein the use is conducted. All exterior lighting on private property shall be positioned as to extend glare away from adjacent properties or public rights-of-way.

**(6) Air And Water Pollutants**

The emission of air and water pollutants shall not violate the standards and regulations of any local, state or federal agency having jurisdiction in this matter.

**(7) Hazardous Materials**

The storage, utilization and manufacture of solid, liquid and gaseous chemicals and other materials shall be permitted subject to the standards and regulation of any local, state or federal agency having jurisdiction in this matter.

**(8) Smoke**

The emission of smoke or dust by any land use in an amount sufficient to create a general nuisance to adjoining properties shall be prohibited.

**(9) Enforcement**

**(a) Notice of Violation**

In enforcing performance standards on existing uses, the Zoning Enforcement Officer may issue a written notice of violation to an alleged violator. The Zoning Enforcement Officer shall, before issuing such notice, make technical determinations of any probable violation when such determinations can be made using equipment and trained personnel normally available to the city or obtainable without extraordinary expense. In other cases, however, technical complexity or extraordinary expense may make it unreasonable for the city to maintain personnel or equipment for making determinations of violation prior to issuing a notice of violation. In such cases, a notice of violation may be issued when the Zoning Enforcement Officer has other reason to believe there is probable violation. The Zoning Enforcement Officer shall give notice of violation by any means that ensures a signed receipt for such notice to the party responsible for the alleged violation. The notice shall describe the alleged violation and the results of technical determinations or the other reasons why the Zoning Enforcement Officer believes there is a violation.



**(b) Notice Contents**

The notice shall require either an answer or correction of the alleged violation to the satisfaction of the Zoning Enforcement Officer and within a time limit he or she shall specify in the notice. The notice shall also state that failure to provide an answer or correct the alleged violation within this time limit shall constitute admission of a violation. The notice shall further state that, if technical determinations have not already been made, upon request of the alleged violator such determinations will be made. If a violation is found as a result of such determinations, the cost of the determinations will be assessed against the properties or parties responsible in addition to any other penalties provided for. If no violation is found, the city shall pay the cost of the determinations.

**(H) Mobile Storage Structures**

- (1)** A portable on-demand storage structure may be utilized as a temporary structure within the city when in compliance with the standards of this section upon the issuance of a temporary structure permit from the Zoning Enforcement Officer. Any use of such structures within the city not in compliance with this section shall be unlawful.
- (2)** The term “Portable On-Demand Storage Structures” (POD) shall be defined to be: any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements.
- (3) POD Standards**
  - (a)** A POD storage structure may be located as a temporary structure on property within the city for a period not exceeding 30 days in duration from time of delivery to time of removal. A POD structure shall not be located in the front yard of any lot within the city. Such temporary structure shall be located no closer than five feet to any property line.
  - (b)** Permits for such temporary uses and structures may be issued by the Zoning Enforcement Officer after submission of a completed temporary storage structure permit application and payment of the permit application fee. An approved permit is valid for the specified 30-day time frame only. Such POD structure may not be located on a specific property more than four times in any given calendar year period. Applicants seeking to extend the time frame consistent with the provisions in this section must complete a new application and submit a new permit application fee payment for each time period sought.
  - (c)** No more than one POD storage structures may be located on a specific piece of property within the city at one time.
  - (d)** Such structure may not exceed eight feet six inches in height, ten feet in width or 20 feet in length.
  - (e)** All such temporary structures shall comply with the appropriate building code provisions and such other requirements as are imposed by the city or the Chief Building Official to ensure the safety of the public.
- (4)** It shall be the obligation of the owner of the property on which the POD is located or the user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure. In the event of high winds or other weather conditions in which such structure may become a physical danger to persons or property, the appropriate law enforcement officers may require the immediate removal of such temporary structure.

- (5) Any portable on-demand storage structure which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the direction of a law enforcement officer for removal of such temporary structure for safety reasons, may be removed by the city immediately, without notice, and the cost of such removal, together with the cost of administration of its removal, may be assessed against the property on which the temporary structure was located and may be filed as a lien against such property by the city. Such lien shall be superior in priority to all other liens or encumbrances upon the property, including the lien of a mortgage, and shall be equal in priority to the lien of ad valorem taxes.

**(I) Regulation of Farm Animals**

The raising of farm animals shall not be permitted in any zoning district within the city unless the area consists of 20 acres or more, is classified for Current Agricultural Use Valuation (CAUV) regulations through the Hamilton County Auditor, or has been approved as an agricultural district under Section 929.02 of the Ohio Revised Code.

**§153.19 OFF-STREET PARKING AND LOADING FACILITIES**

**(A) Purpose**

The purpose of these off-street parking and loading regulations is to promote the public health, safety, and welfare by regulating those facilities in all zoning districts. The intent is to provide for convenient and sufficient access to activities which require parking or loading, to limit on-street parking and loading to facilitate traffic flow and safety, to encourage a more attractive economic, business, and residential climate, and to enhance and protect the physical appearance of the community.

**(B) Compliance; General Requirements**

- (1) No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this chapter. The review process to determine adequacy of parking or loading spaces shall be congruent with the review of site plan applications.
- (2) The provisions of this subchapter, except where there is a change of use, shall not apply to any existing building or structure. Where the new use involves no additions or enlargements, there shall be provided as many spaces as may be required by this subchapter.
- (3) Whenever a building or structure constructed after the effective date of this subchapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change. Whenever a building or structure existing prior to the effective date of this subchapter is enlarged to require a site plan application as provided for in [§153.06](#) or enlarged to the extent of 50% or more in floor area, number of employees, number of housing units, seating capacity or otherwise, the building or structure shall then and thereafter comply with the full parking requirements set forth herein.

**(C) Parking Space Dimensions**

A parking space shall have minimum rectangular dimensions as provided [Table 3](#) and [Figure K](#). All dimensions shall be exclusive of driveways, aisles, and other circulation areas.

| <b>Table 3: Parking Space Dimensions</b> |                                   |                                    |                                 |                |
|--|-----------------------------------|------------------------------------|---------------------------------|----------------|
| <b>Angle</b>                             | <b>Parking Space Width (Feet)</b> | <b>Parking Space Length (Feet)</b> | <b>Drive Aisle Width (Feet)</b> |                |
|  |                                   |                                    | <b>One-Way</b>                  | <b>Two-Way</b> |
|  | <b>A</b>                          | <b>B</b>                           | <b>C</b>                        | <b>D</b>       |
| Parallel (0°)                            | 9 feet                            | 22 feet                            | 12 feet                         | 20 feet        |
| 30°                                      | 9 feet                            | 20 feet                            | 12 feet                         | 24 feet        |
| 45°                                      | 9 feet                            | 20 feet                            | 12 feet                         | 24 feet        |
| 60°                                      | 9 feet                            | 18 feet                            | 18 feet                         | 24 feet        |
| Perpendicular (90°)                      | 9 feet                            | 18 feet                            | 20 feet                         | 24 feet        |

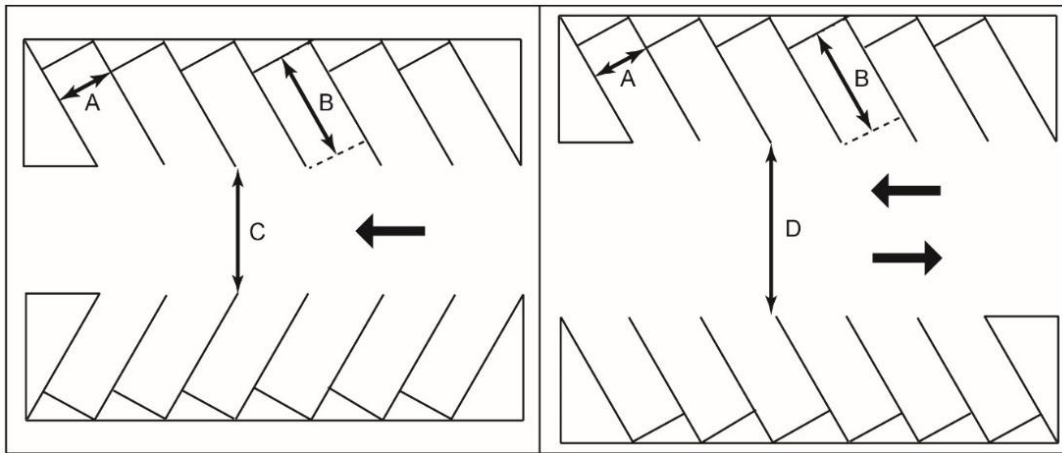


Figure K: Parking area dimensions

**(D) Parking Area Access**

Any parking area shall be designed in a manner that any vehicle leaving or entering the parking area from or into a public or private street shall be traveling in a forward motion. Access driveways for parking areas or loading spaces shall be located in such a way that any vehicle entering or leaving the area shall be clearly visible for a reasonable distance to any pedestrian or motorist approaching the access or driveway from a public or private street.

**(E) Width Of Access Driveway**

The entrances and exits to the parking area shall be clearly marked. Interior vehicular circulation by way of internal access driveways shall maintain the following minimum standards: For one-way traffic the minimum width of 14 feet except for the two-way traffic shall have a minimum width of 24 feet. Parking areas having more than one driveway shall have directional signs or markings in each driveway.

**(F) Loading Space Requirements And Dimensions**

An off-street loading space shall have minimum dimensions of not less than 12 feet in width, 50 feet in length, exclusive of driveways, aisles, and other circulation areas, and a height of clearance of not less than 15 feet. One off-street loading space shall be provided and maintained on the same lot for every separate occupancy requiring delivery of goods and having a modified gross floor area of up to 5,000 square feet. One loading space shall be provided for each additional 10,000 square feet or fraction thereof. Off-street loading spaces located within a C-1 District may be reduced in size or waived if the applicant can adequately demonstrate the scale and intensity of the goods intended to be delivered does not warrant a dedicated off-street loading space in lieu of an on-street location or an off-street loading space located on an adjacent parcel upon written consent of the adjacent property owner.

**(G) Lighting**

Any parking area which is intended to be used during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to reflect the light away from the adjoining property. The illumination standards set forth in [§153.06\(E\)\(2\)](#) shall govern.

**(H) Location Of Parking Spaces**

The following regulations shall govern the location of off-street parking spaces and areas:

- (1) Parking spaces for all detached residential uses shall be located on the same lot as the use which they are intended to service and shall be located in the front yard area.

- (2) Parking spaces for attached residential uses shall be located not more than 300 feet from the principal use and shall be located in a side yard or rear yard.
- (3) All off-street parking spaces for parking lots located within the C-1 and C-2 Districts shall be provided on the same parcel for which the principal structure is located and outside any public rights-of-way, unless otherwise allowed pursuant to [§153.11\(C\)](#). Off-street parking in the C-1 District shall not be located in any front yard area. Off-street parking in the C-2 District may be permitted in the front yard area subject to all street frontage landscaping requirements provided for in this subchapter. Parking may be located on a parcel abutting the parcel served, subject to a recorded reciprocal parking and access easement.
- (4) Parking spaces constructed to serve residential structures converted to commercial use shall be located in the rear yards to the maximum extent practical.
- (5) New development and expansion projects located within the C-1 District may request a waiver from the minimum off-street parking space requirements required under this subchapter when it is shown that adequate off-street parking area is not available to meet the required standards and the existence of other parking arrangements will satisfy the parking space requirements including, but not limited to utilizing on-street parking or other off-street parking lots located on an adjacent lot or lots in close proximity to the subject parcel, as determined by the Zoning Enforcement Officer.

**(I) Parking Lot Landscaping and Perimeter Buffering**

- (1) In order to mitigate visual impacts on adjacent uses, particularly residential uses, and to protect the health, safety and welfare of the community through the reduction of noise, air and visual pollution, any change in use, or any new, or substantially expanded use, shall provide parking lot landscaping and perimeter buffering in compliance with the requirements of this subchapter.
- (2) All proposed new or modified parking lot areas located in any zoning district adding five or more new parking spaces shall comply with these parking lot landscaping and perimeter buffering requirements.
- (3) Parking lot landscaping and perimeter buffering for any outdoor parking areas shall be provided in accordance with this chapter.
  - (a) Responsibility for installation shall be with the person in control of developing the project whether as owner, lessee, tenant, or otherwise.
  - (b) Perimeter buffering and landscaping shall be provided between the vehicle use area and the public right-of-way; between vehicular use areas and private street easements; in side and rear yards between non-residential and residential uses; and, in side and rear yards between multi-family uses and single-family uses. Interior landscaping for vehicular use areas shall be provided in all parking areas.
  - (c) Unless specifically approved by Planning Commission, no structure shall be permitted in a required landscape area other than a wall, fence, or earth berm.

**(4) Landscaping and Buffering Plan Required**

When required by the site plan review requirements set forth in [§153.06](#), a landscaping and buffering plan shall be prepared and included in drawings submitted for Planning Commission approval as part of the regular site plan review process. The landscaping and buffering plan shall be prepared by a landscape architect registered in the State of Ohio and shall include those applicable contents required in [§153.06](#) in addition to the following information:

- (a) Name of the applicant/owner;
- (b) Name, address and phone number of the person or firm responsible for the preparation of the landscaping and buffering plan;
- (c) Material to be removed or retained; and

- (d) Tabular listings of existing plant material to be retained and proposed plant material within the buffer yard or landscape area with typical planting details for trees, shrubs and ground cover within the landscaped area.

**(5) Approval**

No site plan approval will be issued by the Planning Commission, and no zoning permit will be issued by the Zoning Enforcement Officer until the landscaping and buffering plan has received final approval. Approval of the landscaping and buffering plan is conditioned upon satisfaction of the following criteria:

- (a) Landscaping and perimeter buffering material shall be fully installed on the site by completion of construction; or
- (b) If not feasible due to seasonal conditions, within one planting season after completion of construction. A guarantee agreement regarding the postponed improvement must be secured with a letter of credit, cash escrow or other instrument in an amount equal to the cost of such installation.

**(6) Perimeter Parking Lot Landscaping**

Parking lots containing five spaces or more shall provide perimeter landscaping meeting the following minimum requirements:

- (a) These perimeter landscape and buffer areas shall consist of earth mounds, decorative fences or masonry walls, vegetative screens or combinations of these sufficient to screen views of vehicular use areas. The minimum width of any perimeter landscape or buffer area shall be six feet. Perimeter landscaping shall be designed to provide a minimum of 50% opacity upon installation and minimum of 70% opacity at maturity. Perimeter landscape buffering shall contain evergreen and deciduous plant materials as approved by the Planning Commission in consideration of desired opacity and need for year-round screening. Material shall be kept neat and trimmed throughout the entire year.
- (b) In order to retain visibility along public rights-of-ways, trees shall have a clear trunk of at least five feet above the ground. Shrubs and other landscape material shall not exceed three feet unless approved by the Planning Commission.

**(7) Interior landscaping**

Interior landscaping which meets the following requirements shall be provided for parking areas containing more than 6,000 square feet of paved area or more than 20 vehicular parking spaces, whichever is less. Interior landscaping is required in addition to perimeter landscaping.

- (a) For every ten parking spaces or fraction thereof, the applicant shall provide not less than 200 square feet of interior landscaped parking lot area containing at least one tree with a minimum caliper of three inches and two shrubs within each individual landscape area. For example, a parking lot containing 30 parking spaces would be required to install a minimum of 600 square feet of landscape area containing a minimum of three trees and six shrubs.
- (b) In order to assure that landscape areas are properly dispersed and to break up large expanses of parking pavement, no individual landscape area shall be larger than 500 square feet in size in vehicle use areas less than 30,000 square feet and no individual area shall be larger than 2,000 square feet in vehicular use areas larger than 30,000 square feet.
- (c) Curbs or parking stops shall be provided to prohibit bumpers and bodies of parked vehicles from over-hanging an interior landscape area by more than two and one-half feet.

**(8) Landscape and Buffering Waivers**

- (a)** In its consideration of modifications from the requirements of these landscape and buffering regulations, the Planning Commission shall consider unique site conditions, setbacks, line of sight, noise, nuisance or site aesthetics. Financial hardship shall not constitute a factor in considering a waiver.
- (b)** A request to modify any of the requirements under this section shall be made in writing to the Planning Commission by the applicant and shall provide a detailed statement regarding the unique nature and circumstances warranting the requested modifications.

**(J) Joint Use**

- (1)** Two or more nonresidential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that a written agreement approved by the Zoning Enforcement Officer shall be filed with the application for a zoning permit.
- (2)** Two or more nonresidential uses which do have overlapping hours of operation may jointly provide and use parking spaces, with a reduction of their combined required number of spaces by 25%. This is to encourage sharing of facilities, thus reducing the amount of land devoted to parking facilities. A written agreement between the joint nonresident users must be approved by the Zoning Enforcement Officer and shall be filed with the application for a zoning permit.

**(K) Parking Blocks**

- (1)** Whenever a parking lot extends to a property line, parking blocks or other suitable devices shall be installed to prevent any part of a parked vehicle from extending beyond the property line.
- (2)** Whenever a parking stall is adjacent to any parking lot perimeter landscaping area or any other landscaped area, curbs or parking stops shall be provided to prohibit bumpers and bodies of parked vehicles from over-hanging an interior landscape area by more than two and one-half feet.

**(L) Surfacing and Maintenance Requirements**

- (1)** All off-street parking and loading areas including spaces, driveways, aisles and circulation drives shall be hard-surfaced with asphalt, concrete or a combination thereof, meeting the Ohio Department of Transportation construction and material specifications, except as may be permitted under division [\(5\)](#) of this section.
- (2)** All off-street parking and loading areas including spaces, driveways, aisles and circulation drives shall be graded and maintained so that water does not unreasonably accumulate on such areas nor flow or drain onto adjacent public or private property. All such surfaced areas shall be maintained free of chuck holes, litter, glass, nails or other dangerous materials.
- (3)** Stormwater retention requirements shall be reviewed by the City Engineer and designed according to the applicable standards set forth in the Subdivision Regulations.
- (4)** The property owner(s) and/or tenant(s) shall have a continued obligation to maintain the required landscaping and buffering elements, parking lot surfaces, striping, signing, etc. in good condition.
  - (a)** Landscaping shall be kept alive and maintained in an orderly manner.
  - (b)** Parking lot surfaces shall be kept free of holes and substantial deterioration.
  - (c)** Striping shall be visible.
  - (d)** Parking lot directional signs shall be kept in place and legible.

- (5) Gravel parking areas may be permitted as a conditional use in the C-2 Highway Commercial Zoning District.
- (a) Gravel parking areas are to be used for overflow parking and shall have a minimum front yard setback as established for buildings in [§153.12\(E\)\(1\)](#). Under no circumstances shall a gravel parking area serve as the primary parking facility.
  - (b) A geotextile fabric shall be installed between the subgrade and the aggregate base. The base shall be a minimum of four inches in depth and constructed of ODOT 304 aggregate. The leveling course shall be a minimum of two inches in depth and constructed of #57 crushed limestone and shall not contain any dirt, sticks, construction debris or other foreign material. The Planning Commission shall have authority to set stricter standards based upon recommendations from the City Engineer.
  - (c) Gravel parking areas shall be exempt from the striping requirements contained in this section, but shall otherwise meet the design standards for parking lots as outlined in this section. Additionally, gravel parking areas shall conform to the landscaping and perimeter buffering requirements contained in [§153.19\(I\)](#).
  - (d) There shall be a paved hard surfaced driveway leading to the gravel parking area that is a minimum of 12 feet in length. The length of the paved driveway is to be measured from the existing near edge of pavement or from the property line. The exact requirement for the length of the paved driveway shall be determined by the Planning Commission based on the need to minimize impact on nearby properties from dust, noise, or gravel infiltration.
  - (e) Gravel parking surfaces shall remain free of grass and weeds.
  - (f) The infiltration of environmental contaminants shall be minimized. Environmental contaminants include, but are not limited to, motor oils, volatile organic compounds, for example: benzene, toluene, ethylbenzene, zylene, and ethylene glycol.
  - (g) Gravel parking areas are auxiliary to the primary use of the property. The applicant must provide a paved primary lot that serves the parking needs of customers and employees on a regular basis for the primary use of the lot. The parking spaces within the gravel lot shall not count towards the parking requirements outlined in [§153.19\(M\)](#).
  - (h) A temporary gravel parking lot shall have side borders consisting of pressure treated landscape timbers, railroad ties, pressure treated wood, composite "plastic wood", or similar border materials as approved by the Planning Commission.
  - (i) Wood borders shall be pressure treated or be treated to prevent the decomposition of the wood when the wood is applied to the ground surface. The minimum size of any wood borders or composite plastic wood borders shall be 3 1/2 inches wide by 3 1/2 inches high and shall be continuous around the border. Multiple pieces may be stacked to achieve the required size. Where railroad ties are used, the ties shall be structurally sound and fully intact and shall be continuous around the border. All wood borders or composite plastic wood borders must be affixed to the ground by driving a metal stake through the wood/plastic into the ground. At least two stakes must be driven into each wood or composite plastic wood border segment. The distance between stakes shall not be more than four feet. The metal stake must be a minimum of three-eighths of an inch in diameter and driven a minimum of 12 inches below the ground surface. The metal stake must be driven flush with the surface of the wood/plastic.



**(M) Parking Space Requirements**

For the purpose of this chapter, the following parking space requirements shall apply:

| <b>Table 4: Minimum Parking Space Requirements</b>                             |   |
|--|---|
| <b>Use</b>   | <b>Minimum Parking Spaces Required</b>  |
| <b>Residential Uses</b>  |   |
| Multi-family dwellings/attached condominium units                              | One and one-half spaces for each efficiency or one-bedroom unit; two spaces for each unit with two or more bedrooms.  |
| Single-family household, two-family household, townhouse                       | One and one-half spaces for each efficiency or one-bedroom unit; two spaces for each unit with two or more bedrooms.  |
| <b>Institutional Uses</b>  |   |
| Amphitheater, arena, auditorium, banquet, exhibition or meeting halls, stadium | One space for each three seats or one space per 50 sq. ft. of net floor area where fixed seating is not available.  |
| Athletic/play field  | Ten spaces per acre.  |
| Cemetery   | One space per employee.   |
| Community (recreation) center  | One space per 200 sq. ft. of net floor area.  |
| Day care center, child, pre-school   | One space per employee + one space for each facility vehicle stored on the lot + one parking space for each six children.   |
| Educational institution school, elementary (K-6)                               | One space for each three seats in any auditorium, or one space for each classroom, whichever is greater.  |
| Educational institution school, junior high/middle school                      | One space for each three seats in any auditorium, or one space for each classroom, whichever is greater.  |
| Educational institution school, senior high                                    | One space per employee + 12 visitor spaces, plus one space per six students.  |
| Educational institution school, vocational/professional                        | One space per employee + one space per two registered student capacity.   |
| Educational institution, university or college                                 | One space per two employees + one space per four students.  |
| Funeral home or mortuary   | One space per 75 sq. ft. of parlor or chapel space or one per five seats, whichever is greater, but not less than 20 spaces.  |
| Government buildings   | One space per 250 sq. ft. of net floor area or one space per four patrons, whichever is greater.  |
| Group home   | One space per employee on shift of max. employment + two visitors spaces or one space per employee plus one space per two residents where residents can own vehicles. |
| Halfway house  | One space per bed + one per employee.   |
| Library  | One space per 400 sq. ft. of net floor area.  |
| Nursing, convalescent home & continuing care facility                          | One space per six residents + one space per employee.   |

**Table 4: Minimum Parking Space Requirements**

| Use   | Minimum Parking Spaces Required   |
|---|---|
| Parks, playgrounds  | Four spaces per acre.   |
| Religious places of worship                                     | One space per four seats or bench seating in the main assembly room.  |
| <b>Commercial &amp; Office Uses</b>                             |   |
| Art gallery, antique store, interior decorator service          | One space per 300 sq. ft. of net floor area.  |
| Automobile and truck rental                                     | One space per 400 sq. ft. of net floor area   |
| Automobile filling station (with repair)                        | One space per pump + one space per employee + two spaces per service bay (excluding the bay space) and one space per vehicle used in operation of the service |
| Automobile repair   | Two spaces per service bay (excluding the bay) + one space per employee and one space per vehicle used in operation of the service.                           |
| Automobile sales (accessory service)                            | One space per 400 sq. ft. of net floor area of sales, shop or garage + one space per employee.  |
| Bowling alley   | Six spaces per lane.  |
| Building materials, sales and distribution                      | One space per 400 sq. ft. of net floor area.  |
| Car wash, automated   | Five stacking spaces for each automated car wash lane.  |
| Car wash, self-service  | Four stacking spaces for each stall + two drying spaces for each stall.   |
| Club, private   | One space for each 50 sq. ft. of net floor area used for assembly, game room, dancing or dining, plus one for each sleeping room.                             |
| Convenience store   | One space per 200 sq. ft. of net floor area + one space per pump + one space per employee.  |
| Delicatessens, bakery goods, meat, fruit & vegetable markets    | One space per 150 sq. ft. of net floor area.  |
| Drive-in or drive-thru facility                                 | Five stacking spaces per lane + one space per employee if entirely drive-thru.  |
| Durable goods, carpet, furniture and appliances, sales & rental | One space per 400 sq. ft. of net floor area.  |
| Financial institution   | One space per 200 sq. ft. of net floor area + stacking space for drive-in service lane.   |
| Golf course   | Four spaces for each hole + one space for 100 sq. ft. of net floor area in any cocktail lounge, bar, or similar facility.                                     |
| Grocery store   | One space per 167 sq. ft. of net floor area.  |
| Health & fitness facility                                       | One space per 200 sq. ft. net floor area.   |
| Miniature golf course   | Two spaces per hole + one space for each 100 sq. ft. of net floor area for other indoor game activities.  |
| Mini-storage facility   | Three spaces + one space per 100 individual storage units.  |

**Table 4: Minimum Parking Space Requirements**

| Use   | Minimum Parking Spaces Required  |
|---|--|
| Motel/hotel   | One space per lodging unit, meeting rooms and restaurants calculated separately.   |
| Motorcycle, sales & service   | One space per 400 sq. ft. of net floor area.   |
| Office (excluding medical)  | Five parking spaces for the first 1,000 sq. ft. or fraction thereof, plus one space per 250 sq. ft. of net floor area in excess of 1,000 sq. ft.   |
| Office, medical/clinic  | Six spaces +one space per 200 sq. ft. of net floor space in excess of 1,000 sq. ft.  |
| Personal services   | One space per 200 sq. ft. of net floor space.  |
| Photo lab, picture, TV or sound studio  | One space per one and one-half employees + one space per facility vehicle.   |
| Restaurant drive-through access   | Five stacking spaces per drive-through lane.   |
| Restaurant/tavern   | One space per 50 sq. ft. of net floor area + one space for each employee on the largest shift.   |
| Retail, sales and service   | One space per 200 sq. ft. of net floor area.   |
| Shopping center   | One space per 222 sq. ft of net floor area of general retail space + additional spaces, as required herein, for associated offices, theaters, and restaurants.                                     |
| Skating facility  | One space per 250 sq. ft. of net floor area.   |
| Studio: art, dance, gymnastics, music   | Five spaces, plus one space for each 150 sq. ft. of net floor area in excess of 500 sq. ft.  |
| Swim facility   | One parking space for each 50 sq. ft. of pool area + one per employee.   |
| Swimming pools, tennis or racquet clubs, and similar recreation facilities open to the public for a fee | One parking space for each 50 sq. ft. of pool area; eight spaces for each indoor tennis court; five spaces for each outdoor tennis court; five spaces for each racquet ball and/or handball court. |
| Tennis or racquet clubs, and similar recreation facilities  | Eight spaces for each indoor tennis court; five spaces for each outdoor tennis court; five spaces for each racquet ball and/or handball court.   |
| Veterinarian facility   | Three parking spaces for the first 750 sq. ft. or fraction thereof, plus one space for each 300 sq. ft. of net floor area in excess of 750 sq. ft.   |
| Theater, motion picture or live performance   | One space per three seats.   |
| <b>Industrial Uses</b>  |  |
| Flammable liquids/gases, heating fuel distribution and storage  | One space per employee on maximum work shift + one space per facility vehicle used in operation of the service.  |
| Government storage yard   | One space per employee on maximum shift + one space per facility vehicle + one space per 250 sq. ft. net floor area.   |

**Table 4: Minimum Parking Space Requirements**

| Use   | Minimum Parking Spaces Required   |
|---|---|
| Machinery, boat, truck, farm & construction equipment sales, rental & service | One space per 1,000 sq. ft of net floor area + one space per 2,500 sq. ft. of outdoor display area + one space per employee.  |
| Manufacturing, transfer station, research lab                                 | One space per one and one-half employees on maximum work shift + one space per facility vehicle.  |
| Telecommunication towers  | One space.  |
| Vehicle storage yard  | One space per employee on maximum shift + one space per facility vehicle + one space per 250 sq. ft. net floor area.  |
| Warehouse, display room for wholesale activities                              | One space per two employees on maximum work shift or for 2,000 sq. ft. of warehouse floor area + additional space for office area as per general office requirements, whichever is greater. |

**(N) Parking for Single or Mixed Uses**

A building occupied by one use shall provide the off-street parking spaces required for the specific use. A building or group of related buildings occupied by two or more uses, operating normally in whole or in part during the same hours, shall at least provide a total number of spaces equal to the sum of the spaces required for each use if that use occupied a separate building. However, for large unit development of similar business uses, such as shopping centers, spaces may be provided on the basis of the total area of the building or buildings located thereon.

**(O) Special Standards for Parking Areas Conditionally Permitted in the R-1 Residential District Serving Business Purposes**

These parking areas are subject to the following conditions and limitations:

- (1) The parking area shall be for use in connection with uses located in the adjacent business district.
- (2) The parking area shall not be less than 500 square feet and shall abut at least 75 feet on the adjoining business district or on the alley or street constituting the boundary.
- (3) The lot shall be used solely for the parking of passenger automobiles.
- (4) The lot shall not be used for repair work or servicing of any kind.
- (5) No signs of any kind shall be erected on the lot.
- (6) All bufferyard and screening requirements as provided for in [§153.20](#) shall apply.

**(P) Parking Of Recreational Vehicles**

- (1) Except as provided in division (2) of this section, the parking of any recreational vehicle in an R-1 or R-2 District shall be prohibited, except that one recreational vehicle may be parked or stored in a garage or other accessory building or in a rear yard or side yard in any residential district. No recreational vehicle shall be parked within ten feet of any rear lot line and no closer than five feet of any side yard line.
  - (a) For the purposes of this section, recreational vehicle may be defined as any of the following: any privately owned boat, boat trailer, folding tent trailer, personal water craft, motorized home, pick-up camper, snowmobile, travel trailer, a three- or four-wheel all-terrain vehicle or other similar equipment.
  - (b) A recreational vehicle shall be parked or stored on a paved, dust free, surface at all times.

- (c) No occupancy for human habitation shall be maintained or business conducted therein while such recreational vehicle is so parked or stored.
  - (d) The wheels or any similar transporting devices of any such trailer permitted within a residential district shall not be removed, nor shall any trailer be temporarily or permanently affixed to the ground or attached to something having a temporary or permanent location on the ground.
- (2) The temporary parking of one recreational vehicle in an R-1 or R-2 District is permitted for a period not to exceed 72 continuous hours within any single calendar month and shall require the issuance of a temporary RV parking permit issued by the Zoning Enforcement Officer on a form provided by the city. Upon expiration of the 72-hour temporary RV parking permit, the Zoning Enforcement Officer may grant one seven-day extension to the original temporary RV parking permit. No more than two such extensions shall be granted in any calendar year and each seven-day extension must be accompanied by a new temporary RV parking permit application.
  - (3) The parking of a recreational vehicle in any non-residential zoning district is prohibited unless the recreational vehicle is an integral part of a permitted or conditionally permitted land use within the district.

**(Q) Interpretation Of Rules**

In the interpretation of this subchapter, the following rules shall be in effect:

- (1) Parking space requirements for other permitted or conditional uses not listed in [§153.19\(M\)](#) shall be the same as required for a use of similar nature as determined by the Planning Commission.
- (2) In calculating parking requirements, fractional numbers shall be increased to the next whole number. For example, 13.01 shall mean 14.
- (3) For the purposes of this section on parking, “floor area” shall mean the outside dimensions of the building, including all projections such as stairways and porches, multiplied by the number of floors. The resulting number shall be the square footage of the building used for determining the number of off-street parking spaces required.
- (4) Where there is an adequate public transit system or where parking demand is unusually low, the parking space requirements may be reduced proportionally by the Zoning Enforcement Officer.

**(R) Enforcement**

Whoever violates any provision of these off-street parking and loading facilities, and fails to conform to any provision thereof or fails to obey any lawful order of the Zoning Enforcement Officer, issued in pursuance thereof, and for which no other penalty is provided is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense such person is guilty of a misdemeanor of the third degree. Each day's violation or failure to conform shall constitute a separate offense.

**§153.20 LANDSCAPE AND BUFFERYARD STANDARDS**

**(A) Purpose**

Landscaping and visual screening for office, commercial, institutional, and multi-family residential properties shall be provided for the following purposes:

- (1) To remove, reduce, lessen or absorb the impact between certain land uses by the proper utilization of landscaped and screened buffers;
- (2) To minimize potential noise, glare and visual clutter of parking and loading areas, trash receptacles and outdoor storage by obscuring the view with landscaping and screening;
- (3) To protect, preserve and promote the aesthetic appeal, character and value of the city's neighborhoods, particularly by providing interest along the streetscape;
- (4) To soften the appearance of building masses and to break up and reduce the impact of large paved areas;
- (5) To reduce heat generation, stormwater run-off and soil erosion; and
- (6) To establish a minimum standard for the consistent appearance of plant material in the Silverton community landscape.

**(B) Applicability**

This subchapter shall apply to new property development and any collective substantial expansion of existing structures, new or expanded parking lots consisting of the creation of five new parking spaces or more, except for individual single-family dwellings and two-family dwellings (duplexes). Substantial expansion of existing structures shall be defined based on the criteria established below:

| <b>Table 5: Substantial Expansion of Existing Structures</b> |                                    |
|--|------------------------------------|
| <b>When the Existing Structure is:</b>                       | <b>A Substantial Expansion is:</b> |
| 0 - 1,000 sq. ft.  | 50% or greater                     |
| 1,001 - 10,000 sq. ft.                                       | 40% or greater                     |
| 10,001 - 25,000 sq. ft.                                      | 30% or greater                     |
| 25,001 - 50,000 sq. ft.                                      | 20% or greater                     |
| 50,001 sq. ft. and larger                                    | 10% or greater                     |

**(C) Approval and Landscape Plan Contents**

- (1) No site plan or subdivision plat required under this Zoning Code shall receive final approval unless a landscaping plan has been submitted and approved.
- (2) No zoning permit shall be issued unless such plan has been fully implemented on the site.
- (3) A landscape and buffering plan shall be prepared and submitted along with the site plan review application. The landscape and buffering plan shall be provided on a separate plan view sheet and contain the following information:
  - (a) Name of the applicant/owner;
  - (b) Name, address and phone number of the person or firm responsible for the preparation of the landscaping and buffering plan;
  - (c) Material to be removed or retained; and
  - (d) Tabular listings of existing plant material to be retained and proposed plant material within the buffer yard or landscape area with typical planting details for trees, shrubs and ground cover within the landscaped area.

**(D) Bufferyard Requirements**

The following table provides the minimum location, size and screening material requirements for all bufferyard areas.

**Table 6: Bufferyard Requirements**

| When...  | Is Proposed To Abut...                            | A Minimum Bufferyard Of...                              | Plant Material   |
|--|---|---|--|
| Any retail, office or commercial land use of 20,000 square feet or more of gross floor area    | Any R-1 or R-2 zone or land use                   | 50' side and/or rear bufferyard is required with...     | 40' wide, 6' tall earthen berm + 1 tree (A) at a maximum of 25' O.C. + a double-row 6' hedge (E)   |
| Any retail, commercial or office land use under 20,000 square feet or more of gross floor area | Any R-1 or R-2 zone or land use                   | 30' side and/or rear bufferyard is required with...     | 6' wall, fence or earth mound + 3' hedge (D) + 1 tree (A) at 25'-35' O.C. <b>OR A</b> double row, staggered planting of trees (C) 15' O.C.   |
| Any industrial land use  | Any R-1, R-2, C-1 or C-2, zone or land use        | 50' side and/or rear bufferyard is required with...     | 40' wide, 6' tall earthen berm + a double row of staggered trees (C) at 15' O.C. STORAGE YARD - 6' fence or wall + hedge (E) facing front yard only and/or drive                         |
| Any multi-family land use  | Any R-1 or R-2 zone or land use                   | 15' side and/or rear yard is required with...           | EITHER: 1 tree (A) at 25'-35' O.C. + a double row 6' hedge (E) <b>OR</b> 6' wall, fence or earth mound + a 3' hedge (E) <b>OR</b> a double row, staggered planting of trees (C) 15' O.C. |
| Any institutional land use   | Any R-1 or R-2 zone or land use                   | 15' side and/or rear yard is required with...           | EITHER: A staggered double row of evergreens and trees (B and C) at 15' O.C. + a single row 6' hedge (E) <b>OR</b> 6' wall or fence + 1 tree (A) at 25'-35' O.C.                         |
| Any business land use  | The public right-of-way, public or private street | 10% of total front yard area must be landscaped with... | Trees, shrubs, planting beds, and/or perennials in a motif designed by the owner. This is in addition to other required landscaping  |
| A parking area associated with any zone or land use except single-family residences            | Any public or private street                      | 6' perimeter screening easement with...                 | EITHER: 1 tree (A) at 25'-35' O.C. + shrubs (D or E) at 3' O.C. <b>OR</b> 1 tree (B) at 20'-30' O.C.   |

**NOTES:**

- Capital letters in parenthesis mean plantings from the referenced plant list in [§153.20\(K\)](#). For example (B) means the plant shall be selected from Plant List B.
- O.C. means on center, unless otherwise noted.

**(E) Bufferyard Materials and Standards**

New development and expansion projects shall provide buffering yards as provided in [§153.20\(D\)](#). Existing vegetation shall be preserved in accordance to acceptable nursery industry procedures. The following items are suitable for screening use individually or in combination with each other provided they create a dense screen, subject to review and approval by the Planning Commission. Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the city.

**(1) Walls and Fences**

When walls or fences are used to fulfill screening requirements, they shall be detailed on the plan. They are to be of weather-proof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with or without wooden or synthetic slat material shall not be permitted when used to satisfy bufferyard requirements.

**(2) Plants**

All plants are to be living and part of the acceptable plants list identified in this subchapter or identified as acceptable plant material for hardiness in this USDA Agricultural Zone and as approved by the Planning Commission. Plant materials used in conformance with the provision of this section shall conform to the standards of the American Association of Nurserymen and shall have passed any inspection required under state regulations. Trees shall be balled and burlapped or in containers. Shrubs, vines and ground covers can be planted as bare root as well as balled and burlapped or containers. All trees shall be measured from the top of the root ball to the top of the tree mass.

**(a) Deciduous Trees**

Deciduous trees shall have a minimum caliper of at least three inches with a single central leader, for large and medium trees, conforming to acceptable nursery industry procedures at the time of planting. If deciduous trees are to be used for screening purposes, additional materials listed in this section must be used to create a dense bufferyard.

**(b) Evergreen Trees**

Evergreen trees shall be a minimum of eight feet in height at the time of planting and shall be unsheared, full and branched to the ground. Evergreen plantings shall be designed to provide an effective, dense screen within four years of planting.

**(c) Shrubs and Hedges**

Shrubs and hedges shall be at least 36 inches in height at the time of planting. All shrubs and hedges shall be designed to provide an effective, dense screen and mature height of at least six feet within four years after the date of the final approval of each planting. The height at installation of the planting shall be measured from the level of the surface of the plant base at the edge closest to the screening.



**(d) Grass Or Ground Cover.**

Grass of the Fescue (Gramineak) or Bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in southwest Ohio. In swales or other areas subject to erosion, solid sod, erosion reducing net, or suitable mulch and temporary seeding shall be used for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Grass shall be sown or placed in any area not landscaped or paved. Ground cover shall be planted in such a manner as to provide 75% complete coverage after two growing seasons, but in no circumstance shall planting be more than 12 inches on center to present a finished appearance. Rocks, pebbles, sand and similar materials are not approved ground cover.

**(e) Earth Mounds**

Earth mounds may be used as physical barriers which block or screen a view. Differences in elevation between areas requiring screening does not constitute an earth mound. Earth mounds shall be constructed of earthen materials and shall conform to the following standards:

- (i)** The maximum side slope shall be three horizontal to one vertical (3:1) and the design shall be reviewed by the Planning Commission to ensure that proper erosion prevention and control practices have been utilized.
- (ii)** Berms and earth mounds shall be designed with physical variations in height and alignment throughout their length.
- (iii)** Landscape plant material installed on berms and earth mounds shall be arranged in an irregular pattern to accentuate the physical variation and achieve a natural appearance.
- (iv)** The landscape plan shall show sufficient detail, including a plan and profile of the berm or earth mound, soil types and construction techniques to demonstrate compliance with the above provisions.
- (v)** Berms and earth mounds shall be located and designed to minimize the disturbance to existing trees located on the site or adjacent thereto.
- (vi)** No part of any berm or earth mound which is elevated more than 30 inches above natural grade shall be located within ten feet of any right-of-way or property line.
- (vii)** Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.
- (viii)** Topsoil shall be placed over the all earth mounds at a depth of four inches to facilitate vegetation growth on the mound.

**(f) Bedding Surface**

Any landscaped area shall not contain bare soil, aggregated stone or decorative rock. Any ground area shall be covered with hardwood mulch, grass or other vegetative ground cover. All plant material will be mulched with shredded hardwood mulch, or approved equal. Plant material massings will be incorporated into mulch beds.

### **(3) Maintenance of Bufferyards and Landscaping**

- (a)** All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one year of the certified date of planting, or by the next planting period, whichever comes first, by plant material similar in size and type to that which was removed.
- (b)** Violation of these installation and maintenance provisions shall be grounds for the Zoning Enforcement Officer to refuse the issuance of a zoning permit, require replacement of the landscape material or institute legal proceedings to enforce the provisions of this chapter.
- (c)** The owner or developer must provide a maintenance plan at the site plan review before Planning Commission which indicates how the established bufferyards and landscaping will be maintained.

### **(4) Bufferyard Establishment**

Once a bufferyard has been approved by the Planning Commission and established by the owner, it may not be used, disturbed or altered for any purpose. No temporary or permanent structures shall be placed or erected within any required bufferyard areas. Approved bufferyard walls may be placed in the bufferyard areas.

### **(F) Easements and Setbacks**

- (1)** Required landscaping may be placed wholly or partially in utility or other easements providing all requirements can be fulfilled and approval is granted by the holder of the easements. Trees placed under overhead utility wires must be from Plant List A provided in [§153.20\(K\)](#).
- (2)** In no case, however, shall landscaping and bufferyards be established so as to block the sight distance at street or drive intersections. Ground cover and trees with at least eight feet of limbless trunk shall be permitted within the sight distance triangle. In the case of a city street intersection, the sight triangle shall consist of the area between points 35 feet from the right-of-way line along both intersecting streets.

### **(G) Landscaping for Service Structures**

Service structures shall include but not be limited to loading docks, propane tanks, dumpsters, electrical transformers, utility vaults which extend above the ground, ground mounted utility equipment and electrical and other equipment or elements providing service to a building or a site located in the C-1 or C-2 Districts. Structures may be grouped together. However, screening height shall be based upon the tallest of the structures.

#### **(1) Location of Screening**

A continuous planting of evergreen, solid wood fence, solid brick wall must enclose any service structure on all sides, unless such structure must be frequently moved or accessed, in which case screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed ten feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material shall be of an average height sufficient to meet the height requirements set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required site landscaping. No interior landscaping shall be required within an area screened for service structures.

**(2) Curbs to Protect Screening Material**

Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regular basis, a curb to contain the placement of the container shall be provided within the screening material. The curbing shall be at least one foot from the material and shall be designed to prevent possible damage to the screening when the container is moved or emptied.

**(H) Street Tree Planting Requirements**

**(1)** In all zoning districts, applicants shall plant and maintain shade trees along any portion of the proposed development site that abuts a public or private street in full compliance with the provisions set forth in Chapter 52, Tree Maintenance, of the Codified Ordinances of the city. The Urban Forestry Board shall review each landscape and buffering plan proposing the planting of trees or other vegetation in the public right-of-way. The Urban Forestry Board shall provide a written recommendation to the Planning Commission regarding the compliance of the provisions of Chapter 52 to be incorporated into the site plan review process. The Planning Commission may deny a site plan application for non-compliance of the provisions set forth in Chapter 52.

**(2) Species and Location Requirements**

- (a)** Trees shall be limited to species approved by the Urban Forestry Board.
- (b)** One tree shall be provided for every 40 linear feet of frontage, or fraction thereof, along each public or private.
- (c)** Trees are to be planted within the public rights-of-way within and abutting the development as directed by the Planning Commission.
- (d)** Trees shall be planted an adequate distance from intersections so that at full maturity such planting shall ensure the unobstructed visibility of motorists and pedestrians.

**(3) Silverton Streetscape Plan Requirements**

Any property located within the designated Silverton streetscape plan area shall install the landscape and streetscape elements as provided for in the streetscape plan. The requirements set forth in the Silverton streetscape plan shall prevail over the street tree planting requirements provided in this section. The applicable provisions of Chapter 52, Tree Maintenance, of the Codified Ordinances of the city shall apply to the streetscape plan area.

**(I) Building Foundation Landscaping**

A building foundation planting area, a minimum six feet in width, including ornamental and/or coniferous trees, shall be provided between the building face and any public or private street and between the building face and any off-street parking areas. Building foundation landscaped areas shall contain a minimum of one tree and 12 shrubs for every 100 square feet of required building foundation landscape area. For example, if the required building foundation planting area is 425 square feet, then four trees and 48 bushes would be required.

**(J) Street Frontage Landscaping**

Any project located within a C-2 District and meeting the applicability requirements of this subchapter shall provide landscaping along the perimeter of the front yard area when abutting any public right-of-way and public or private street. A minimum of 10% of the front yard area shall be landscaped with a combination of trees, shrubs, planting beds or perennials. Street frontage landscaped areas shall contain a minimum of one tree and 12 shrubs for every 100 square feet of required building foundation landscape area. The minimum width of any street frontage landscape area shall be six feet and shall be located adjacent to the edge of the public right-of-way or other suitable location as determined by the Planning Commission. For example, if the required building foundation planting area is 425 square feet, then four trees and 48 bushes would be required. Required building foundation planting areas shall not be counted toward the street frontage planting area requirements.

**(K) Plant Lists**

The following plants are representative of those to be utilized in the bufferyard or landscape requirements of this Zoning Code.

| <b>Plant List A: Shade Trees</b>  |                             |
|---|-----------------------------|
| These trees are hardy in Zones 5-6, are deciduous and reach a mature height as indicated by the following: large - 60', medium - 40', small - 20'. Other shade trees which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area. |                             |
| <b>Common Plant Name</b>  | <b>Plant Botanical Name</b> |
| <b>LARGE TREES</b>  |                             |
| European Beech  | Fagus sylvatica             |
| Norway Maple  | Acer platanoides            |
| Ginkgo  | Ginkgo biloba (male only)   |
| Pin Oak   | Quercus Palustris           |
| Red Maple   | Acer rubrum (SPP)           |
| Scarlet Oak   | Quercus coccinea            |
| Red Oak   | Quercus rubra               |
| London Plane Tree   | Plantanus x acerifolia      |
| Tulip Poplar  | Liriodendron tulipifera     |
| Sugar Maple   | Acer saccharum              |
| Sweetgum  | Liquidambar styraciflua     |
| Willow Oak  | Quercus phellos             |
| Elm   | Ulmus parvifolia            |
| Shumardi Oak  | Quercus shumardii           |
| Shingle Oak   | Quercus imbricaria          |
| <b>MEDIUM TREES</b>   |                             |
| Callery Pear  | Pyrus calleryana            |
| Littleleaf Linden   | Tilia cordata               |
| Japanese Pagoda Tree  | Sophora japonica            |
| Japanese Zelkova  | Zelkova serrata             |

### Plant List A: Shade Trees

These trees are hardy in Zones 5-6, are deciduous and reach a mature height as indicated by the following: large - 60', medium - 40', small - 20'. Other shade trees which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

| Common Plant Name  | Plant Botanical Name        |
|--------------------|-----------------------------|
| Thornless          | Gleditsia triacanthos (SPP) |
| Honey Locust       |                             |
| River Birch        | Betula nigra                |
| Katsura Tree       | Cercidiphyllum japonicum    |
| <b>SMALL TREES</b> |                             |
| Sourwood           | Oxydendron arboreum         |
| Hedge Mapl         | Acer campestre              |
| Amur Maple         | Acer ginnala                |
| Paperbark Maple    | Acer griseum                |
| European Hornbeam  | Carpinus betulus            |
| Hornbeam           | Ostrya virginiana           |

### Plant List B: Flowering Trees

These trees are hardy in Zones 5-6, are deciduous and reach a mature height not exceeding 30 feet. Other flowering trees which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

| Common Plant Name      | Plant Botanical Name    |
|------------------------|-------------------------|
| Callery Pear           | Pyrus calleryana        |
| Downy Serviceberry     | Amelanchier canadensis  |
| Crabapple              | Malus varieties         |
| Allegheny Serviceberry | Amelanchier laevis      |
| Eastern Redbud         | Cercis canadensis       |
| Sweetbay Magnolia      | Magnolia virginiana     |
| Dogwood Lilac          | Syringa reticulata      |
| Green Hawthorne        | Crataegus viridis       |
| Golden Raintree        | Koelreutaria paniculata |
| Witch Hazel            | Hamamelis virginiana    |
| Sargent Cherry         | Prunus sargentii        |
| Saucer Magnolia        | Magnolia soulangiana    |
| Star Magnolia          | Magnolis stellata       |

### Plant List C: Evergreen Trees

These trees that are hardy in Zones 5-6, are evergreen, can reach a mature height over 30 feet, and if not limbed-up can create a screen from the ground level up. Other evergreen trees which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

| Common Plant Name    | Plant Botanical Name        |
|----------------------|-----------------------------|
| American Holly       | <i>Ilex opaca</i>           |
| Austrian Pine        | <i>Pinus nigra</i>          |
| Canadian Hemlock     | <i>Tsuga canadensis</i>     |
| Carolina Hemlock     | <i>Tsuga caroliniana</i>    |
| Eastern Red Cedar    | <i>Juniperus virginiana</i> |
| Colorado Blue Spruce | <i>Picea pungens</i>        |
| Norway Spruce        | <i>Picea abies</i>          |
| Scotch Pine          | <i>Pinus sylvestris</i>     |
| Southern Magnolia    | <i>Magnolia grandiflora</i> |
| White Fir            | <i>Abies concolor</i>       |
| White Pine           | <i>Pinus strobus</i>        |

### Plant List D: Deciduous Shrubs

These perennial woody plants grow at least three feet in height, are tolerant in Zones 5-6 and are deciduous. Other deciduous shrubs which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

| Common Plant Name        | Plant Botanical Name                |
|--------------------------|-------------------------------------|
| Burning Bush             | <i>Euonymus alatus</i>              |
| Doublefile Viburnum      | <i>Viburnum plicatum tomentosum</i> |
| Forsythia Species Quince | <i>Chaenomeles speciosa</i>         |
| Shrub Cinquefoil         | <i>Potentilla fruticosa</i>         |
| Spreading Cotoneaster    | <i>Berberis julianne</i>            |

### Plant List E: Evergreen Shrubs

These perennial woody plants grow at least three feet in height, are tolerant in Zones 5-6 and are evergreen. Other evergreen shrubs which are native and hardy to Zone 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

| Common Plant Name    | Plant Botanical Name      |
|----------------------|---------------------------|
| Anglojap Yew         | Taxus x media             |
| Blue Holly           | Ilex x meserveae          |
| Chinese Juniper      | Juniperis chinensis       |
| Japanese Holly       | Ilex crenata              |
| Japanese Yew         | Taxus cuspidata           |
| Korean Boxwood       | Buxus microphylla koreana |
| Leatherleaf Viburnum | Viburnum rhytidophyllum   |
| Mugho Pine           | Pinus mugho               |
| Spreading Yew        | Taxus x media             |

**(L) Landscape and Bufferyard Modifications**

- (1) The Planning Commission may approve modifications to the landscaping and bufferyard requirements. The Planning Commission shall base its decision on all of the following criteria:
  - (a) The specific conditions which are unique to the applicant's land.
  - (b) The manner in which the strict application of the provision of this subchapter would deprive the applicant of a reasonable use of the land in a manner equivalent to the use permitted other landowners in the same zoning district.
  - (c) The unique conditions and circumstances are not the result of actions of the applicant subsequent to the adoption of this subchapter.
  - (d) Reasons that the modification shall preserve, not harm, the public safety and welfare, and shall not alter the essential character of the neighborhood.
  - (e) A demonstration that the applicant has provided for a buffer that achieves the spirit of this subchapter.
- (2) The Planning Commission may also approve the use of existing trees within the proposed bufferyard area if the tree is not included on the plant lists in [§153.20\(K\)](#), if native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map.

## **§153.21 NONCONFORMING USE STANDARDS**

### **(A) Purpose**

Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. It is the purpose of this subchapter to permit these nonconforming lots, structures, and uses to continue until they are removed, but not to encourage their permanent establishment. It is further the purpose of this subchapter that a nonconforming structure or use shall not be enlarged or extended beyond the scope and area of its operation at the time it became a legal nonconforming use, except as specified in [§153.21\(D\)](#).

### **(B) Single Nonconforming Lots Of Record**

Any lot of record which does not meet the requirements for intensity or size, or both, that are generally applicable in the district wherein the lot is located, and which exists at the effective date of adoption or amendment of this chapter, may be developed in conformance with all other requirements of this chapter, provided that the lot is of separate ownership from all adjacent and contiguous parcels.

### **(C) Nonconforming Lots Of Record In Combination**

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter and if all or part of the lots with no buildings do not meet the requirements established for intensity or size, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter and no portion of that parcel shall be used or sold in a manner which diminishes compliance with intensity or size requirements established by this chapter, nor shall any parcel be made which creates a lot with an intensity or size below the requirements stated in this chapter.

### **(D) Nonconforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on intensity or size or lot coverage or height or bulk or setback, or other requirements concerning the structure, that structure may be continued so long as it remains otherwise lawful, and shall be subject to the following provisions:

- (1)** No nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered in a manner that does not increase its nonconformity or altered to decrease its nonconformity;
- (2)** Any building or structure maintaining a physical nonconforming status as to height, building setback, exterior materials, or otherwise, which is damaged by explosion, fire, flood, wind or other act of God to the extent of 50% or more of its fair market value immediately prior to such damage, shall not be repaired or reconstructed except in conformity with the provisions of this Zoning Code except legal nonconforming residential dwellings may be reconstructed, regardless of the amount of damage, as provided below:
  - (a)** Legal nonconforming residential dwelling structures shall be permitted to be rebuilt as the same category of dwelling type (i.e. a single-family dwelling may not be rebuilt as a multiple family dwelling).
  - (b)** Any rebuilt residential dwelling structure shall not exceed the original dwelling's total livable and non-livable square footage area nor exceed the original structure height.
  - (c)** Any rebuilt residential dwelling structure shall not encroach beyond the original building setbacks.



- (3) In the event that the Zoning Enforcement Officer's estimate of the extent of damage or fair market value for the purposes of determining the applicability of Paragraph (2), above, is not acceptable to the applicant for the zoning permit to repair or reconstruct such building or structure, the applicant may appeal to the Board of Zoning Appeals.
- (4) When a nonconforming use qualifies for reconstruction through damage, a building permit shall be secured for that purpose and reconstruction shall be diligently completed without delay. Failure to reconstruct within 18 months of the damage revokes the right to the nonconforming use and the premises shall conform thereafter to the established district regulations.
- (5) Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**(E) Nonconforming Uses**

Where, at the time of adoption of this chapter lawful uses of land exist which would not be permitted by the regulations imposed by this chapter, the uses may be continued so long as they remain otherwise lawful, provided:

- (1) No nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;
- (2) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by those uses at the effective date of adoption or amendment of this chapter;
- (3) If any such nonconforming uses of land or structures are discontinued or abandoned for more than a continuous six-month period (except when government action impedes access to the premises), any subsequent use of such land or structure shall conform to the regulations specified by this chapter for the district in which such land is located; and
- (4) No additional structure not conforming to the requirements of this chapter shall be created in connection with a nonconforming use of land.

**(F) Repairs And Maintenance**

Nothing contained in this chapter shall be deemed to prevent the strengthening or restoring to a safe and sanitary condition of any building or part thereof declared to be unsafe or unsanitary by any official charged with protecting the public safety, upon order of that official.

**(G) Avoidance Of Undue Hardship**

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which the actual building construction has been carried on diligently; provided, that construction is not found to have been or be a purposely planned evasion of the intents of this chapter. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, the demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently, but subject to the same clarifications of planned intent above.

**(H) Change From One Nonconforming Use To Another**

The Planning Commission shall have the power to hear and decide on applications to permit a change from one nonconforming use to another. The Commission shall not permit a change unless the new nonconforming use is equally or more compatible with permitted uses in the district in which it is located than the existing nonconforming use. The Commission shall not allow any changed nonconforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original nonconforming use. In permitting the change, the Commission shall require appropriate conditions and safeguards in accord with other provisions of this chapter.

## §153.22 SIGN STANDARDS

### (A) Purpose

The purpose of these sign regulations is to promote the public health, safety, and welfare by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. The intent is to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and to prevent signs from reaching such excessive size that they obscure one another to the detriment of all concerned.

### (B) Sign Definitions

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### **Awning Sign**

A permanent sign painted on, printed on or attached flat against the surface of an awning.

#### **Banner**

A non-rigid cloth, plastic, paper, or canvas sign typically related to a special event or promotion, that is cultural, educational, charitable, or recreational in its function, under the sponsorship of a for-profit establishment or business, or a public, private nonprofit, or religious organization.

#### **Bench Sign**

Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public roadway.

#### **Billboard**

An off-premise sign directing attention to a specific business, product, service, entertainment or other activity sold, offered, or conducted off-site.

#### **Building Sign**

Any permanent sign attached to any part of a building including awning, canopy, projecting, or wall signs.

#### **Canopy Sign**

A permanent sign attached to the soffit or fascia of a canopy of a covered entrance or walkway, or to a permanent awning or marquee.

#### **Changeable Copy Sign**

A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.

#### **Commercial Message or Speech**

Any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, or other commercial activity.

#### **Driveway Sign**

A small permanent sign located near driveway access points and/or at the intersection of internal access drives.

#### **Electronic Message Center**

A sign designed so that the characters, letters, or illustrations can be changed or rearranged automatically on a lampbank or through mechanical means (e.g., electronic or digital signs).

**Flag**

Any fabric or bunting containing the officially recognized and adopted colors, patterns, or symbols used as the official symbol of a government, political, or corporate entity.

**Flashing Sign**

Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.

**Freestanding Sign**

Any sign supported upon the ground by a monument, pedestal, pole, bracing, or other permanent measure and not attached to any building.

**Height**

The height of a sign shall be determined by means of the measurement established in [§153.22\(E\)\(2\)](#).

**Illuminated Sign**

Any sign lit by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.

**Manual Changeable Copy Sign**

A changeable copy sign designed so that the characters, letter or illustrations can be changed or rearranged manually. May also be known as readerboards.

**Monument Sign**

A permanent freestanding sign other than a pole sign, not attached to a building, which is placed upon or supported by the ground independently of any other structure, typically on a monument or pedestal structure.

**Monument Sign**

A permanent freestanding sign other than a pole sign, not attached to a building, which is placed upon or supported by the ground independently of any other structure, typically on a monument or pedestal structure.

**Nonconforming Sign**

A pre-existing legal sign which does not conform to the standards set forth in this Zoning Code.

**Off-Premise Sign**

Any sign that is not directly related to the business or profession, or commodity or service sold or offered on the site in which the off-premise sign is located. Yard signs are not considered off-premise signs.

**On-Premise Sign**

Any sign related to a business or profession conducted, or a commodity or service sold or offered, upon the premises where such sign is located.

**Pennant**

A flag or banner longer in the fly than in the hoist, usually tapering to a point.

**Permanent Sign**

A sign permitted by this code to be located on the premises for an unlimited period of time and designed to be permanently attached to a structure or the ground that is constructed of rigid, non-flexible materials.

**Pole Sign**

Any sign supported upon the ground by a pole, poles or braces and not attached to any building or structure.

**Portable Sign**

Any sign that is designed to be or capable of being moved or transported, and not permanently affixed or attached to any building, structure, or grounds.

**Projecting Sign**

A sign that is wholly or partly dependent upon a building for support or suspended from a pole attached to a building. Such signs must be perpendicular to the building face upon which they are attached.

**Raceway**

An elongated metal enclosure used to mount individual channel lettering and to conceal related transformers and wiring.

**Roof Line**

The uppermost line or point of the facade or parapet of a flat roof structure, or the lower edge of an eave, gable or rake of a sloped roof structure.

**Sidewalk Sign**

A freestanding sign which is ordinarily in the shape of an "A" or an upside down "T" (viewed from the side), or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.

**Sign**

A sign is defined as any display that evokes a message including but not limited to any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, or part thereof, whether permanent or temporary, which is affixed to, painted on, represented directly or indirectly upon, or projected onto a building, structure, lot, or other device, whether mobile or affixed to the ground, and which directs attention to any object, product, place, activity, person, institution, organization, or business. A sign may consist of wording, logos or images. This definition includes all signs visible from any public right-of-way or adjacent property, including interior signs oriented towards the exterior facade of any building or structure as well as back-lighted translucent panels or strip lighting affixed to any wall or roof where any such panels or lighting serves to identify and attract attention rather than illuminate space for human activity.

**Sign Area**

The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim and molding, but not including the supporting structure as measured pursuant to [§153.22\(E\)](#).

**Sign Copy**

Those letters, numerals, and figures, symbols, logos, and graphic elements comprising the content or message of a sign.

**Sign Face**

The surface of the sign upon, against or through which the message of the sign is exhibited.

**Sign Face**

The surface of the sign upon, against or through which the message of the sign is exhibited.

**Sign Structure**

The supporting unit of a sign face, including but not limited to frames, braces and poles.

**Static/Instant Message Change**

On electronic message centers, a static or instant message change is when one message changes to another message instantly without scrolling, flashing, or other movement of the message.

**Streamer**

A ribbon-shaped or cord-like rope which may have pennants and/or banners attached and which is stretched or hung between two or more supports.

### **Temporary Sign**

A banner, pennant, poster display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, person, institution, organization, or business and may be constructed of cloth, canvas, plastic sheet, cardboard or other like materials and which is intended to be displayed for a limited period of time.

### **Wall Sign**

A permanent sign attached directly to an exterior wall of a building and which does not extend more than eighteen inches from nor above the roof line or beyond the limits of the outside wall, with the exposed face of the sign in a plane parallel to the building wall. Murals and other painted signs are considered wall signs pursuant to this section.

### **Window Sign**

Any sign that is applied to the interior or exterior of a window or door, or a sign located near a window or door within a building, for the purpose of being visible and read from the outside of the building.

### **Yard Sign**

Any temporary sign placed on the ground or attached to a supporting structure, posts, or poles, that is not attached to any building.

## **(C) Sign Permit**

These sign regulations shall be administered and enforced by the Zoning Enforcement Officer unless otherwise provided for in this Zoning Code.

### **(1) Permit Required**

- (a)** After the effective date hereof, no temporary sign, permanent sign or repaired sign, unless exempted by this subchapter, shall be erected, moved, materially or substantially altered, or enlarged in any zoning district except as hereinafter provided or as otherwise permitted. The permits shall be issued by the Zoning Enforcement Officer when the conditions of this Zoning Code are met. A sign for which a permit has been issued shall not be modified, relocated, altered or replaced unless a new permit or an amended permit is issued by the Zoning Enforcement Officer.
- (b)** Applications for a permit shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#).

### **(2) Refusal of Permit**

The Zoning Enforcement Officer may refuse to issue a permit for the erection of any such sign unless details of construction and manner of erection ensure the safety of such signs and signboards when erected.

### **(3) Review of Permit Application**

The Zoning Enforcement Officer shall review permits for signs in the same manner as a zoning permit in [§153.02\(G\)](#).

### **(4) Signs Not Requiring A Permit**

The following signs are subject to the requirements of this section but do not require a sign permit. Permit-exempt signs may still be subject to building code or other applicable code requirements.

- (a)** Signs and/or notices issued by any court, officer or other person in performance of a public duty. Any such sign shall be removed no later than seven days after the last day it is required to be displayed;

- (b) The replacement of sign panels when a sign is designed to have replaceable sign face;
- (c) Signs that are an integral part of the original construction of vending or similar machines, fuel pumps, automated teller machines or similar devices that are not of a size or design as to be visible from a street or by any person other than those using the machine or device;
- (d) Any sign that is located completely inside a building that is not visible from the exterior (See also definition of window sign.);
- (e) Certain temporary signs as established in Section [§153.22\(G\)](#);
- (f) A single wall sign placed on the façade of an individual dwelling unit that is not illuminated and does not exceed four square feet in area.
- (g) Signs that are an integral part of the historic character of a structure that has been designated an official landmark or historic structure by any agency or body of the governments of the United States, State of Ohio, Hamilton County or City of Silverton;
- (h) Any signs located on umbrellas, seating or similar patio furniture;
- (i) Signs painted on or affixed to construction trailers, vans, or other vehicles temporarily in use on a construction site.
- (j) Ground signs and markings located completely within the interior of a lot that are not designed to be visible from a public street (e.g., parking space signs, interior traffic signs, etc.);
- (k) Tablets, grave markers, headstones, statuary or remembrance of persons or events that do not contain a commercial message;
- (l) Address numbers for the purposes of public safety, as required by the City of Silverton, that comply with the following:
  - (i) For residences, such numbers must consist of Arabic numerals, no less than three inches nor more than eight inches in height.
  - (ii) For nonresidential uses, the maximum height of the numerals varies according to front setback. If the setback is less than 100 feet, the maximum number height is 12 inches. For setbacks between 100 and 200 feet, the maximum height is 18 inches. For setbacks over 200 feet, the maximum height is 24 inches.
  - (iii) All street address signs shall contrast to the color of the surface on which they are mounted and shall be clearly identifiable from the street.
  - (iv) Every building is required to post its street address.
- (m) Driveway signs that comply with the following:
  - (i) Driveway signs shall not be permitted in residential zoning district except when accessory to an approved conditional use. In all other districts, driveway signs shall be permitted provided each sign complies with the standards of this section.
  - (ii) Driveway signs are only permitted for driveways providing access to parking lots with more than 10 parking spaces.
  - (iii) A maximum of two driveway signs are permitted per individual driveway.
  - (iv) Driveway signs shall be located within 30 feet of the right-of-way.
  - (v) Each driveway sign shall not exceed six square feet in area and three feet in height.
  - (vi) Driveway signs shall be on-premise signs.
  - (vii) Driveway signs may be internally or externally illuminated.
  - (viii) While driveways signs may not require a sign permit, they may be subject to building permit review.

**(n) Window Signs**

Window signs in the C-1 and C-2 District, or for nonresidential uses in a PUD District that comply with the following:

- (i) Only one sign face shall be permitted per window, with the total area of each sign face not exceeding 50% of the area of the window in which it is placed, or six square feet, whichever is less.
- (ii) Window signs shall only be placed only in first floor level windows.

**(D) Prohibited Signs**

The following signs are prohibited in all zoning districts.

- (1) Bench signs;
- (2) Signs with changeable copy, electronic or manual, except for manual gasoline service station pricing boards that do not exceed eight square feet.
- (3) Signs exceeding the roofline or affixed to a roof;
- (4) Windblown devices, pennants, streamers, and similar signs that are designed to move by atmospheric, mechanical, electrical, or other means, whether containing words or numerals or containing no message;;
- (5) Off-premise signs (see also "billboard" signs);
- (6) Exposed neon and/or skeleton tubing;
- (7) Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs that are attached by magnetic or static decals or painted upon an integral part of the vehicle or equipment, as originally designed by the manufacturer, and do not break the silhouette of the vehicle;
- (8) Any sign that will interfere with proper and convenient protection of property or with public safety.
- (9) Mobile or portable signs;
- (10) Any sign that copies or imitates a sign installed by any governmental agency or purports to have been authorized by a governmental agency;
- (11) Signs that interfere with, obstruct the view of, or are similar in appearance to any authorized traffic sign, signal, or device because of its position, shape, use of words, or color;
- (12) Signs that constitute a hazard to safety or health by reason of inadequate or inappropriate design, construction, repair, or maintenance, as determined by the building official;
- (13) Signs that employ any parts or elements which revolve, rotate, whirl, spin, or otherwise make use of motion to attract attention. This shall not include electronic message centers as allowed in this chapter;
- (14) Air-activated graphics;
- (15) Balloon signs;
- (16) Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way except as otherwise specifically provided for in this code.
- (17) Signs that obstruct or substantially interfere with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;
- (18) Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure unless specifically permitted as a temporary sign; and
- (19) Any sign not specifically allowed by this Zoning Code.



**(E) Measurements and Calculations**

**(1) Sign Setback**

All required setbacks for signs shall be measured as the distance in feet from the lot line or right-of-way, whichever is applicable, to the closest point on the sign structure.

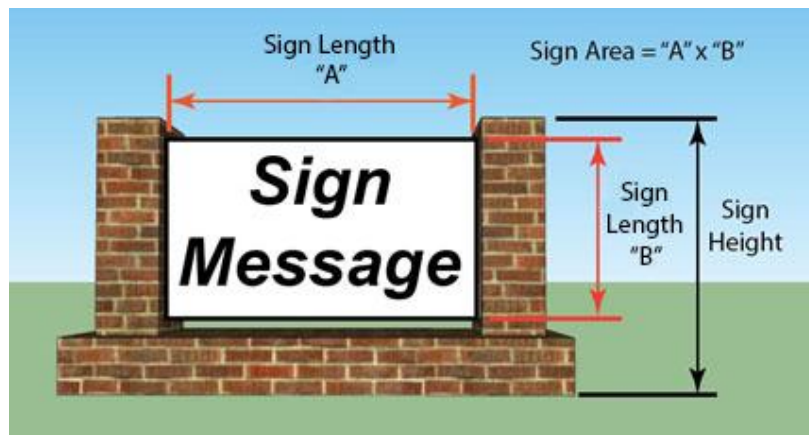
**(2) Sign Height**

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely undertaken for the purpose of locating or increasing the height of sign.

**(3) Sign Area**

The surface of a sign to be included when computing maximum allowable square footage of sign area shall be calculated as established in this section.

- (a)** The calculation of sign area shall not include any supporting framework, bracing or decorative fence or wall unless such structural support is determined to constitute an integral part of the sign design by means of text or other message, as determined by the Zoning Enforcement Officer. See [Figure L](#).
- (b)** For sign copy mounted or painted on a background panel, cabinet or surface distinctively painted, textured, lighted or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the smallest square area that encompasses the extreme limits of the background panel, cabinet or surface. See [Figure L](#) and [Figure M](#).



*Figure L: Illustration of sign area calculation for a ground sign with a copy on a distinct, rectangular cabinet. The brick structural support is not included in the sign area calculation.*



Figure M: Illustration of computing the sign area for wall signs with a background panel or cabinet.

- (c) For sign copy where individual letters or elements are mounted on a building façade or window where there is no background panel, cabinet or surface distinctively painted, textured, lighted or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the smallest square area that encloses all the letters or elements associated with the sign. See Figure N.

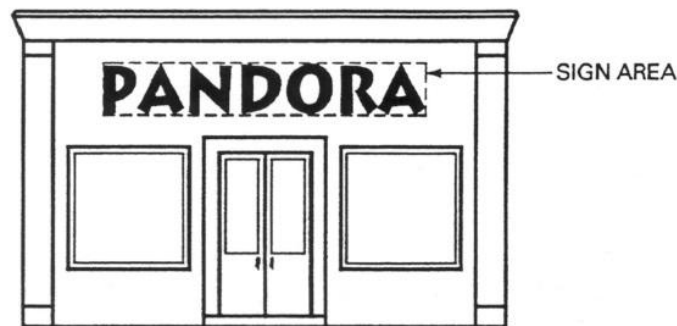


Figure N: Illustration of sign area calculation for wall signs with individual letters.

- (d) In cases where there are multiple sign elements of sign copy on the same surface, any areas of sign copy that are within two feet of one another shall be calculated as a single sign area that shall be computed by means of the smallest permitted shape, or combination of permitted shapes, that encloses all sign copy within two feet of one another, otherwise the sign area shall be computed for each separate piece of sign copy. See Figure O.

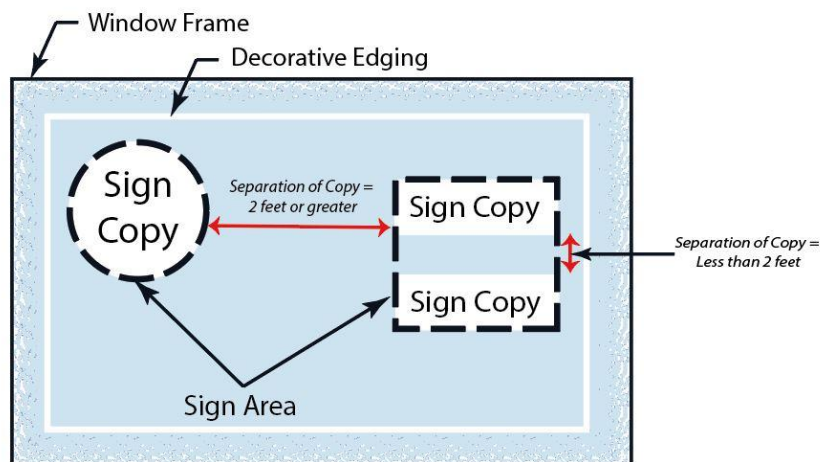


Figure O: Illustration of sign area calculations for multiple sign areas on a window sign.

- (e) Decorative edging or other window treatments that are not an integral part of the sign copy shall not be considered a part of the sign for the purposes of this chapter. See [Figure O](#).
- (f) Except for three-dimensional signs, the sign area for a sign with more than one face (multi-faced signs) shall be computed by adding together the area of all sign faces when the interior angle is greater than 45 degrees.
- (g) When two identically sized, flat sign faces are placed back-to-back or at angles of 45 degrees or less, so that both faces cannot be viewed from any one point at the same time, the sign area shall be computed by the measurement of one of the sign faces. If the two faces are unequal, the sign area shall be calculated based on the larger of the two faces.
- (h) In the case of a three-dimensional sign where the sign faces are not mounted back-to-back, the sign area shall be calculated by the smallest permitted shape, or combination of permitted shapes, that encompasses the profile of the sign message. The profile used shall be the largest area of the sign message visible from any one point.

**(F) General Sign Requirements**

The following regulations shall apply to all signs in all use districts:

- (1) All signs hung and erected shall be plainly marked with the name of the person, firm, or corporation responsible for maintaining the sign;
- (2) Glass in any sign shall be either double strength, plate, or wired glass;
- (3) All signs that have become insecure must be repaired and made safe or taken down by owner or agent, within 24 hours of notice; and

**(4) Sign Illumination Standards**

- (a) Signs shall be externally illuminated only by steady, stationary, shielded light sources directed solely at the sign, except for signs located in the C-2 Highway Commercial District, which may be externally lit as expressly approved by the Planning Commission during site plan review. For sign permits that are not part of a site plan review process (e.g., the permit is strictly for the sign), then the applicant may seek approval of alternative illumination through the same process as site plan review.
- (b) Use of glaring, unshielded or undiffused lights or bulbs shall be prohibited. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.
- (c) Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
- (d) Illumination by bare bulbs or flames is prohibited.
- (e) Illumination resulting from all signs and sign lighting on any property in a nonresidential zoning district shall not exceed one-half foot candles at a height of five feet when measured at any point on property in a residential zoning district or at any point on any road right-of-way.
- (f) All permitted external lights illuminating signs shall be oriented and directed toward the ground. Sign lights in the C-2 Highway Commercial District may be exempt from this provision if expressly approved by the Planning Commission.

**(g) Electronic Message Centers**

Electronic message centers shall be permitted subject to the following standards set forth below.

- (i) The electronic message center shall be set back a minimum of 250 feet from the nearest residential dwelling.

- (ii) Any message change shall be a static, instant message change meaning the sign shall not include animation, full motion video, flashing, scrolling, strobing, racing, blinking, changes in color, fade in or fade out in any manner imitating movement, or any other means not providing constant illumination.
- (iii) A message must be displayed for a minimum duration of eight seconds before switching to the next message.
- (iv) Only Light Emitting Diodes (LED) technology or similar quality signs shall be permitted for electronic message centers.
- (v) The electronic message center should be programmed to "freeze" or go blank if there is a malfunction, so that flashing and other distracting movement does not result.
- (vi) The permitted square footage and setbacks shall be in compliance with permitted number, height, area, and location as outlined in [§153.22\(I\)](#).
- (vii) All electronic message centers shall be anti-glare and shall be equipped with an automatic dimmer device.
- (viii) An electronic message center shall not face any residentially zoned property (R-1 or R-2).
- (ix) All electronic message centers shall be kept in good operating condition and maintained with good external appearance.
- (x) The maximum brightness of the electronic message center shall be:
  - A. The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
  - B. The brightness level shall not increase by more than 0.3-foot candles (or 3.23 lumens per square meter or lux) (over ambient levels) as measured using a foot candle meter at a pre-set distance.
  - C. The procedure and distances for measurement of brightness shall be as established by the International Sign Association's Recommend Night-time Brightness Levels for On-Premise Electronic Message Centers.
- (xi) Any place where an electronic message center is permitted, such electronic message center may be replaced by a manual changeable copy sign.

**(5) Signs In Public Right-Of-Way Or Right-Of-Way Easement Prohibited; Exceptions**

- (a) Signs shall be prohibited in the right-of-way with the exception of:
  - (i) Signs installed by the City of Silverton, Hamilton County, State of Ohio or United States, including local and regional transit agencies; or
  - (ii) Any warning signs or traffic safety signs required by public utility providers.
- (b) The Zoning Enforcement Officer may remove or cause to be removed any unlawful sign in the public right-of-way. After removal, such sign may be stored in a city facility as directed by the Zoning Enforcement Officer for a minimum of 120 hours and may thereafter be destroyed.

**(6) Construction Standards**

- (a) No part of a projecting sign shall be supported from an unbraced parapet wall. All metal parts used in sign or structure, including pole or pylon, metal, supports and braces, shall be galvanized or of corrosive-resistant material or painted with approved corrosive-resistant paint. When existing poles or structures are used for new sign installation, all parts shall be brought to like-new condition and shall be painted with approved rust and corrosion-resistant paint. Existing pole and installation of pole shall be approved before being used in new sign installation.

- (b) When a sign is removed for any reason, a new sign permit for future installation of the sign shall be obtained, or all mast arms, cable, guys of any nature, clips, brackets and all structures of the old sign shall be removed with the sign.
- (c) No equipment such as cable to support electric circuits, light fixtures, guys, etc. may be added to sign structure or supports other than as approved by the Building Inspector in the sign permit. Brackets, wires, switches, etc., required to illuminate the sign may be added. When sign structure or supports are used in any manner other than outlined above, certification by a licensed engineer shall be obtained to show the structure is capable of supporting the load.
- (d) Projecting signs shall not be installed on a building or structure unless the support has been designed specifically for the purpose of supporting a sign and approved by the Zoning Enforcement Officer.
- (e) No sign or outdoor display structure shall be of such character or with such inscription or marking that it may be mistaken for a highway sign or marker. No sign of any description shall be installed, erected or constructed in such a manner as to obstruct any fire escape or any door or window giving access to any fire escape, nor shall a sign be attached in any form, shape or manner to a fire escape.
- (f) All electrical signs shall be plainly marked on the bottom edge of the sign using three-fourths inch minimum letters with the erector's name, the voltage, amperes or watts, and the date of installation. All signs shall be grounded.
- (g) All wiring, fittings and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the National Electric Code. Electric sign wiring shall be maintained in weather-proof condition during erection or alteration by use of permanent or temporary cover.

**(7) Landscaping Requirements**

A permanent ground-mounted or free-standing pole sign shall require a single continuous landscaped area to be maintained beneath the sign in accordance with the following standards:

- (a) The minimum landscaped island shall be at three feet around the perimeter of the base of the sign, including all points where sign structural supports are attached to the ground.
- (b) Where the required landscaped area is adjacent to a paved surface accessible to vehicular traffic, a raised, non-mountable curb suitable to prevent the encroachment of vehicles shall be required.
- (c) The landscaped area shall include living plantings aesthetically located and maintained. The use of concrete, asphalt, ornamental rocks or any other paved surface inside the required landscaped area beneath the sign shall be prohibited.
- (d) The landscape detail and maintenance plan shall be submitted with the sign plan.

**(G) Temporary Or Nonpermanent Signs in All Districts**

The following are the types of temporary signs allowed in the City of Silverton and the applicable regulations for each type of sign.

**(1) Standards Applicable to All Temporary Signs**

- (a) Temporary signs shall not be mounted, attached, affixed, installed or otherwise secured in a manner that will make the sign a permanent sign.
- (b) No temporary sign shall be mounted, attached, affixed, installed or otherwise secured so as to protrude above the roofline of a structure.

- (c) Temporary signs shall not be posted in any place or in any manner that is destructive to public property including, but not limited to, rights-of-way, utility poles, public trees, etc.
- (d) Unless otherwise specifically stated, temporary signs shall not be illuminated.
- (e) No temporary sign shall require a foundation, support, wiring, fittings or elements that would traditionally require a building permit or electrical permit.
- (f) Temporary signs shall not be affixed to any permanent sign or permanent structure except when a banner sign is permitted to cover a permanent sign in accordance with [§153.22\(G\)\(3\)](#) or when such sign is attached to the principal building as permitted in this section.
- (g) All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to people, vehicles or structures.
- (h) Because of the nature of materials typically used to construct temporary signs, to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs must be removed or replaced when the sign is deteriorated. The city may remove any deteriorated sign and charge the expenses for the removal to the owner of the property on which the sign is displayed. Any unpaid charges may be assessed in the form of a lien against the owner of the property.
- (i) Any temporary sign containing glass in its construction shall use safety or wire reinforced glass.
- (j) Temporary signs may be displayed in vacant lots so long as consent of the property owner to display the temporary sign is obtained.
- (k) Temporary signs are prohibited in the right-of-way unless allowed as part of a sign permit for a sidewalk sign.
- (l) [Table 7](#) establishes the allowances for temporary signs in all zoning districts. All sign types are subject to the general provisions above and the sign-type standards that follow the table.

**(2) Temporary Signs Allowed without Zoning Permits**

- (a) [Table 7](#) establishes the allowances for temporary signs in all zoning districts. All sign types are subject to the general provisions above and the sign-type standards in [§153.22\(G\)\(4\)](#).

| <b>Table 7: Temporary Sign Allowances</b>   |                         |                                   |
|---|-------------------------|-----------------------------------|
| Zoning Districts  | Residential             | Nonresidential                    |
| Time Limit  | Unrestricted            | Unrestricted                      |
| Maximum Sign Area per Lot [1]   | 40 Square Feet          | 40 Square Feet                    |
| Maximum Sign Area per Individual Sign [1]   | 32 Square Feet          | 32 Square Feet                    |
| Maximum Height  | 5 Feet                  | 5 Feet                            |
| Permitted Sign Types  | Banner, Window, or Yard | Banner, Window, Sidewalk, or Yard |
| Zoning Permit Approval Required   | No                      | No                                |
| <p>NOTE:</p> <p>[1] The provisions of this requirement are as stated in the table unless otherwise allowed for in the applicable sign type standards below.</p> |                         |                                   |

### **(3) Additional Temporary Signs Allowed with Zoning Permits**

The following additional temporary signs are permitted in the C-1 and C-2 Districts and for nonresidential uses in a PUD provided a zoning permit is approved for the signs:

- (a)** For zoning permit applications related to the establishment of a new use or change of use within an existing building, where there is existing permanent sign, a banner sign may be approved for up to 60 consecutive days to cover the existing permanent signs. Such banner sign shall not exceed the sign area of the permanent sign.
- (b)** The following temporary signs require a sign permit and are allowed on a restricted time basis in addition to that allowed in [Table 7](#) above, provided the signs are maintained in good condition, as required by this code:
  - (i)** The maximum sign area shall not exceed the total building sign area allowed pursuant to [§153.22\(I\)\(2\)](#) or 16 square feet, whichever is less.
  - (ii)** Such temporary signage, regardless of size, shall be permitted up to 30 days, three times a year.
  - (iii)** The signs are limited to yard signs or banner signs subject to the sign-specific standards in [§153.22\(G\)\(4\)](#).
  - (iv)** The maximum height of the sign shall be six feet.
  - (v)** The signs shall be set back a minimum of 5 feet from any public right-of-way.

### **(4) Standards for Sign Types**

#### **(a) Banner Signs**

- (i)** Unless otherwise specifically stated, there shall be no maximum number of banner signs provided the aggregate total square footage of all banner signs does not exceed the maximum sign area allowed in this section.
- (ii)** Banner signs may be attached to a building, fence or other similar structure. A banner sign attached to posts and mounted in a yard or landscaped area shall be regulated as a temporary yard sign.
- (iii)** The maximum height standard for temporary signs shall not apply to a banner sign but such signs shall not be mounted in a manner that extends above the roofline of a building or the top of the structure on which it is mounted.

#### **(b) Sidewalk Signs**

- (i)** Only one sidewalk sign is allowed for any one business establishment, at one time, and shall be located within five feet of such business.
- (ii)** There shall be no time limit for sidewalk signs with the exception that the sign shall only be placed outside during the hours of the establishment's operation.
- (iii)** Such signs shall not exceed 12 square feet in area with a maximum height of four feet.
- (iv)** The sign shall only be permitted on a private sidewalk or walkway provided it is placed on pavement and not in any landscaped areas or on pavement used for vehicles (e.g., driveways and parking lots).
- (v)** If the sign is placed on a sidewalk or walkway, the sign can only be placed where the paved sidewalk or walkway width, not including curb top, is at least seven feet wide. The width and placement of the sign shall be such so that there shall be a minimum width of four feet of clear and passable sidewalk or walkway for pedestrians.

- (vi) The sign must be freestanding and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.
- (vii) The sign must not obstruct vehicular traffic or access to parking meters, bicycle racks and other features legally in the right-of-way.
- (viii) The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones or bus stops.
- (ix) The sign shall be internally weighted so that it is stable and windproof.
- (x) The City of Silverton shall be held harmless from any liability resulting from accident or injury caused by the placement and/or maintenance of such sign.
- (xi) A sign permit is not required for a sidewalk sign, but such signs are still subject to these regulations.

**(c) Window Signs**

- (i) Temporary window signs shall be mounted or placed on the interior of the building.
- (ii) Temporary and permanent window signs in nonresidential districts are regulated in accordance with [§153.22\(C\)\(4\)\(n\)](#).

**(d) Yard Signs**

- (i) Unless otherwise specifically stated, there shall be no maximum number of yard signs provided the aggregate total square footage of all yard signs does not exceed the maximum sign area allowed in this section on temporary signs.
- (ii) There shall be a maximum of two faces to the sign, mounted back-to-back.

**(H) Permanent Signs Permitted in R-1 and R-2 Residential Districts**

The following permanent signs are permitted in the R-1 and R-2 Districts, or for conditionally permitted uses in the R-1 and R-2 Districts:

**(1) Entrance Signs**

Two wall signs or one permanent monument sign may be permitted for any subdivision or multi-family dwelling development with more than 10 lots or dwelling units provided that the sign meets the standards below. For multi-family dwellings that contain four or more units, a wall sign may be permitted in accordance with the standards below.

**(a) General Standards**

- (i) Each sign may have a maximum sign area of 40 square feet.
- (ii) No such sign or any portion of the structure shall exceed six feet in height.
- (iii) The sign may only be illuminated through an external light source.
- (iv) The use of electronic message centers are prohibited.
- (v) A maximum of one monument signs or two walls signs are permitted in accordance with the following regulations:

**(b) Monument Sign**

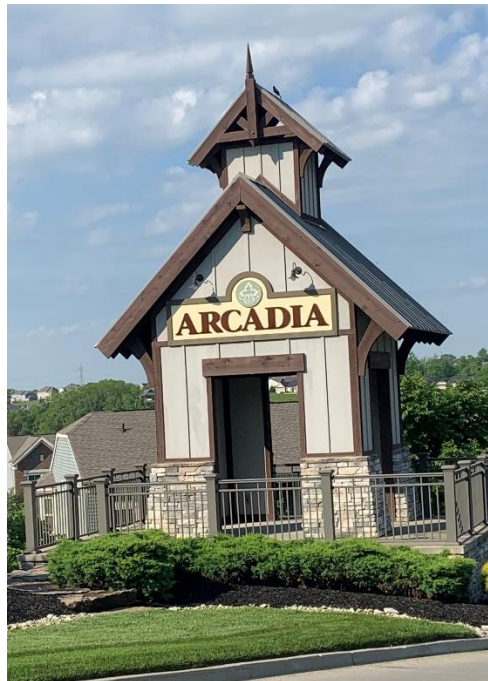
- (i) A maximum of one permanent monument sign may be permitted for each entrance to the subdivision or development on a collector or arterial street, as determined by the Zoning Enforcement Officer.
- (ii) Each sign shall be setback 10 feet from the public right-of-way and 10 feet from any adjacent lot lines. Each sign shall be set back a minimum of 25 feet from any residential use.



- (iii) A monument sign may be placed in a landscaped boulevard within a right-of-way if approved by the City Engineer.
- (iv) If an applicant proposes to use a monument sign, no wall signs, as allowed in [§153.22\(H\)\(1\)\(c\)](#), below shall be permitted.

**(c) Wall Signs on Entry Fences, Walls, or Features**

- (i) A maximum of two wall signs may be permitted for each entrance to the subdivision or development on a collector or arterial street, as determined by the Zoning Enforcement Officer.
- (ii) The signs shall be mounted to a decorative wall, fence, or architectural feature adjacent to the entrance street.
- (iii) The placement of wall signs on architectural features shall only be permitted if such architectural feature is approved as part of a PUD or a subdivision plat. See [Figure P](#).



*Figure P: Example of an architectural feature at the entrance of a subdivision.*

- (iv) If an applicant proposes to use wall signs, no monument sign, as allowed in [§153.22\(H\)\(1\)\(b\)](#), above, shall be permitted.

**(2) Freestanding Signs for Conditional Uses in Residential Districts**

- (a) One permanent monument sign may be permitted on a lot containing a use approved as a conditional use provided the sign meets the following requirements:
  - (i) The sign shall be set back seven feet from the public right-of-way and 20 feet from any adjacent lot lines.
  - (ii) The maximum sign area shall be 36 square feet.
  - (iii) No such sign or any portion of the structure shall exceed six feet in height.
  - (iv) The sign may contain an electronic message center if in compliance with the provisions of [§153.22\(F\)\(4\)\(g\)](#).
- (b) Buildings signs shall be permitted on a lot containing a use approved as a conditional use provided the signs meet the same requirements for building signs in the C-1 District in [§153.22\(I\)\(2\)](#).

**(I) Permanent Signs Permitted in C-1, C-2 And R-E Districts**

The following on-premise, permanent signs are allowed when accessory to a permitted or conditional uses in the C-1 Neighborhood Commercial, C-2 Highway Commercial District, and R-E Recreation Education Districts, or for a nonresidential use in a PUD:

**(1) Freestanding Signs**

- (a)** One monument sign may be permitted on any single lot in the R-E District. The maximum sign area shall be 25 square feet with a maximum height of five feet.
- (b)** One monument sign may be permitted on any single lot in the C-1 District, provided the lot is located with frontage along Montgomery Road and is located outside of the SRD Silverton Renaissance Overlay District. Where allowed, the monument sign shall have a maximum sign area of 25 square feet with a maximum height of five feet.
- (c)** One monument or pole sign may be permitted on any single lot in the C-2 District. The maximum sign area shall be 36 square feet with a maximum height of 10 feet.
- (d)** Electronic message centers are only permitted on freestanding signs in the C-2 District provided they comply with the standards of [§153.22\(F\)\(4\)\(g\)](#).

**(2) Building Signs**

Building signs shall be allowed in accordance with the following:

- (a)** The building sign area allowed in this section shall include the total amount of all wall, awning, canopy, and projecting signs allowed on each building. Standards for each individual building sign type are established in this section.
- (b)** Building signs shall not extend above the top of the roofline of the building to which it is attached.
- (c)** Building signs may not be attached to mechanical equipment or roof screening.
- (d)** Building signs shall not include electronic message centers.
- (e) Building Sign Allowance**
  - (i)** There is no maximum number of permitted building signs.
  - (ii)** The maximum total area of all building signs combined shall not exceed one square foot of sign area for each linear foot of street frontage for the applicable lot, with a maximum total sign area of 30 square feet.
  - (iii)** For buildings on corner lots, the calculated amount of building sign area allowed shall be based on the narrowest frontage, however, that total amount of signage may be placed on each facade that faces a street. For example, if the maximum amount of 30 square feet is allowed, then a total of 60 square feet of building sign area is allowed, however, not more than 30 square feet of building sign area may be allowed on any facade that faces a street.

**(f) Wall Sign Standards**

Any wall sign shall comply with the following standards:

- (i)** Wall signs shall be mounted on or flush with a wall and shall not project more than 18 inches from the wall or face of the building to which it is attached.
- (ii)** A wall sign may be mounted on the façade wall or mounted on a raceway.
- (iii)** No wall sign shall extend any closer than 12 inches to either the top or side edges of the surface or wall to which it is attached. No wall sign shall cover or obscure any wall opening.

- (iv) No wall sign shall extend above the parapet of the main building to which it is attached, nor beyond the vertical limits of such building.
- (v) Wall signs may be internally or externally illuminated except when attached to a façade that faces a residential zoning district, in which case the illumination of the wall sign is prohibited.
- (vi) The wall sign allowance may be used for signs attached to roofed structures over fueling stations or to stand-alone accessory structure such as Automated Teller Machines (ATMS) or detached accessory buildings.

**(g) Canopy or Awning Sign Standards**

Any canopy or awning sign shall comply with the following standards:

- (i) Signage shall not cover more than 30 square feet of any individual awning or canopy
- (ii) Canopies or awnings should not extend more than 36 inches from the façade.
- (iii) Signage may be mounted above any canopy that extends over a customer entrance provided that the maximum sign height over the canopy shall be 18 inches as measured from the top of the canopy to the top of the sign.
- (iv) Only the area of the sign may be illuminated internally on a canopy or awning. The remainder of any canopy or awning shall not be illuminated or may be illuminated by an external source such as gooseneck lighting.

**(h) Projecting Sign Standards**

Any projecting sign shall comply with the following standards:

- (i) Only one projecting sign shall be permitted for each tenant of building space.
- (ii) A projecting sign shall be perpendicular to the wall of the building to which it is attached and shall not extend more than four feet from the façade wall to which it is attached.
- (iii) Projecting signs shall maintain a minimum six-inch clearance from the façade of any building.
- (iv) Decorative supporting structures for projecting signs are encouraged and shall not count toward the maximum square footage of signs allowed, however, in no case shall the supporting structure exceed six square feet.
- (v) The maximum sign area for a projecting sign shall be 16 square feet.
- (vi) Projecting signs must be suspended from brackets or other supports approved by the building official and contain no exposed guy wires or turnbuckles.
- (vii) Projecting signs shall not encroach into any right-of-way.
- (viii) Projecting signs shall not be internally illuminated.

**(3) General Provisions**

- (a) All sign frames, foundations and other supporting structures in the C-1 and C-2 Districts shall be constructed of wood, stone, brick or other material similar to the principal permitted structures which they identify, unless otherwise approved by the Planning Commission.
- (b) All signs in the C-1 and C-2 Districts shall utilize similar or compatible colors and styles to the buildings which such signs identify.

**(J) Maintenance Of Signs**

- (1) All signs and sign structures shall be kept in repair and in a proper state of preservation.

- (2) Property surrounding any freestanding sign shall be kept clean, sanitary, and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing, and replacement of dead and diseased materials.
- (3) The Zoning Enforcement Officer shall have the authority to routinely enter onto property to inspect existing signs for compliance with this subchapter. In conducting such inspections, the Zoning Enforcement Officer shall determine whether the sign is compliant with the Ohio Basic Building Code. The sign owner shall be notified of any defects or deferred maintenance requiring corrective action in writing.
- (4) If any sign reaches a state of disrepair and is deemed unsightly or unsafe or abandoned by the Zoning Enforcement Officer and is not properly renovated within 30 days, it shall be condemned and an order issued for its immediate removal by the sign erector, owner of the sign, or owner of the land.

**(K) Nonconforming Signs**

- (1) A permanent sign that is nonconforming as to the regulations prevailing on the effective date of this chapter, and that is legally erected in accordance with a valid sign permit, shall be construed as a legal nonconforming sign. A sign conforming as to the regulations prevailing on the effective date of such ordinance, but which does not conform with the regulations of a subsequent amendment to this Zoning Code, shall also be construed as a legal nonconforming sign.
- (2) A legal nonconforming sign may be maintained, and structural or electrical parts may be required, replaced or restored to a safe condition, only if required by law. In addition, the Zoning Enforcement Officer, may permit the replacement of the face of a legal nonconforming wall sign if such face is encased in a structure which is consistent in size and appearance with all other such sign structures in a unified shopping area. Otherwise, a nonconforming sign shall not be altered or moved unless it is made to comply with this Zoning Code.
- (3) If any legal nonconforming sign, or part thereof, is damaged, destroyed to more than 50% of its reproduction value or is voluntarily taken down, it shall not be rebuilt or relocated unless it is made to comply with the regulations of the district in which it is located.
- (4) A nonconforming sign, the use of which is discontinued for a continuous period of six months or more, shall thereafter conform to this Zoning Code.

**(L) Limitation of Rights**

No right to occupy any part of any sidewalk, street, alley, or public place of the city shall become permanent but all rights may be withdrawn at any time, whereupon any such projection on occupancy shall be removed by owners.

**(M) Erection of Signs at Railroad Crossings**

Whenever a public street, avenue, road, or highway is crossed by a railroad at the same grade level, it shall be unlawful for any person, firm, or corporation to erect, construct, or maintain any sign that will obstruct the line of sight within the area established by the following description: Beginning at the point of intersection of the border of the public street, avenue, road, and highway 200 feet distant from the intersection and extending thence to a point on the rail 400 feet distant from the intersection of the rail and the border of the public street, avenue, road, or highway and extending thence along the rail to the point of beginning, and all points and measurements herein mentioned are to be those closest to the billboard or signboard. However, nothing herein contained shall apply to signboards, signposts, or danger signals required to be erected and maintained by the railroads under the laws of the state or under the ordinances of the city.

**(N) Government Signs Excluded**

These regulations do not apply to signs erected and maintained pursuant to and in discharge of any governmental function, or required by any law, ordinance, or governmental regulation.

**(O) Removal and Disposition of Signs**

**(1) Abandoned Signs**

Except as otherwise provided in this subchapter, any on-premise sign which is located on property which is nonconforming and which use becomes vacant and unoccupied for a period of six months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to be abandoned. Permanent signs applicable to a business temporarily vacant because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six months. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.

**(2) Dangerous or Defective Signs**

No persons shall maintain or permit to be maintained on any premises owned or controlled by them any sign which is in dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the premises.

**(3) Removal Of Signs By The City**

- (a)** The Zoning Enforcement Officer may cause to be removed any sign in violation of this subchapter or a sign for which no permit has been issued. The Zoning Enforcement Officer shall prepare a notice which shall describe the sign and specify the violation(s) involved and which shall state that if the sign is not removed or if each violation is not corrected within 30 days, the sign shall be removed in accordance with the provisions of this section.
- (b)** All notices mailed by the Zoning Enforcement Officer shall be sent by certified mail. The notice shall be mailed to the owner of the property on which the sign is located as indicated by the most recent Hamilton County Auditor's Office property owner information database. The notice shall also be mailed to or delivered to the occupant of the property. Any conformance time periods provided in this section shall be deemed to commence on the date of mailing of the certified mail.
- (c)** Any person having an interest in the sign or the property may appeal the determination of the Zoning Enforcement Officer ordering compliance, removal, or compliance by filing a written notice of appeal with the Board of Zoning Appeals, within ten days after receipt date of the notice as determined by the returned certified mail confirmation. In the event the property owner or occupant fail to accept the certified mail announcement, constructive receipt shall be deemed to have occurred after 15 days from the certified notice mailing date.
- (d)** Any signs found to be placed in the public right-of-way, on public property, or elsewhere where placement is prohibited under this code, may be confiscated by the city and are subject to immediate removal without notification by the Zoning Enforcement Officer or any other city personnel.
- (e)** Notwithstanding the above, in cases of emergency, the Zoning Enforcement Officer may cause the immediate removal of a dangerous or defective sign without notice.

**(4) Disposal Of Signs**

Any sign removed by the Zoning Enforcement Officer pursuant to the provisions of this section shall become the property of the city and may be disposed of in any manner deemed appropriate by the city. The cost of removal of the sign by the city shall be considered a debt owed to the city by the owner of the sign and the owner of the property, and may be recovered in an appropriate court action by the city or by levying an assessment against the property as hereinafter provided. Each such assessment shall be a lien against each lot or tract of land assessed, until paid, and shall have priority over all other liens except general taxes and prior special assessments. The cost of removal shall include any and all incidental expenses incurred by the city in connection with the sign's removal. Signs may be retrieved at the Silverton Public Works Facility for a period not to exceed 120 hours after removal by the Zoning Enforcement Officer or any other city personnel. After the 120-hour sign holding period, the signs shall be disposed of or destroyed.

## §153.23 WIRELESS TELECOMMUNICATION FACILITIES

### (A) Severability

- (1) If any word, phrase, sentence, part, section, subsection, or other portion of this subchapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this subchapter and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- (2) Any conditional use permit issued under this subchapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city.

### (B) Definitions

For purposes of this subchapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word shall is always mandatory, and not merely directory.

#### **Accessory Facility or Structure**

An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

#### **Antenna**

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such signals shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the city's siting, building and permitting authority.

#### **Applicant**

Any wireless service provider submitting an application for a conditional use permit for wireless telecommunications facilities.

#### **Application**

All necessary and appropriate documentation that an applicant submits in order to receive a conditional use permit for wireless telecommunications facilities.

#### **Co-Location**

The use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.

#### **Commercial Impracticability or Commercially Impracticable**

The inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable."

**Completed Application**

An application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

**FAA**

The Federal Aviation Administration, or its duly designated and authorized successor agency.

**FCC**

The Federal Communications Commission, or its duly designated and authorized successor agency.

**Height**

When referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

**NIER**

Non-ionizing electromagnetic radiation.

**Person**

Any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.

**Personal Wireless Facility**

See definition for “wireless telecommunications facilities.”

**Personal Wireless Services (PWS) or Personal Telecommunications Service (PCS).**

Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

**State**

The State of Ohio.

**Stealth or Stealth Technology**

To minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

**Telecommunication Site**

See definition for “wireless telecommunications facilities.”

**Telecommunications**

The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

**Telecommunications Structure**

A structure used in the provision of services described in the definition of “wireless telecommunications facilities.”

**Temporary**

Temporary in relation to all aspects and components of this subchapter; something intended to, or that does, exist for fewer than 90 days.



### **Wireless Telecommunications Facilities**

A structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes, without limit, towers of all types and kinds and structures that employ camouflage technology, including but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the city's siting, building and permitting authority, excluding those used exclusively for the city's fire or police or exclusively for private, noncommercial radio and television reception, private citizen's bands, amateur radio and other similar noncommercial telecommunications where the height of the facility is below the height limits set forth in this chapter.

Includes a "telecommunications tower" and "tower" and "telecommunications site" and "personal wireless facility."

### **(C) Overall Policy and Desired Goals for Conditional Use Permits**

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the city's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this subchapter, the city hereby adopts an overall policy with respect to a conditional use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- (1) Implementing an application process for person(s) seeking a conditional use permit for wireless telecommunications facilities;
- (2) Establishing a policy for examining an application for and issuing a conditional use permit for wireless telecommunications facilities that is both fair and consistent;
- (3) Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers; and
- (4) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

### **(D) Conditional Use Permit Application and Other Requirements**

- (1) All applicants for a conditional use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The Planning Commission is the officially designated agency or body of the city to whom applications for a conditional use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking conditional use permits for wireless telecommunications facilities. The city may, at its discretion, delegate or designate other official agencies of the city to accept, review, analyze, evaluate and make recommendations to the Planning Commission with respect to the granting or not granting, recertifying or not recertifying or revoking conditional use permits for wireless telecommunications facilities.

- (2)** An application for a conditional use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the city, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.
- (3)** Applications for any zoning permit or conditional use permit required by this section shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#). Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the city.

**(4) General Requirements**

In addition to providing all of the required information, the following shall apply as part of the application:

- (a)** Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city.
- (b)** All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
- (c)** All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.
- (d)** Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as may be required by the city.
- (e)** At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- (f)** A person who holds a conditional use permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the city, state, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include but are not limited to construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

- (g)** A holder of a conditional use permit granted under this subchapter shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the city or other governmental entity or agency having jurisdiction over the applicant.
- (h)** An applicant shall submit to the city the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities and to the Zoning Enforcement Officer.
- (i)** The applicant shall examine the feasibility of designing a proposed tower to accommodate future demand for at least five additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least five additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
  - (i)** The foreseeable number of FCC licenses available for the area;
  - (ii)** The kind of wireless telecommunications facilities site and structure proposed;
  - (iii)** The number of existing and potential licenses without wireless telecommunications facilities spaces/sites; or
  - (iv)** Available space on existing and approved towers.
- (j)** The owner of the proposed new tower and his or her successors in interest shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
  - (i)** Respond within 60 days to a request for information from a potential shared-use applicant;
  - (ii)** Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers; and
  - (iii)** Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (k)** Failure to abide by the conditions outlined above may be grounds for revocation of the conditional use permit for the tower.
- (l)** There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the city's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.
- (m)** The holder of a conditional use permit shall notify the city of any intended modification of a wireless telecommunication facility and shall apply to the city to modify, relocate or rebuild a wireless telecommunications facility.

- (n) In order to better inform the public, in the case of a new telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a balloon test. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three-foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant seven and 14 days in advance of the first test date in a newspaper with a general circulation in the city. The applicant shall inform the city, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.
- (o) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA, and any related correspondence shall be provided in a timely manner.

**(E) Exceptions From a Conditional Use Permit**

- (1) No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this subchapter without having first obtained a conditional use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no conditional use permit shall be required for those non-commercial exceptions noted in the definition of wireless telecommunications facilities.
- (2) All wireless telecommunications facilities existing on or before the effective date of this subchapter shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility must comply with this subchapter. This includes the maintenance of existing facilities or the replacement of existing antenna that does not substantially change the visible appearance of the existing facility. The replacement of any existing antenna shall require an approved zoning permit to confirm compliance with this requirement.
- (3) The Zoning Enforcement Officer shall have the authority to determine if any modification is substantial enough as to not comply with this subsection and require the application to be resubmitted as a conditional use permit, pursuant to this Zoning Code.
- (4) The placement of a new antenna on a previously approved tower that can accommodate an additional antenna, or the replacement of an existing antenna, shall require approval of a zoning permit.

**(F) Location**

- (1) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, division (a) below being the highest priority and division (d) below being the lowest priority.
  - (a) On existing towers or other structures without increasing the height of the tower or structure;
  - (b) On city-owned properties located in any zoning district;
  - (c) On properties in areas zoned for C-2 Highway Commercial District; and
  - (d) On properties in areas zoned for R-E Recreation-Education District.

- (2) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
- (3) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the city why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- (4) Notwithstanding the above, the city may approve any site located within an area in the above list of priorities, provided that the city finds that the proposed site is in the best interest of the health, safety and welfare of the city and its inhabitants, and will not have a deleterious effect on the nature and character of the community and neighborhood.
- (5) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- (6) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:
  - (a) Conflict with safety and safety-related codes and requirements;
  - (b) Conflict with the historic nature or character of a neighborhood;
  - (c) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
  - (d) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the city, or employees of the service provider or other service providers; or
  - (e) Conflicts with the provisions of this subchapter.

**(G) Shared Use of Wireless Telecommunications Facilities and Other Structures**

- (1) Locating on existing towers or other structures without increasing the height shall be preferred by the city, as opposed to the construction of a new tower. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within four miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.
- (2) An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.
- (3) Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the city, to the extent practicable, unless good cause is shown.
- (4) Shared use of existing facilities shall not require a conditional use permit, but shall be required to received a zoning permit approval.

**(H) Height**

- (1) The applicant shall submit documentation justifying the total height of any tower, facility and/or antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the city, to the extent practicable, unless good cause is shown.
- (2) The maximum permitted height of a new tower shall be 140 feet, based on six co-located antenna arrays requiring ten feet of vertical space each, and an ambient tree height of 80 feet.
- (3) No tower constructed after the effective date of this subchapter, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, city, state, and/or any federal statute, law, local law, city ordinance, code, rule or regulation.

**(I) Appearance and Visibility**

- (1) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- (2) Towers shall be galvanized and painted with a rust-preventive paint of a non-contrasting gray or similar color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this subchapter.
- (3) Lights, beacons, or strobes of any kinds shall not be permitted on any tower, antenna, and equipment unless required by the Federal Aviation Administration.

**(J) Security**

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- (1) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- (2) Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

**(K) Signage**

Wireless telecommunications facilities shall contain a sign no larger than four square feet located near the base of the tower in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s), as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.

**(L) Lot Size, Setbacks, and Screening Requirements**

- (1) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from any nonresidential property line a minimum of a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of the tower or structure.
- (2) Towers and any other proposed wireless telecommunications facility structures shall be located no less than 500 feet from any residential district and no less than 250 feet from any public right-of-way.

- (3) The minimum lot size of any tower or any other wireless telecommunications facility structure shall be one acre. Towers and any other wireless telecommunications facility structure shall be located no less than 30 feet from any other non-related buildings situated on the same site. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements set forth in the underlying zoning district for the property on which it is situated.
- (4) Any and all equipment related to the operation of a tower and any other wireless telecommunications facility structure located on the ground shall be fully screened with a minimum six-foot high solid wood privacy fence with continuous evergreen hedge vegetation, with a minimum initial tree height of five feet. All screening shall be located behind the specified setback lines. The tower or wireless telecommunications facility structure owner/operator is responsible for installing and maintaining said screening. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

**(M) Retention of Expert Assistance and Reimbursement by Applicant**

- (1) The city may hire any consultant and/or expert necessary to assist the city in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
- (2) An applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation and consultation to the city in connection with the review of any application, including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500. The placement of the \$8,500 with the city shall precede the pre-application meeting. The city will maintain a separate escrow account for all such funds. The city's consultants/experts shall invoice the city for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the city, replenish the escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the city before any further action or consideration is taken on the application. In the event that the amount held in escrow by the city is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.
- (3) The total amount of the funds needed as set forth in division [\(2\)](#) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

**(N) Public Hearing And Notification Requirements.**

- (1) Prior to the approval of any application for a conditional use permit for wireless telecommunications facilities, a public hearing before the Planning Commission shall be held by the city, notice of which shall be published in the official newspaper of the city no less than 15 calendar days prior to the scheduled date of the public hearing. In order that the city may notify nearby landowners, the application shall contain the names and addresses of all landowners whose property is located within 1,500 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located.
- (2) There shall be no public hearing required for an application to co-locate on an existing tower or other structure, as long as there is no proposed increase in the height of the tower or structure, including attachments thereto.

- (3) The city shall schedule the public hearing referred to in division (1) of this section once it finds the application is complete. The city, at any stage prior to issuing a conditional use permit, may require such additional information as it deems necessary.

**(O) Action on an Application for a Conditional Use Permit**

- (1) The city will undertake a review of an application pursuant to this subchapter in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.
- (2) The city may refer any application or part thereof to any advisory or other committee for a non-binding recommendation.
- (3) After the public hearing and after formally considering the application, the Planning Commission may approve, approve with conditions, or deny a conditional use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.
- (4) If the city approves the conditional use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval in writing within ten calendar days of the city's action, and the conditional use permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent certificates of compliance, once a conditional use permit has been granted hereunder, no additional permits or approvals from the city, such as site plan or zoning approvals, shall be required by the city for the wireless telecommunications facilities covered by the conditional use permit.
- (5) If the city denies the conditional use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within ten calendar days of the city's action.

**(P) Recertification of a Conditional Use Permit**

- (1) Between 12 months and six months prior to the five-year anniversary date after the effective date of the conditional use permit and all subsequent five-year anniversaries of the effective date of the original conditional use permit for wireless telecommunications facilities, the holder of a conditional use permit for such wireless telecommunication facilities shall submit a signed written request to the city for recertification. In the written request for recertification, the holder of such conditional use permit shall note the following:
  - (a) The name of the holder of the conditional use permit for the wireless telecommunications facilities;
  - (b) If applicable, the number or title of the conditional use permit;
  - (c) The date of the original granting of the conditional use permit;
  - (d) Whether the wireless telecommunications facilities have been moved, relocated, rebuilt, or otherwise visibly modified since the issuance of the conditional use permit and if so, in what manner;
  - (e) If the wireless telecommunications facilities have been moved, relocated, rebuilt, or otherwise visibly modified, then whether the city approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;
  - (f) That the wireless telecommunications facilities are in compliance with the conditional use permit and in compliance with all applicable codes, laws, rules and regulations; and



- (g) Recertification that the tower and attachments both are designed and constructed and continue to meet all local, city, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a professional engineer licensed in the state, the cost of which shall be borne by the applicant.
- (2) If, after such review, the city determines that the permitted wireless telecommunications facilities are in compliance with the conditional use permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the city issues a recertification of the conditional use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes, rules or regulations. If, after such review, it is determined that the permitted wireless telecommunications facilities are not in compliance with the conditional use permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the city may refuse to issue a recertification of the conditional use permit for the wireless telecommunications facilities, and in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of the decision by the city, until such time as the facility is brought into compliance. Any decision requiring the cessation of use of the facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record, and shall be promptly provided to the owner of the facility.
- (3) If the applicant has submitted all of the information requested and required by this subchapter, and if the review is not completed, as noted in division (2) of this section, prior to the five-year anniversary date of the conditional use permit, or subsequent five-year anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the conditional use permit for up to six months, in order for the completion of the review.
- (4) If the holder of a conditional use permit for wireless telecommunications facilities does not submit a request for recertification of such conditional use permit within the time frame noted in division (1) of this section, then such conditional use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the conditional use permit, or subsequent five-year anniversaries, unless the holder of the conditional use permit adequately demonstrates that extenuating circumstances prevented a timely recertification request. If the city agrees that there were legitimately extenuating circumstances, then the holder of the conditional use permit may submit a late recertification request or application for a new conditional use permit.

**(Q) Extent and Parameters of a Conditional Use Permit**

The extent and parameters of a conditional use permit for wireless telecommunications facilities shall be as follows:

- (1) Such conditional use permit shall be non-exclusive;
- (2) Such conditional use permit shall not be assigned, transferred or conveyed without the express prior written notification to the city. In the event the real property interest in the telecommunications facilities is wholly or partially assigned, transferred or otherwise conveyed to a different person or entity holding a conditional use permit granted under this section, the city may require the new ownership interest to apply for recertification as provided for in [§153.23\(P\)](#); and
- (3) Such conditional use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the conditional use permit, or for a material violation of this chapter, after prior written notice to the holder of the conditional use permit.

**(R) Application Fee**

- (1)** At the time that a person submits an application for a conditional use permit for a new tower, such person shall pay a non-refundable application fee of \$5,000 to the city. If the application is for a conditional use permit for co-locating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required, the non-refundable fee shall be \$2,000.
- (2)** No application fee is required in order to rectify a conditional use permit for wireless telecommunications facilities, unless there has been a visible modification of the wireless telecommunications facility since the date of the issuance of the existing conditional use permit for which the conditions of the conditional use permit have not previously been modified. In the case of any modification, the fees provided in division [\(1\)](#) of this section shall apply.

**(S) Performance Security**

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the city a bond, or other form of security acceptable to the city as to type of security and the form and manner of execution, in an amount of at least \$75,000, and with such sureties as are deemed sufficient by the city to assure the faithful performance of the terms and conditions of this subchapter and conditions of any conditional use permit issued pursuant to this subchapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the conditional use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original conditional use permit.

**(T) Reservation of Authority to Inspect**

In order to verify that the holder of a conditional use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the city may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including but not limited to towers, antennas and buildings or other structures constructed or located on the permitted site.

**(U) Annual NIER Certification**

The holder of the conditional use permit shall, annually, certify to the city that NIER levels at the site are within the threshold levels adopted by the FCC.

**(V) Liability Insurance**

- (1)** A holder of a conditional use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the conditional use permit in amounts as set forth below:
  - (a)** Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence; \$2,000,000 aggregate;
  - (b)** Automobile coverage: \$1,000,000 per occurrence; \$2,000,000 aggregate; and
  - (c)** Worker's Compensation and Disability: statutory amounts.
- (2)** The commercial general liability insurance policy shall specifically include the city and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.

- (3) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least "A".
- (4) The insurance policies shall contain an endorsement obligating the insurance company to furnish the city with at least 30 days prior written notice in advance of the cancellation of the insurance.
- (5) Renewal or replacement policies or certificates shall be delivered to the city at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- (6) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days after the granting of the conditional use permit, the holder of the conditional use permit shall deliver to the city a copy of each of the policies or certificates representing the insurance in the required amounts.

**(W) Indemnification**

- (1) Any application for wireless telecommunication facilities that is proposed for city property pursuant to this subchapter shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the city and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city.
- (2) Notwithstanding the requirements noted in division [\(1\)](#) of this section, an indemnification provision will not be required in those instances where the city itself applies for and secures a conditional use permit for wireless telecommunications facilities.

**(X) Fines**

- (1) In the event of a violation of this subchapter or any conditional use permit issued pursuant to this subchapter, the city may impose and collect, and the holder of the conditional use permit for wireless telecommunications facilities shall pay to the city, fines or penalties as set forth below.
- (2) A violation of this subchapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 per day per occurrence, or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both, of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000, or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this section or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

- (3) Notwithstanding anything in this subchapter, the holder of the conditional use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this subchapter or any section of this subchapter. An attempt to do so shall subject the holder of the conditional use permit to termination and revocation of the conditional use permit. The city may also seek injunctive relief to prevent the continued violation of this chapter, without limiting other remedies available to the city.

**(Y) Default and Revocation**

- (1) If wireless telecommunications facilities are repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this subchapter or of the conditional use permit, then the city shall notify the holder of the conditional use permit in writing of such violation. Such notice shall specify the nature of the violation or noncompliance, and that the violations must be corrected within seven days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this section or any other section of this subchapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the city may, at its sole discretion, order the violation remedied within 24 hours.
- (2) If, within the period set forth in division (1) above, the wireless telecommunications facilities are not brought into compliance with the provisions of this subchapter or of the conditional use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the city may revoke such conditional use permit for wireless telecommunications facilities, and shall notify the holder of the conditional use permit within 48 hours of such action.

**(Z) Removal**

- (1) Under the following circumstances, the city may determine that the health, safety, and welfare interests of the city warrant and require the removal of wireless telecommunications facilities:
  - (a) Wireless telecommunications facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365-day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
  - (b) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard; or
  - (c) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required conditional use permit, or any other necessary authorization.
- (2) If the city makes such a determination as noted in division (1) of this section, then the city shall notify the holder of the conditional use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed, the city may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

- (3) The holder of the conditional use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the city. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the city.
- (4) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the city may order officials or representatives of the city to remove the wireless telecommunications facilities at the sole expense of the owner or conditional use permit holder.
- (5) If the city removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten days, then the city may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.
- (6) Notwithstanding anything in this section to the contrary, the city may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the conditional use permit, subject to the approval of the city, and an agreement to such plan shall be executed by the holder of the conditional use permit and the city. If such a plan is not developed, approved and executed within the 90-day time period, then the city may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

**(AA) Relief**

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this subchapter may request such at the pre-application meeting, provided that the relief or exemption is contained in the original application for either a conditional use permit, or in the case of an existing or previously granted conditional use permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the city in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the city, its residents and other service providers.

**(BB) Periodic Regulatory Review by the City**

- (1) The city may at any time conduct a review and examination of this entire subchapter.
- (2) If after such a periodic review and examination of this subchapter, the city determines that one or more provisions of this subchapter should be amended, repealed, revised, clarified, or deleted, then the city may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the city, the city may repeal this entire subchapter at any time.
- (3) Notwithstanding the provisions of divisions [\(1\)](#) and [\(2\)](#) of this section, the city may at any time, and in any manner (to the extent permitted by federal, state, or local law), amend, add, repeal, and/or delete one or more provisions of this subchapter.

**(CC) Adherence to State and Federal Rules and Regulations**

- (1)** To the extent that the holder of a conditional use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate state and/or federal agency rules or regulations, then the holder of such a conditional use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- (2)** To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a conditional use permit for wireless telecommunications facilities, then the holder of such a conditional use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

**(DD) Conflict with Other Laws**

Where this subchapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the city, state or federal government, this subchapter shall apply.

## **§153.24 SUBDIVISION REGULATIONS**

### **(A) Short Title**

This document shall be known and may be cited as the Subdivision Ordinance of Silverton, Ohio and shall be referred to herein as "these Subdivision Regulations."

### **(B) Purpose and Scope**

- (1)** The purpose of these Subdivision Regulations is to provide rules, regulations and standards to guide the subdivision of land in order to promote the public health, safety, convenience and general welfare within the city. Standards shall be administered to ensure orderly growth and development, the conservation, protection and proper use of land, and adequate provisions for traffic circulation and services. These Subdivision Regulations shall not apply to any lot or lots forming a part of subdivision created and recorded prior to the date these Subdivision Regulations are enacted.
- (2)** These Subdivision Regulations shall apply to all unsubdivided land proposed as a major subdivision or a minor subdivision, and to any land replatted in the city, but shall not be deemed a basis for, nor shall it in any way diminish or relax any existing restrictions or provisions set forth in any subdivision protective covenants, or any such restrictive covenants which may appear in any deed, contract or plat of record.

### **(C) General Compliance Regulations**

- (1)** After the adoption of these Subdivision Regulations, no land shall be subdivided or replatted without complying with the provisions of these Subdivision Regulations. No lot, tract or parcel of land within any subdivision or constituting a subdivision under R.C. Chapter 711 shall be offered for sale, nor shall any sale or contract for sale which is intended to be recorded with the county have any validity, until such subdivision, together with the plans for the improvements thereto, has been properly reviewed and officially approved by the Planning Commission and, where required, by Council.
- (2)** No permits required for any work in connection with any subdivision shall be issued until the plat has been approved as herein prescribed.
- (3)** No improvements, such as water supply, storm water drainage, sewerage facilities, gas service, electric service or lighting, or major grading operation, paving or surfacing of any street, shall be made within any such subdivision by any owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or by his or their agent, until the plats for the subdivision and also the plans for the improvements have been properly reviewed by the City Engineer and officially approved by the Planning Commission.
- (4)** Where a tract of land is proposed to be subdivided in several stages over a period of years and the subdivider requests approval in parts, he or she shall, at the time of submission of the first part, submit a complete preliminary plan of the entire tract to be eventually developed, with appropriate sectioning adequate to demonstrate to the Planning Commission that the total design as proposed for the entire subdivision is acceptable under the terms of these Subdivision Regulations including conformance with the official Transportation Master Plan. The Planning Commission may give preliminary approval to the overall plan and final approval on the parts as submitted from time to time. The city hereby defines its policy to be that the city will withhold all public improvements of whatsoever nature, including the maintenance of streets and the furnishing of water service, from the subdivisions which have not been approved and from all areas dedicated to the public which have not been accepted by the Planning Commission and Council in the manner prescribed herein.
- (5)** The provisions of these Subdivision Regulations shall be held to be the minimum requirements necessary in the subdivision of land.

**(D) Minor Subdivisions**

- (1) For the purposes of these regulations, a minor subdivision is a lot split, lot consolidation, or transfer of land between adjacent property owners that complies with all of the following requirements:

  - (a) The subdivision shall not result in or create more than five lots, including the remainder of the original lot (e.g., four new lots and the remainder of the original lot);
  - (b) The subdivision shall be in compliance with all applicable site development standards in this code or with any variance approved from such standards;
  - (c) All lots resulting from the minor subdivision shall have frontage and access on an existing street and shall not require the construction, expansion, or improvement of any street;
  - (d) The subdivision shall not require any public improvements or the dedication of rights-of-way;
  - (e) The property has been surveyed and a survey sheet or record plan, in the form provided for in this code, and a full legal description of the changes resulting from the split, are submitted with the application; and
  - (f) No landlocking of parcels shall occur as a result of the minor subdivision.
- (2) A minor subdivision also includes the recombination of land, consolidation of lots, transfer of property from one lot to an adjacent lot, and the dedication of additional land for the widening of existing streets, where no new lots are created.
- (3) Minor subdivisions may be administratively approved by the Zoning Enforcement Officer or the Zoning Enforcement Officer shall have the authority to forward the application to the Planning Commission for review if there is any question about the applicability of the standards in this Zoning Code or if there is a need for the Planning Commission to consider waiving any of these Subdivision Regulations.
- (4) Applications for a minor subdivision shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#).
- (5) All major subdivision improvement standards set forth in these Subdivision Regulations shall apply unless otherwise waived by the Planning Commission.
- (6) When the development of new residential dwellings is proposed in conjunction with a minor subdivision application, a reciprocal access easement and common infrastructure maintenance agreement shall be submitted with the application contents. No zoning permit shall be issued until the applicant provides the city with evidence of proper recordation of the reciprocal access easement and common infrastructure maintenance agreement.
- (7) All subdivisions that are not considered to be minor shall be reviewed as a major subdivision by the Planning Commission in accordance with these Subdivision Regulations.

**(E) Major Subdivision Review Procedure**

**(1) Pre-Application Conference (Optional)**

- (a) Prior to filing a subdivision, an applicant may request a meeting with the Zoning Enforcement Officer for a pre-application conference to provide an opportunity to conceptually discuss a proposed development and to provide general guidance to assist in the preparation of the subdivision plats. The Zoning Enforcement Officer may invite additional City staff or review agencies to participate in the discussion.
- (b) An applicant may also request a pre-application meeting with Planning to discuss the concept of the proposed development. The applicant may request such meeting by submitting a written request, along with any supporting documents, to the Zoning Enforcement Officer for placement on the agenda of the next regularly scheduled meeting or any special meeting that may be called by Planning Commission .



- (c) No action can be taken by the administrative staff or Planning Commission until the applicant submits an actual subdivision application. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff or Planning Commission that occur prior to the submission of an actual application are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.

**(2) Preliminary Plat Review**

- (a) The applicant shall begin the formal review process by filing a preliminary plat applications for a major subdivision shall be submitted to the Zoning Enforcement Officer with all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#). The required checklist of information shall also include the required drawing standards for any plats. The preliminary plat submission shall be prepared by a professional engineer registered in the State of Ohio and shall include a general location map.
- (b) Preliminary plat applications shall also include a traffic impact study for all applications where the expected trip generation of the land use is 100 or more cars per hour as identified in the Institute of Traffic Engineers (ITE) Manual. The traffic impact study shall contain the information established in [§153.06\(E\)\(4\)](#).
- (c) All proposed subdivisions shall have a storm drainage system designed to serve the area being developed. It shall be compatible to any adjacent storm drainage system and shall have in all cases a clear and unobstructed outlet. The storm drainage system shall be designed in such a manner to minimize the effects on the downstream properties within reasonable limits. The preliminary drainage plan shall:
- (d) The developer, owner or their engineer may apply to the Planning Commission for an exception to the detention or retention requirements. Each request shall be accompanied by a study showing the effects of the proposed and required drainage system on the watershed it is located in.
- (e) The Zoning Enforcement Officer shall keep one copy of the application, together with one copy of the preliminary plat for the city records.
- (f) Five copies of the preliminary plat shall be retained by the Planning Commission for review. The remaining copies shall be submitted to the Health Department, City Engineer, Fire Department, Police Department or other agencies.
- (g) The preliminary plat application contents shall be placed on the meeting agenda of Planning Commission for consideration. Upon review of the application for conformance to these subdivision regulations, the zoning code and any other applicable document, the Planning Commission shall transmit a letter to the applicant either approving or disapproving (with reasons provided) or, where such changes or corrections are minimal, the Commission may give a conditional approval, stating the plat is approved, subject to the set forth requirements being met. Where it appears that for any reason conditions do not warrant either complete approval or conditional approval, the preliminary plat shall be returned to the applicant or his agent setting forth reasons for disapproval. The plat, revised and corrected, may be resubmitted within one year without payment of an additional application fee.
- (h) Approval of the preliminary plat shall be effective for two years from the date of approval, and such approval may, at the discretion of the Commission and upon written request of the applicant, be renewed for one additional year.

- (i) If the construction drawings and specifications are not submitted for at least a reasonable section of such plat within the following two-year approval period or renewal year, the preliminary plat approval shall be deemed to have expired. If no construction activity consistent with an approved construction drawing and specification plan is not instituted within six months following the end of the renewal period, then the preliminary plat approval shall be deemed to have expired.
- (j) Also, where a portion of the lands shown on any preliminary plat have been developed and platted in a phased manner, the approval of the remainder of the preliminary plat shall be deemed in effect for one year from the date Council approves such final plat; and unless plans and plats for additional sections are submitted prior to expiration of the one-year period, the preliminary plat approval shall be deemed to have lapsed. The timely submission of such plans or plats for approval shall extend effective approval for one additional year.

**(3) Filing Construction Drawings for Approval**

- (a) Prior to the submission of the final record plat, 12 copies of the necessary construction drawings shall be submitted to the Planning Commission.
- (b) A review fee established by ordinance of Council equaling 1.5% of the estimated infrastructure improvement costs for the portion of the plat for which the construction drawings have been designed shall be paid to the city prior to the construction drawings being placed on the agenda for consideration of recommendation of the Planning Commission.

**(c) Construction Drawings and Specifications**

- (i) Upon approval of the preliminary plat by the Planning Commission, construction or improvement plans, as prepared by the owner's engineer, shall be submitted and reviewed by the City Engineer, the Zoning Enforcement Officer and any other proper city officials, and evidence shall be provided that such plans have been duly approved by the State Environmental Protection Agency, the County Health Department or any other governing agencies or departments when approval by such agencies is required by law.
- (ii) The construction plans shall be prepared by or under the immediate direction of a registered professional engineer, registered in the State of Ohio, and same shall be complete, showing all improvements, including storm and sanitary sewers, culverts, water and gas mains, with typical cross-sections of streets, profiles and any necessary special details.
- (iii) The plans shall in every way equal or exceed the standards as adopted by the city for subdivision improvements.
- (iv) The plans, when submitted to the City Engineer for review, shall be accompanied with a map showing division of drainage runoff areas and a complete set of storm water calculations determining pipe or ditch channel sizes and detention/retention volumes and routing.
- (v) In the preparation of construction or improvement plans, every reasonable effort shall be made to avoid placing utility pipe lines, storm and sanitary sewer pipe lines (but not including service connections which must necessarily cross the streets) under pavements or curbs.
- (vi) After the completion of the construction of the improvements, as-builts shall be submitted in a digital format compatible with the city consultant's CAD system, and on one set of mylars.

- (vii) It shall be the duty of the owner, his agent or engineer to consult with public service and utility companies as to location of all underground conduits, pipe lines, cable and telephone conduit, overhead poles, street lights, wires, etc., and to provide necessary easements for such facilities on the final plat.
- (viii) The approval of plans by the City Engineer, the Zoning Enforcement Officer and the Planning Commission shall not relieve the owner, developer or his or her engineer of any liabilities, damages or legal action which may result from faulty, careless or negligent design or construction observed within the guarantee period.

**(4) Final Plat Review**

- (a) Upon approval of the construction drawings for the proposed subdivision or a particular phase of the proposed subdivision, the final record plat, together with a durable reproducible copy thereof, shall be submitted to the Zoning Enforcement Officer. The applicant shall submit all fees and application content required pursuant to [§153.02\(D\)](#) and [§153.02\(E\)](#). The required checklist of information shall also include the required drawing standards for any plats. The final plat submission shall be prepared by a professional engineer registered in the State of Ohio and shall include a general location map.
- (b) Both copies of the plat shall be referred to the City Engineer for review and signed by him or her if approved, or returned to the Zoning Enforcement Officer with recommendations and comments attached.
- (c) The plat shall thereupon be presented to the Planning Commission for approval. If the Commission approves the final plat, it shall be so indicated on both original and reproducible copy over the signature of the Secretary of the Commission, whereupon same shall be returned to the Zoning Enforcement Officer for submission to Council.

**(d) City Approval**

After the approval of the final plat by Council, the developer shall submit cost estimates, bonds, and letters of credit to the Clerk of Council prior to Council signing the final plat for recording. Once the information is submitted, the Clerk of Council shall indicate the approval of Council on both copies of the final plat with a statement of approval, including the date and ordinance number, bearing the signature of the City Clerk. The reproducible copy shall be permanently filed in the office of the Zoning Enforcement Officer.

**(e) Approval Notification**

The Zoning Enforcement Officer shall notify the subdivider of the action of the Planning Commission and Council by mail within ten working days after the date of such action. The original tracing of such approved plat shall be returned to the subdivider or his or her agent for recording in the County Recorder's office. If such recording is not made within 90 days, the approval will become void and a resubmission for approval of the Planning Commission and Council must be made.

**(f) Performance Guarantee**

The Mayor and City Clerk shall not indicate Council's approval on any plat by affixing their names and the ordinance number until such time as the subdivider has posted the performance guarantee as set forth in [§153.24\(QQ\)](#).

**(F) Conformance**

The subdivider shall conform to the following principles and standards of land subdivision in the design of each subdivision or portion thereof which has not been officially recorded in the office of the Recorder of Hamilton County, Ohio, on or before the date of the enactment of these Subdivision Regulations.

**(G) General Design Considerations**

- (1) The subdivision plat shall conform to design standards that will encourage good development patterns and particularly to the principles, standards, policies and proposals which are specified in the Comprehensive Plan. Therefore, the Official Transportation Master Plan, drainage rights-of-way, school sites, public parks and recreation sites and other public buildings and facilities shown on the officially adopted Comprehensive Plan shall be considered in the decision to approve or disapprove subdivision plats. Each subdivision design shall be in accordance with all applicable sections of the Zoning Code, as amended. The City Engineer, at any time during design or construction or even after the recording of the final plat, shall have the authority to modify any engineering or construction detail, whenever required for the protection of the public interest, health, safety or welfare.
- (2) Every residential lot in any subdivision shall abut and have access to a dedicated street or right-of-way, except that in a division of land abutting several lots with the intent of conveying same to such abutting owners without creating additional residential building sites, these parcels need not abut a public street.
- (3) No land shall be subdivided for residential use if considered by the Planning Commission to be unsuitable for such use because of flooding or improper drainage, inability to provide proper sanitation or any other feature harmful to the health and safety of the future residents or the community as a whole.
- (4) Every subdivision shall be planned so as to be in conformance with the regulations for the zone in which it exists.

**(H) Street Regulations**

- (1) The street layout shall provide access to all lots and parcels of land within the subdivision. Street jogs at intersections of less than 125 feet shall be avoided. Street terminations in a cul-de-sac shall not exceed 700 feet in length unless necessitated by site topography. The measurement shall be taken from the center of the closest intersection that allows two or more alternative access routes from the entrance of the subdivision to the center of the cul-de-sac.
- (2) Local or marginal streets shall be designed by pattern and layout so as to discourage through traffic unless otherwise noted in the Comprehensive Plan.
- (3) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
- (4) Proposed streets, where appropriate, shall be extended to the boundary of the tract to be subdivided so as to provide for normal circulation of traffic with adjacent existing or future subdivisions or developed areas.
- (5) Wherever a dedicated or platted portion of a street or alley exists within the proposed subdivision, the street or alley shall be platted to the prescribed width within the proposed subdivision unless such use is vacated.
- (6) Widths of interstate highways, major and minor arterials, collector and local street rights-of-way shall conform to the widths specified in the typical right-of-way sections provided herein. These widths may be increased or decreased or varied in unusual circumstances by the Planning Commission as recommended by the City Engineer
  - (a) Additional right-of-way may be required by the Planning Commission to accommodate adjacent storm water runoff and drainage.

- (b) Pavement width shall be measured from back of curb to back of curb.
- (7) The minimum right-of-way of local streets, including marginal access streets and cul-de-sacs, shall be 50 feet. All cul-de-sacs shall terminate in a circular right-of-way with a minimum diameter of 110 feet; minimum pavement width shall be 86 feet on turnaround. No parking shall be permitted in a cul-de-sac terminus. The developer shall be required to place "No Parking" signs at the beginning radius, center and ending radius of the cul-de-sac with signs approved by the Ohio Manual of Uniform Traffic Control Devices.
  - (8) Where a street having two or more lots fronting thereon ends at a subdivision line for future extension, it shall be provided with a temporary paved turnaround until such extension is completed. The size of the turn-around shall not be less than 60 feet in diameter.
  - (9) Subdivisions that include, or border on, existing streets that do not conform to the required widths shall dedicate additional width along either or both sides of such street. The half width of all public rights-of-way abutting the proposed subdivision shall be brought to all applicable city improvement standards.
  - (10) All street intersections shall be a 90-degree angle of intersection unless special conditions warrant consideration and approval of other design.
  - (11) At all street intersections, the roadway turning radii shall be adequate to allow all motor vehicles, trucks, and emergency vehicles adequate room to turn into a development in a single movement.
  - (12) At street intersections the right-of-way line shall be rounded by an arc, the minimum radius of which shall be 20 feet. Street curb intersection shall be rounded by radii of at least 30 feet.
  - (13) Intersection of more than two streets at one point shall not be permitted.
  - (14) In the interest of public safety, and as a matter of policy, all points of ingress and egress shall be located as far as possible from the intersection of two or more major thoroughfares. Access control at major thoroughfares shall be taken into consideration in the design of the subdivision plat. The city or ODOT has the right to define access along major thoroughfares as shown in the Transportation Master Plan set forth in the Comprehensive Plan.
  - (15) Where parkways or special types of streets are involved, the Planning Commission may apply special standards to be followed in the design of such parkways or streets.
  - (16) Whenever the subdivision contains or is adjacent to a railroad right-of-way, or a highway designated as a limited access highway by the appropriate highway authorities, provision shall be made for either a marginal access street or a parallel street at a distance adequate to permit use of adjoining land.
  - (17) Horizontal visibility on curved streets and vertical visibility on all streets shall be maintained along the centerlines as follows:
    - (a) Major highways and thoroughfares: 500 feet.
    - (b) Collector streets and parkways: 300 feet.
    - (c) Residential access streets: 100 feet.
    - (d) Where topographic or other conditions warrant, the Planning Commission may, with the recommendation of the City Engineer, reduce the above requirements.
  - (18) Horizontal curvature measured along the centerline shall have a minimum radius as follows:
    - (a) Major highways and thoroughfares: 500 feet.
    - (b) Collector streets and parkways: 300 feet.
    - (c) Residential access streets: 150 feet.
    - (d) Where topographic or other conditions warrant, the Planning Commission may, with the recommendation of the City Engineer, reduce the above radii requirements.
  - (19) All changes in grades shall be connected by vertical curves of sufficient radii to provide smooth transitions and required sight distances.

- (20) Between reverse curves on major arterial streets there shall be a tangent of not less than 100 feet, and on collector and local streets such tangent shall be not less than 40 feet. For hillside areas between reverse curves on major arterial streets there shall be a tangent of not less than 50 feet, and on collector streets such tangents shall not be less than 20 feet.
- (21) Maximum grades for streets shall not be greater than those shown below unless approved by the City Engineer and the Planning Commission.

| <b>Table 8: Maximum Grade of Streets</b> |               |
|--|---------------|
| Type of Street                           | Maximum Grade |
| Major arterials                          | 4%            |
| Minor arterials                          | 7%            |
| Collector streets                        | 7%            |
| Local streets                            | 10%           |
| Pedestrian ways or crosswalks            | 12%           |

- (22) The minimum grade of any street gutter shall not be less than 0.5%.
- (23) New streets may be called avenue, circle, court, drive, place, street and way, but they shall not be called roads.
- (24) Alleys shall not be permitted in residential areas but shall be included in commercial and industrial areas where needed for loading and unloading or access purposes where required; alley rights-of-way shall be at least 20 feet in width and shall be fully paved.
- (25) Dead-end alleys shall be avoided, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end, as determined by the Planning Commission.
- (26) The street approach to any proposed stub streets or cul-de-sac street shall not exceed more than 5% grade.
- (27) The use of cul-de-sac street designs shall be utilized only when physical features of the site warrant the use this design. Generally, a grid style street network is encouraged including the use of curvilinear design elements.
- (28) Each major subdivision shall provide for multiple access points to provide more efficient traffic flow, greater connectivity between adjacent developments and an adequate number of access points for fire, EMS and police personnel.
- (29) Medians shall not be located within any cul-de-sac street.

**(I) Blocks**

- (1) Blocks shall not normally exceed 1,250 feet in length, unless unusual circumstances justify greater length.
- (2) Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a limited access highway, arterial street or railroad right-of-way.
- (3) No other specific rule is made concerning the shape of blocks, but blocks shall fit easily into the overall plan of the subdivision and their design must evidence consideration of lot planning, traffic flow and public areas.
- (4) Within blocks of over 700 feet in length, the Planning Commission may require, at or near the middle of the block, a public walk connecting adjacent streets or other public areas, shopping centers, etc.

**(J) Lots**

- (1) All lots shall abut on a dedicated street of right-of-way.

- (2) Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but points or very irregular lots shall be avoided. For hillside areas, side lines of lots shall be located as to provide the most suitable building site.
- (3) Minimum lot areas, widths and building setback lines shall be as provided in the Zoning Code for the district in which the subdivision is located within the incorporated area of the city, except that where a water main supply system or a sanitary sewer system is not available, the lot area necessary to install a private water supply or sewage disposal system on the lot in accordance with the Hamilton County Board of Health or the Ohio Department of Health, shall become the minimum lot area.
- (4) Panhandle lots shall be discouraged and may only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Planning Commission. The panhandle portion of the lot shall have a minimum width of 20 feet at the road.
  - (a) The stacking of panhandle lots shall be prohibited.
  - (b) The minimum lot size for panhandle lots in any residential district shall be 150% of the minimum lot size as set forth in the underlying zoning district regulations.
- (5) Through lots shall be avoided wherever possible. Where through lots do exist, the minimum front yard setback shall be required wherever the lot abuts a right-of-way.
- (6) Lot design for all residential subdivisions shall utilize the minimum front yard building setback stated in the underlying zoning district as the basis for determining lot width.
- (7) Any major subdivision providing for common area amenities and uses including but not limited to: landscaped areas, swimming pool and other recreational uses, gateway sign areas, stormwater detention or retention facilities and other similar common use areas shall be wholly located within a dedicated lot with proper title and interest held by a home owners association or similar property owners association for the proposed development.

**(K) Easements**

- (1) Easements shall be provided for utilities. Such easements shall have a minimum width of 15 feet, and where located along interior lot lines, one-half the width shall be taken from each lot. Before determining the location of the easements, the plan shall be discussed with the local utility companies to assure the proper placing for the installation of services. Slope easements shall be provided when required by the Planning Commission.
- (2) Easements of adequate width shall be provided for all streams and drainage channels.
- (3) All underground public utility lines, wires, cables, conduits, vaults, laterals, pipes, mains, valves and other similar distributing equipment shall be placed within easements or dedicated public ways in such a manner so as not to conflict with any other underground service previously installed.

**(L) Public Use Areas**

Where sites for parks, schools, playgrounds or other public use areas as shown in the Comprehensive Plan are located within the subdivision area, the city shall require that such areas be so designated on the final plat. Within one year after the approval of the final plat, the authority having jurisdiction shall acquire the designated land or commence proceedings to acquire it by condemnation, otherwise the owner may make any other permitted use of the site, as permitted by the zoning district within which it lies.

**(M) Topography, Natural Vegetation and Flooding**

- (1) In the subdivision of any land within the city, due regard shall be shown for all natural features, such as tree growth, watercourses or other similar elements which, if preserved, would add attractiveness to the proposed development.

- (2) The natural topography shall be retained wherever possible in order to reduce excessive runoff onto adjoining property and to avoid extensive regrading of the site.
- (3) Floor elevations of all buildings shall be carefully studied in relation to existing topography, proposed street grades, existing trees and other pertinent site features.

**(N) Standards and Requirements for Utility and Street Improvements**

Utility and street improvements shall be provided by the subdivider in each new subdivision in accordance with the standards and requirements described in the following sections. All item numbers that appear below refer to the Ohio Department of Transportation's Construction and Material Specifications, latest edition, unless specifically noted as otherwise.

**(O) Streets**

Streets shall be completed in accordance with the plans, profiles, specifications, and cross-sections prepared for the subdivider by a registered professional engineer in accordance with sheets one through four of the standard drawings, and approved by the City Engineer, Zoning Enforcement Officer and Planning Commission.

**(P) General Requirements**

**(1) Approval**

All construction drawings shall be approved by the Planning Commission acting upon recommendation for approval by the City Engineer.

**(2) Construction Drawings**

Construction drawings shall be complete in detail, and shall include plans, profiles, drainage facilities, sanitary sewers and all utilities and service facilities which are to be installed by the subdivider.

**(3) Pavements**

Pavements shall be installed with curb and gutter as shown in sheets one through four of the standard drawings. An equivalent concrete section may be considered for industrial and collector streets.

**(4) Sidewalks.**

Sidewalks shall be required on all residential subdivision streets, on both sides of the street. Concrete for sidewalks shall be concrete, and shall meet the specifications set forth in ODOT Item 608, and shall be given a reasonably smooth float finish. Where site features prevent the construction of a sidewalk on both sides of the street, the owner or developer may appeal to the Board of Zoning Appeals for a variance. Subdivisions that abut existing public streets shall provide sidewalks along the full distance of the development beginning and terminating at the project's property lines, unless otherwise approved by the Planning Commission.

**(5) Storm Drainage**

- (a) Pipe for storm water system, when any portion of the run is underneath the pavement, shall be per ODOT Item 706.02(IV) minimum and in all cases shall be placed with good bedding. Pipe for storm sewers and drains, when entirely outside of the pavement, may be per ODOT Item 707.42.



- (b) The storm water system shall be designed based on a post-development 25-year storm. The storm water system includes all closed conduits, open channels, inlets, manholes and all features designed to collect storm water from streets and lots, including the necessary piping for the collection of sump pump drains. The Rational Method will normally be used when calculating peak rate of runoff in determining conduit size and grade. If the drainage area is greater than 20 acres, TR55 should be used.
- (c) In general, all conduits shall be designed on a 25-year flowing full design using the Manning Formula, with a minimum diameter of 12 inches with a minimum cover of 18 inches. All changes in size, grade, alignment and the intersection of two or more sewers must take place in a manhole or catch basin. If the main route of the storm sewer passes through a catch basin, the catch basin must have a separate access point for cleaning purposes. The roughness coefficient (n) shall equal 0.015 for all pipe materials, unless approved by the City Engineer. The allowable velocity shall not be less than 3.5 feet per second or greater than 18 feet per second based on a 25-year frequency storm. Rock channel protection and/or other means of energy dissipation must be used when the outlet velocity is higher than the permissible erodible velocity for the channel it enters.
- (d) Inlets or catch basins shall have a capacity not less than the quantity of flow tributary to the inlet. Inlets at low points or grade pockets should have extra capacity as a safeguard for flooding from flows in excess of design flows. Calculations shall be submitted verifying the capacity of each inlet. Special inlets may be required for streets with steep gradient to provide the extra capacity such situations require. The inlets shall be so located that they shall pick up no more than 5.0 cfs, and this only when street grades do not exceed 6% on either side of the inlet, and when the maximum concentration of water on each side of the inlet does not exceed 2.5 cfs. Inlets shall be located upstream of all sidewalks at street intersections, crosswalks, driveways, and roadways; in all pockets in streets, where a street grade flattens, and at intervals no greater than 350 feet in gutters. Inlets or catch basins shall be spaced and located as the conditions may require, but generally not over 400 feet apart or from a high point. Inlets shall be placed in such a manner that no storm water shall flow through or into any intersection. Not more than 500 linear feet of street shall be permitted to drain into one pair of catch basins when draining from two directions. Gutters shall be depressed 1-1/2 inches at all catch basins or inlets. Manholes shall be placed on conduits 36 inches in diameter or less, at not more than 400 feet. Manhole tops, which otherwise cannot be set outside of the pavement area, shall be set to meet the pavement grades evenly. All manholes and catch basins which are on the main route of the storm sewer system shall be provided with channels to afford a smooth, unobstructed flow. Easements not less than 15 feet in width shall be provided for all sewers or pipe drains not in a dedicated public right-of-way, depending on the depth of the sewer. Inlets or catch basins shall have a capacity not less than the quantity of flow tributary to the inlet. Inlets at low points or grade pockets should have extra capacity as a safeguard for flooding from flows in excess of design flows.
- (e) All subdivisions must include an adequate flood routing system designed to carry runoff from a 100-year frequency storm. Minimum opening elevations are to be set by the owner's engineer along all 100-year flood routes. These elevations are to be a minimum of 1 foot above the 100-year water elevation. All storm water is to be routed into the detention or retention area. When a storm sewer system outfalls into a flood plain of any major watercourse, the outfall must not be subject to frequent floods or backwaters. Standard wingwall with erosion control shall be constructed for all outfalls. Suitable baffles or other energy dissipaters shall be provided if determined to be necessary by the City Engineer. The invert of the first storm sewer appurtenance upstream of the outfall structure shall be above the elevations of the flood plain.

- (f) Streets may be used as a routing path. Where a street is designated as the major drainage way, the depth of flow shall not exceed 8 inches at the face of the curb. Where the major drainage way is located outside a street right-of-way, easements shall be provided and a grading plan is to be submitted with detailed elevations showing the flood being contained in this area.

**(6) Culvert Design**

- (a) Technical Release 55 and the Hydraulic Circular No. 5 are the recommended procedures for design. A single-span culvert should always be used in lieu of multiple-span openings. The only time a multiple-opening culvert shall be considered is when no other single-span structure will function. All culverts which are a part of the flood route for the 100-year storm shall be designed for the 50-year storm with head water and a flood route provided to accept a 100-year storm. Maximum allowable head water shall be 18 inches below the top of the curb and 12 inches below the edge of pavement where curb does not exist.
- (b) The design of the drainage system should not cause back water onto any adjacent property. If additional back water is caused, an easement from the affected property owner must be obtained. The back water condition should be checked on the 50-year frequency storm.
- (c) A structure having a clear opening of ten feet or more shall be classified as a bridge and be subject to special conditions under the direction of the City Engineer.

**(7) Open Drainage Ditches**

- (a) All newly designed open channels shall only accommodate a small drainage area (i.e. lot swale). All other design drainage features shall be enclosed with storm sewer, with the exception of large, major channels. All drainage ditches, where provided as a part of the drainage system, shall have rights-of-way or easements provided for the city to access and maintain the ditches. Ditches are to be designed using a full flow 25-year frequency storm unless the channel is part of the flood routing system, in which case it must be designed using a 100-year storm frequency. The longitudinal slope of a channel should be 1% or greater. All side slopes shall be 4:1 or flatter in residential areas and 3:1 or flatter in commercial areas unless otherwise approved by the City Engineer and Planning Commission.
- (b) The maximum permissible design velocity shall not be greater than the erodible velocity of the design year storm used to design the ditch. Channel linings will be required as per the ODOT Design Manual. In designing an open ditch, the flow and grade shall be addressed so as to prevent stagnation. All seeding, mulching and sodding shall be installed immediately after construction as per ODOT Item 659 and 660, and kept in ideal growth conditions until established.
- (c) Easements or right-of-way widths for open ditches shall be equal to the bottom width, plus six times the design depth of flow and not less than 15 feet.

**(8) Retention/Detention Basins**

- (a)** An adequate amount of land shall be designated for the sole purpose of detention or retention of storm water runoff. Said area shall be located on a separate non-buildable lot deeded to and maintained by a homeowner's association or similar legal entity. Said homeowner's association or similar legal entity shall execute a perpetual maintenance agreement suitable for recording with the final record plat at the Recording Office of Hamilton County. If the maintenance of the area does not meet the requirements of the city's NPDES permit, the city has the right to maintain said property as applicable under R.C. §715.41 and 715.47. The detention or retention area shall be used as a temporary sedimentation basin during construction. It will be the responsibility of the developer to ensure that the detention or retention area meets all original design characteristics prior to the end of each of the maintenance bond periods for each of the sections of development.
- (b)** In order to minimize storm runoff damage to downstream properties and overloading of existing drainage courses, the following criteria shall be followed on all development of parcels one acre or larger in size, and on all redevelopment of existing buildings or site usage as determined by the Planning Commission.
- (i)** Stage 1 shall allow the discharge of the ten-year pre-developed storm flow and provide for the detention of a volume equal to the ten-year storm flow, post-development less the ten-year pre-developed discharge.
  - (ii)** Stage 2 shall allow the discharge of the 25-year pre-developed storm flow and provide for the detention of a volume equal to the 25-year storm flow, post development less the 25-year pre-developed discharge.
  - (iii)** Stage 3 shall allow the discharge of the 25-year pre-developed storm flow and provide for the detention of a volume equal to the 100-year storm flow, post development less the 25-year pre-developed discharge. The detention volume shall be determined by multiplying the above difference by 25 minutes. The method of retention is subject to approval by the City Engineer.
  - (iv)** Outlet flow control devices shall be multistage.
  - (v)** Other requirements may be imposed for specific cases.
  - (vi)** All detention systems shall include an emergency overflow to control the storm water flow when maximum storage capacity is surpassed.
  - (vii)** No on-site storm drainage shall outlet downstream of the main retention facility without providing supplemental retention as per the above criteria.
- (c)** The bottom of the detention area should be constructed with a minimum slope of 0.5%. Side slopes for detention facilities shall be no steeper than 4:1, unless existing natural conditions do not make this possible. Anti-seep collars shall be used on all pipe outlets of retention basins or ponds. There shall be a minimum of six inches of freeboard between the top of the dike and the water surface in the reservoir with the emergency spillway flowing at the 100-year design flow. The emergency spillway shall safely pass the peak flow for a 100-year frequency storm with a safe velocity of not more than 8.0 fps. The spillway is to be cut on existing ground, or other protection on the fill slope is to be provided. A minimum of 20 feet access easement shall be provided for easy ingress and egress to and from the basin. The access shall have a maximum slope of 25%. Trash guards should be installed when clogging of the outlet structure is probable. Anti-vortex devices should be used at the top of all riser pipes in retention ponds.

**(9) Sanitary Sewers**

- (a)** Sanitary sewers shall be constructed in accordance with the standard plans and specifications for sanitary sewers as prepared and adopted by the Metropolitan Sewer District.
- (b)** In general, sewerage works and facilities shall be designed in accordance with State Health Department requirements, and all rules and regulations of the Metropolitan Sewer District, and will be subject to State EPA approval.

**(10) Water Mains**

Water mains, service connections and appurtenances shall meet the requirements set forth in Operation and Regulations of the City of Cincinnati Waterworks or subsequent amendments.

**(11) Records**

The owner or his engineer shall file with the City Clerk copies of the as-built drawings, corrected to show exact location, grades and necessary elevations and other pertinent data, for all structures or facilities installed under the surface of the ground, including all water and sewer mains and service connections.

**(12) General**

All sewer and utility pipelines shall preferably be placed outside the limits of the pavement. All excavations for public utilities made under paved areas shall be properly backfilled with approved granular materials thoroughly compacted in place.

- (a)** The streets shall be graded, surfaced, and improved to the dimensions as required by these Subdivision Regulations. All streets shall be graded the full width of the right-of-way. Grading for street improvements shall not create soil slopes exceeding a vertical rise of one foot for each three feet of horizontal distance unless otherwise recommended by the City Engineer and the Planning Commission.
- (b)** The surface of all streets shall be of Portland cement concrete or asphaltic cement. All streets shall be constructed in accordance with design characteristics at least equal to the minimum requirements of the city. The Planning Commission may require the use of heavy-duty asphalt pavement and/or special consideration of sub-grade construction in locations where large volumes of vehicles or heavyweight vehicles and truck traffic are anticipated.
- (c)** Prior to the construction of street pavements, adequate surface and any necessary subsurface facilities shall be installed by the subdivider.
- (d)** Provisions for storm drainage shall meet the requirements of [§153.24\(T\)](#).
- (e)** All construction shall be completed in accordance with the approved specifications, and in a manner acceptable to the city authorities having jurisdiction. When changes from the accepted plans and specifications become necessary during construction, written approval from the Zoning Enforcement Officer shall be secured prior to the execution of such changes.

**(Q) Curbs and Gutters**

- (1)** Concrete curb and gutter shall be provided along the outside edge of all street pavements.
- (2)** Curbs and gutters shall be installed by the subdivider in compliance with the specifications of the city. Straight curbs shall be required along all road classification pavements.
- (3)** Curbs shall be concrete and designed and constructed in accordance with ODOT Item 609.04, as approved by the City Engineer and Zoning Enforcement Officer.

**(R) Sewage Disposal**

- (1) Where a public sanitary sewer main is reasonably accessible, in the judgment of the Metropolitan Sewer District, the subdivision shall be provided with a complete sanitary sewer system connected with such sewer main, including a lateral connection for each lot.
- (2) On-site sewage facilities shall be prohibited within any minor or major subdivision.
- (3) The subdivider shall furnish the Planning Commission a complete set of plans and profiles as approved by the various authorities having jurisdiction and shall provide proof of approval by the Hamilton County Health Department.

**(S) Water Supply**

- (1) The developer shall install or cause to be installed a public water system that complies with the following:
  - (a) A complete water main system which shall be connected to a public or other community water supply shall meet the requirements of the State of Ohio or other government authority having jurisdiction, and shall be approved by the City Engineer, the Zoning Enforcement Officer and the Planning Commission.
  - (b) The plans for the complete installation shall show size, location, depth, material and all connections thereto, including fire hydrants and valves.
  - (c) The subdivider shall furnish the Commission a complete set of plans and profiles as approved by the City Engineer and Zoning Enforcement Officer.
  - (d) In all instances, fire hydrants shall be spaced a maximum of 400 feet apart.
  - (e) No water main shall be less than eight inches in diameter with smaller mains being permitted with the approval of the City Engineer and Planning Commission, larger mains will be required where determined necessary by the City Engineer, Zoning Enforcement Officer and the Planning Commission.
  - (f) A water main shall be required to extend across the complete frontage of the subdivision to facilitate future development.
- (2) On-site water production systems and facilities shall be prohibited within any minor or major subdivision.

**(T) Storm Drainage**

- (1) Adequate surface and subsurface drainage ways for the removal of storm water shall be provided by the subdivider. The extent to which storm drainage facilities shall be required shall be based upon an analysis of need prepared for the subdivider by a registered professional engineer. The analysis shall be based upon the rational method of computing storm water runoff for areas up to 640 acres. For areas over 640 acres, appropriate SCS methods as approved by the City Engineer shall be used. Times of concentration, soil infiltration rates and other variable factors to be used in the analysis shall be discussed with and approved by the City Engineer during the preliminary consideration of the subdivision.
- (2) A storm water sewer system, which shall be separate and independent of the sanitary sewer system, with surface inlets, shall be provided by the subdivider in all cases where curb and gutter is to be installed and whenever the available evidence indicates that such a system is necessary due to the inadequacy of the natural surface drainage.
- (3) All drainage of non-sanitary water, including sump pumping, roof drains, drain tiles and so on shall be approved by the City Engineer.
  - (a) The developer, subdivider or builder shall provide as a part of the plans and specifications for any structure or development, a proposal and recommendation for the proper discharge of basement and/or foundation drainage. The recommendations shall meet the requirements of the City Engineer and the Zoning Enforcement Officer. Final approval shall be made by the Planning Commission.

- (b) Under no circumstances will the subdivider, developer, builder or occupant be permitted to discharge such drainage onto any street, alley, sidewalk or other public right-of-way.
- (4) To ensure proper drainage right-of-way width, the following requirements shall be incorporated in the plat:
  - (a) Drainage easements shall have a width adequate to include the bottom width of the stream plus side slopes not steeper than three feet horizontal to one foot vertical.
  - (b) Pipe used for drainage purposes shall be in accordance with the standard specifications of the State of Ohio Department of Transportation, Division of Highways, as approved by the City Engineer and Zoning Enforcement Officer.
- (5) The plans for the complete installation of the storm drainage system showing all locations, materials, size and profiles shall be prepared by a registered engineer at the expense of the subdivider or developer and shall be approved by and meet the requirements of the State of Ohio or other government agency having jurisdiction, and shall be approved by the City Engineer, Zoning Enforcement Officer and the Planning Commission.
- (6) All storm drainage grates shall be constructed to allow bicycles to pass over the grate safely.
- (7) Storm drainage flow lines as indicated on the preliminary and final plats shall be clearly identified and protected by restrictive covenants, homeowners associations, deed restrictions or other appropriate mechanisms to ensure that individual properties maintain required drainage ways.
- (8) The subdivider shall furnish the Planning Commission a complete set of plans and profiles as approved by the various authorities.

**(U) Public Utilities And Underground Facilities**

- (1) Public and common underground electric, cable, and telephone lines and other utilities are mandatory in all residential, office, commercial and industrial subdivisions and districts, and shall be placed in their own easement, shown on the final or record plat. These underground utility requirements shall also apply to any lines required to serve the new development that extend outside the boundary of the development. The conduits or cables shall be located within easements or public rights-of-way in separate trenches, in a manner which will not conflict with other underground services.
- (2) In industrial subdivisions where the electric power provider advises the city that the power load requirements are sufficiently large as to make underground service impractical or unfeasible, electric, cable, and telephone lines may be installed overhead along rear lot lines with the approval by the Planning Commission. Should the Planning Commission approve an overhead distribution system, all connections to it shall be made underground. All facilities are to be constructed on one side of the road without overhead crossovers.
- (3) Where cable and television service or conduit is or will be in operation, the subdivider shall install cable or conduit for such service simultaneously with and in the same manner as electric and telephone cables are installed, both within the right-of-way and to individual building connections.
- (4) All excavations for public utilities made under paved areas shall be properly backfilled with approved granular materials thoroughly compacted in place, subject to the approval of the City Engineer.
- (5) All storm drainage grates shall be constructed to allow bicycles to pass over the grate safely and shall have the words "No Dumping Drains to Stream", or similar, cast into the grate.

**(V) Street Lighting**

- (1) Provisions shall be made by the subdivider for the adequate installation of the lighting of public streets within the subdivision. The proposed street lights shall fully meet all standards and requirements of the city.
- (2) Street lights shall be, unless otherwise approved by the Planning Commission, served by underground wiring.
- (3) Decorative street light fixtures shall be chosen from a list of fixtures approved and on file by the Planning Commission. Upon a detailed request by the applicant, the Planning Commission may approve street light fixtures not on file with the city on a case-by-case basis. A plan for street lights shall be reflected on and made a part of the construction drawings. All street lights shall be maintained by the power company unless private maintenance is permanently provided as guaranteed by a legally recorded document submitted to and approved by the Planning Commission.

**(W) Street Signs**

- (1) Appropriate street names shall be provided by the city. The subdivider shall install the standard Silverton street sign model and color as instructed by the city at all street intersections. The timing of the sign installations shall be directed by the city.
- (2) Street signs shall be of the same material, design and color as other street signs in the city unless otherwise permitted by the Planning Commission.
- (3) Street signs and names shall not be duplicated nor closely approximate any existing street name in the city, except the extension of an existing street.

**(X) Mailboxes**

All mailboxes within any subdivision shall be of a uniform size and design throughout the development. The size and design of the mailboxes shall be approved by the Planning Commission during the preliminary plat review stage.

**(Y) Landscape Development**

- (1) All unpaved or otherwise unimproved areas within the public right-of-way, or public use areas, shall be graded and seeded in an approved manner.
- (2) The subdivider shall take necessary steps to prevent silting and erosion during construction to meet the standards of the Ohio Environmental Protection Agency (OEPA).
- (3) A landscape plan shall be provided with all subdivision applications.
- (4) Adequate landscaping shall be provided between the subdivision and other noncompatible uses according to the landscaping and bufferyard requirements subchapter.
- (5) The developer shall provide an attractively landscaped entrance into the development with identification signage and landscaping.
- (6) All new residential lots shall have an appropriate cover of undisturbed existing vegetation, seed and straw, fresh-cut sod or spot sod within three months from the issuance of the certificate of occupancy for the new residential structure.
- (7) The developer shall plant first-class nursery grade street trees, with not less than a three-inch caliper, every 25 feet on both sides of the street. At the time of planting, the minimum tree size shall be a three-inch caliper. Existing trees that are properly located may be used in lieu of required trees. All tree-planting plans may be modified and/or approved by the Planning Commission. Street trees located within a center median of any private or public roadway shall have a water service line extended to the median and the city's typical water spigot and lock system installed for the purposes of adequate water supply for tree maintenance.

**(8) Payments In Lieu Of Tree Planting**

- (a)** The Planning Commission may permit the developer to completely or partially elect out of the tree planting requirement stated above by making a park development payment in lieu of tree plantings. Said election must be requested for in writing by the developer and state the reasons such modification from the 25-foot tree planting requirement should be considered.
- (b)** If the Planning Commission permits the developer to proceed under this option, the payment in lieu of tree plantings shall be \$50 per tree, based upon the total number of trees required to be planted under this section. Payment must be made to the city prior to the final record plat being placed on the City Council agenda for final consideration. Each payment shall only account for the required trees contained within the subdivided section being considered for recordation as indicated on the final record plat. All payments made under this division shall be earmarked for the exclusive use of developing and maintaining municipal park facilities.
- (c)** The developer shall provide the city with a suitable bond or letter of credit for the maintenance of all street trees planted within any public right-of-way areas within the project area. The bond or letter of credit shall be in an amount of full replacement value for all vegetation planted including removal and installation costs. The bond or letter of credit shall be in effect for 24 months beginning from the day of planting of the vegetation.

**(9) Streetscape Improvements**

- (a)** If the proposed major or minor subdivision is located within an area of the city included in the adopted Silverton Streetscape Plan, the developer shall be required to install improvements along the public street area of the subject site that conform to the city's Streetscape Plan. These items may include pavers, sidewalks, street trees, street lighting and planters consistent with the specifications found in the Streetscape Plan.
- (b)** The Planning Commission may permit the developer to make a streetscape improvement payment-in-lieu request where one or all of the required streetscape improvements are deemed to be premature relative to adjacent property development or the status of the overall streetscape construction phasing. In this event, the city shall transfer these monies to the Streetscape Improvement Fund and hold the funds for no more than five years. The monies placed in this fund shall be used exclusively for streetscape improvements benefitting the applicant's property. If the streetscape improvements are not made within the five-year period, the city shall promptly return those remaining streetscape improvement funds to the development.

**(Z) Monuments and Markers**

- (1)** Permanent monuments shall be set at locations required by the City Engineer and the Zoning Enforcement Officer.
- (2)** Monuments similar and equal to those required by the Hamilton County Engineers office shall be provided and installed by the subdivider.
- (3)** Markers shall consist of galvanized steel, iron pipe, or steel bars at least 24 inches in length and 5/8-inch in outside diameter.
- (4)** Monuments and markers shall be provided by the subdivider and so placed that the center point shall coincide with the intersection of lines to be marked and the top level with the surface of the surrounding ground after final grading.



**(AA) Privately Developed Facilities**

No major or minor subdivider shall lay out any private road, street, highway, lane or boulevard, unless the proposed road, street, highway, lane or boulevard is built in compliance with the standards of design and construction applicable to public streets. Where the subdivision is to contain sewers, sewage treatment facilities, water supply systems, park areas or other physical facilities which will not be maintained by existing public agencies, the same shall be designed and built according to the city's, or where applicable, the county's prevailing design standards. The Planning Commission may waive those public improvement standards for minor subdivision improvements on a case per case basis.

**(BB) Soil Erosion and Sediment Control Standards**

- (1)** These regulations establish technically feasible and economically reasonable standards to achieve a level of subdivision design and construction to minimize damage to property, degradation of natural resources, and to promote and maintain the health, safety and general well-being of all life and inhabitants of the city. Further, these regulations promote development while keeping downstream flooding, erosion and sedimentation at existing levels, and reduce damage to receiving streams and drainage systems which may be caused by impairment of their capacity, which may be caused by sedimentation.
- (2)** Construction site erosion and sediment control.
  - (a)** No person shall cause or allow earth-disturbing activities, land clearing, grading, excavating or filling except in compliance with the performance criteria set out in division [\(3\)](#) of this section.
  - (b)** Erosion and sediment control practices used to satisfy the performance criteria shall meet the standards and specifications in the current edition of The Rainwater and Land Development handbook (a copy of this may be obtained from Hamilton County Soil and Water Conservation District).
  - (c)** The performance criteria are general guidelines and shall not limit the right of the city to impose additional, more stringent requirements, nor shall the criteria limit the right of the city to waive individual requirements.
- (3) Performance Criteria**
  - (a)** Sediment control practices shall be functional throughout earth-disturbing activity. Settling facilities, sediment barriers, and other practices intended to trap sediment shall be implemented as the first step of grading and within seven days from the start of grubbing. They shall continue to function until the up-slope development area is restabilized.
  - (b)** Denuded areas shall have soil stabilization applied within seven days if they are to remain dormant (undisturbed) for more than 45 days. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site, and shall also be applied within seven days to denuded areas which may not be at final grade, but will remain dormant longer than 45 days.
  - (c)** Concentrated storm water runoff from denuded areas flowing at rates which exceed the design capacity of sediment barriers shall pass through a sediment-settling facility. The facilities storage capacity shall be 133 cubic yards per acre of drainage area.
  - (d)** Sheet flow runoff from denuded areas shall be intercepted by sediment barriers. Sediment barriers, such as sediment fences or diversions directing runoff to settling facilities, shall protect adjacent properties and water resources from sediment transported by sheet flow.

- (e) All storm sewer inlets which accept storm water runoff from the development area shall be protected so that sediment-laden water will not enter the storm sewer system without first being treated to remove sediment, unless the storm sewer system drains to a settling facility.
  - (f) Streams, including bed and banks, shall be restabilized immediately after in-channel work is completed, interrupted, or stopped. To the extent practicable, construction vehicles shall be kept out of streams. Where in-channel work is necessary, precautions shall be taken to stabilize the work area during construction to minimize erosion.
  - (g) If a live (wet) stream must be crossed by construction vehicles regularly during construction, a temporary stream crossing shall be provided.
  - (h) Measures shall be taken to prevent soil transport onto surfaces where runoff is not checked by sediment controls or onto public roads.
  - (i) No soil, rock, debris, or any other material shall be dumped or placed into a water resource or into such proximity that it may readily slough, slip, or erode into a water resource, unless such dumping or placing is authorized by the Hamilton County Soil and Water Conservation District, and when applicable, the U.S. Army Corps of Engineers, for such purposes as but not limited to construction of bridges, culverts, and erosion control structures.
  - (j) Unstable soils prone to slipping or landslides shall not be graded, excavated, filled or have loads imposed upon them unless the work is done in accordance with a qualified professional engineer's recommendation to correct, eliminate, or adequately address such problems.
  - (k) Cut and fill slopes shall be designed and constructed in a manner which will minimize erosion. Consideration shall be given to the length and steepness of the slope, soil type, up-slope drainage area, groundwater conditions, and slope stabilization.
  - (l) Outfalls and constructed or modified channels shall be designed and constructed to withstand the expected velocity of flow from a post-development, 25-year frequency storm without eroding.
  - (m) Permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until ground cover is achieved which, in the opinion of the city, provides adequate cover and is mature enough to control soil erosion satisfactorily and to survive adverse weather conditions.
  - (n) All temporary erosion and sediment control practices shall be removed or permanently stabilized within 30 days after final site stabilization is achieved, or after the temporary practices are no longer needed, unless otherwise authorized by the city.
  - (o) All temporary and permanent erosion and sediment control practices shall be designed and constructed to minimize maintenance requirements. They shall be maintained and repaired as needed to assure continued performance of their intended function. The person or entity responsible for the continued maintenance of permanent erosion controls shall be identified to the satisfaction of the city.
- (4) Administration; Soil Erosion Sediment Control (SESC) Plan Content**

In compliance with division [\(2\)](#) and [\(3\)](#) of this section, a SESC plan shall identify potential erosion and sediment pollution problems from the development area and describe measures to be taken to control those problems. The SESC plan must be submitted to and approved by and a permit shall be obtained from the Ohio Environmental Protection Agency prior to any earth-disturbing activity on the development area. The SESC plan shall contain the following information:

**(a) Narrative**

The following narrative shall be included on the site plans in the form of notes:

- (i)** The schedule of major construction operations as related to implementing erosion and sediment control practices;
- (ii)** Maintenance requirements for temporary erosion and sediment control practice:
  - A. Sediment levels necessitating clean-out; and
  - B. Person to perform maintenance.
- (iii)** The name, address and telephone number of the SESC plan designer and the owner or person(s) responsible for the development area.

**(b) Site Plan**

- (i)** Vicinity map at a scale of not less than 2,000 feet to the inch, locating the site in relation to the surrounding area;
- (ii)** Limits of earth-disturbing activity;
- (iii)** Existing and proposed topography shown in appropriate contour intervals;
- (iv)** Existing and proposed drainage patterns including watershed lines, directions of flow and watershed acreage. Drainage patterns during major phases of construction shall also be included as appropriate;
- (v)** The types of soils within or affected by the development area and the location of all highly erodible or unstable soils;
- (vi)** Erosion and sediment control practices:
  - A. Their location;
  - B. Settling ponds drawn to scale with basic dimensions; and
  - C. Detail-drawings of structural control-practices.
- (vii)** Proposed utilities which may affect erosion and sediment control practices.

**(5) Inspection and Enforcement Actions**

The City Engineer shall inspect any permitted development area to determine compliance with the approved plan and these regulations. When it is determined that there is a violation or the development area is not in compliance the following procedure shall be followed:

- (a)** The inspector representing the city shall notify the site superintendent of the violation and the work required to be in compliance with the approved plan and these regulations. Notification will be in writing.
- (b)** If the violation still exists, the issue may be reported to the City Engineer for consideration. If the City Engineer determines that a violation exists one or all of the following options may be pursued:
  - (i)** The SESC permit may be revoked. No earth-disturbing activity shall proceed without a SESC permit.
  - (ii)** An injunction or other appropriate relief may be sought through a court of competent jurisdiction.

- (6)** The inability to perform any of the inspection and enforcement procedures as defined in this section shall not preclude the use of any other procedure, nor shall the procedure be binding in cases of severe hazard or threat to public welfare as determined by the city.

**(CC) Hillside Development Regulations**

These regulations apply to all hillside areas in the city. A hillside area as referred to herein is defined as one with an average slope of more than 15%. The subdivider shall submit sufficient detailed information as to geologic conditions, soil types, and underground water level in order that a determination can be made by the City Engineer as to the safety of development of the particular location.

**(1) Determination of Average Slope**

The average slope for any hillside development shall be determined by the Planning Commission from the preliminary subdivision submittal. Determination will be on area-by-area basis with each lot sized according to the average topographic change falling within each area.

**(2) Grading Plan and Controls**

The overall development plan shall show contour lines at two-foot intervals. Elevations are to be based on the sea level datum (U.S.G.S.), with conversions shown to local datum. The lot layout and the approximate dimensions shall be shown for each lot and each building site. Where pads are utilized or proposed for building sites, engineering data shall show the existing topography and the proposed finished grades, location and size of each building site, and finished grade of streets prior to consideration of the final record plat.

**(3) Cuts and Fills**

No land shall be graded, cut, or filled so as to create a slope exceeding a vertical rise of one-foot for each three feet of horizontal distance between abutting lots, unless a wall of sufficient height and thickness is provided to retain the graded bank. Major cuts, excavation, grading, and filling, where the same materially changes the site and its relationship with the surrounding areas or materially affects such areas, shall not be permitted if such excavation, grading, and filling will result in a slope exceeding a vertical rise of one-foot for each three feet of horizontal distance between abutting lots or between adjoining tracts of land, except where adequate provision is made to prevent slides and erosion by cribbing and retaining walls.

**(4) Compaction of Fill**

All fill shall be compacted to a density of 90% or greater in accordance with ASTM D-6-98. Inspection of fill shall be conducted by the City Engineer.

**(5) Retaining Walls**

Retaining walls may be required whenever topographic conditions warrant. Retaining walls shall be designed in accordance with currently accepted design practices and approved by the City Engineer.

**(6) Minimum Design Requirements**

Minimum front yard, rear yard, side yard, and setback requirements shall be in accordance with specifications as set forth by the zoning regulations of the applicable political subdivision. Minimum right-of-way and pavement widths shall conform to the street design standards as stated in this subchapter.

**(7) Street Alignment**

The following regulations shall govern street alignment:

- (a)** Vertical profile grades shall be connected by vertical curves;
- (b)** Waiver of visibility requirements may be given subject to the approval of the Planning Commission and the City Engineer; and,

(c) Waiver of vertical curve requirements may be given subject to the approval of the Planning Commission and the City Engineer.

**(8) Driveways**

The maximum grade on driveways shall not exceed 10% to the street.

**(9) Sidewalks**

Concrete sidewalks having a minimum width of five feet and having a minimum thickness of five inches shall be installed along the uphill side.

**(10) Conservation Easement Required**

Those areas within a hillside development exceeding a 15% slope and not containing a building footprint shall designate those non-building areas to be a non-disturbance area. A conservation easement requiring no permanent structures be constructed in this area and no removal of existing vegetation shall be recorded with the final record plat to preserve these areas in perpetuity as non-disturbance zones.

**(DD) Construction Clean Up Requirements**

The subdivider and all contractors working within the project shall maintain any adjacent public street free and clear of mud, dust and debris originating from the project site. Clean up activities shall be provided on a daily basis if necessary to avoid the movement of dirt, mud and other debris onto adjacent public right-of-way areas. A construction clean-off area shall be provided on the project site and indicated on the construction drawing submission identifying a designated area for construction vehicles and other equipment to be cleaned prior to entering adjacent public right-of-way areas. The failure to properly maintain the adjacent public right-of-way areas in a clean and orderly fashion may result in a violation of these Subdivision Regulations.

**(EE) Notification; Inspections**

During the course of the construction of the improvements, the subdivider shall be required to notify the City Engineer at least 24 hours before each of the following operations in order that required inspections can be made:

- (1) All street subgrades, especially areas where compacted backfilling was placed over subterranean construction, and curb and gutter construction before base material is deposited in place.
- (2) The base construction before pavement is placed on the base material. It is essential that these inspections be made in order for the city to ascertain the quality of construction preliminary to accepting the improvements for public maintenance. Additional inspections may be required by the City Engineer. The subdivider shall pay a fee for all required inspection. Before Council accepts streets and improvements, all applicable fees shall have been paid to the city.

**(FF) Completed Construction Notification**

When the subdivider has completed construction of the improvements, he shall notify the City Engineer by letter, in two copies, and formally request a final inspection. In this letter, the subdivider shall briefly describe all the improvements and shall enclose two copies of the subdivision plan which show these improvements as installed.

**(GG) Recommendation for Acceptance**

Before acceptance of subdivision improvements, the City Engineer shall inspect these improvements as described above and submit a report to Council on the condition of such improvements and a recommendation for action thereon.

**(HH) Notification Of Inspection Results**

No later than seven days after the final inspection of the subdivision improvements, the City Engineer shall notify the subdivider in writing of the results of the inspection.

**(II) Final Plat Restrictions And Covenants**

Each final plat submitted to the City Council for approval shall contain statements in the restrictive covenants providing for the following items:

- (1)** All utility easements as dedicated on the face of the plat shall be kept free of all permanent structures and the removal of any obstructions such as structures, trees, shrubbery, fences or other installations thereon, whether temporary or permanent, by a utility company, shall in no way obligate the utility company in damages or to restore the obstruction to its original form.
- (2)** Before any lot or tract located within the subdivision may be used and occupied, such user or occupier shall first obtain from the Zoning Enforcement Officer the zoning permit required by the Zoning Code.
- (3)** Before any house or building on any lot or tract in the subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions, the developer or any subsequent owner of such lot or tract shall install all improvements serving the lot or tract as provided in the plans and specifications filed with the Planning Commission.
- (4)** Before any house or building on any lot or fraction thereof in the subdivision shall be used or occupied as a dwelling or as otherwise provided in these Subdivision Regulations and the Zoning Code, the developer or any subsequent owner of the lot or tract shall first obtain from the Zoning Enforcement Officer the zoning permit as required by the Zoning Code.
- (5)** The further subdivision of any lot or combination of lots, within the subdivision previously approved by the Planning Commission, is prohibited, unless and until the Commission has reviewed and approved the change.

**(JJ) Certification Forms For Plat Recording**

To entitle a final plat to be recorded, such certificates as required by law shall be lettered or printed on the final plat. This chapter lists certain certificates, some of which shall be placed on every plat, other certificates are optional and serve as a guide only.

**(1) Deed Of Dedication**

Each final plat submitted to the Planning Commission for approval shall carry a deed of dedication in substantially the following form:

|   |
|---|
| <p><b>Deed of Dedication</b></p> <p>We, the undersigned (name), owners of the real estate shown and prescribed herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance within plat.</p> <p>This subdivision shall be known and designated as (name), an addition to (name). All streets, alleys, parks and other public lands shown and not heretofore dedicated, are hereby dedicated, to the public.</p> <p>Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structures.</p> <p>Witness our Hands and Seals this day of, (Year)</p> <p>State of Ohio )</p> <p>County of Hamilton )</p> <p>City of Silverton )</p> <p>Before me, the undersigned Notary Public, in and for the City, County, and State, personally appeared (name), (name), and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed; for the purposes therein expressed. Witness my hand and Notarial Seal this day of, (Year)</p> <p>Notary Public</p> |
|---|

**(2) Survey Certification**

Each final plat submitted to the Planning Commission for approval shall carry a certificate signed by a registered professional engineer or land surveyor in substantially the following form:

APPROVED

LAND SURVEYOR

(OR PROFESSIONAL ENGINEER)

OF THE STATE OF OHIO

I, (name), hereby certify that I am a professional engineer (or a registered land surveyor), licensed in compliance with the laws of the State of Ohio;

that this plat correctly represents a survey completed by me on (date); that all the monuments shown thereon actually exist; and that their location, size, type and material are accurately shown,

(SEAL)

Land Surveyor (or Professional Engineer)

**(3) Approval of Zoning Enforcement Officer**

Each final plat submitted to the City Council for approval shall carry a certificate to be signed by the Zoning Enforcement Officer in substantially the following form:

APPROVED

ZONING ENFORCEMENT OFFICER

OF SILVERTON, OHIO

Zoning Enforcement Officer

This day of, (Year)



**(4) Approval of City Engineer**

Each final plat submitted to the City Council for approval shall carry a certificate to be signed by the City Engineer in substantially the following form:

|  |
|--|
| APPROVED<br>CITY ENGINEER OF SILVERTON, OHIO<br>City Engineer<br>This day of, (Year) |
|--|

**(5) Approval of Planning Commission**

Each final plat submitted to the City Council for approval shall carry a certificate to be signed by the Secretary of the Planning Commission in substantially the following form:

|   |
|---|
| APPROVED<br>PLANNING COMMISSION OF<br>SILVERTON, OHIO<br>Secretary<br>This day of, (Year) |
|---|

**(6) Council Certification**

Each final plat submitted to the City Council shall carry a certificate to be signed by the City Clerk in substantially the following form:

|   |
|---|
| APPROVED<br>COUNCIL OF SILVERTON, OHIO<br>City Clerk<br>This day of, (Year) |
|---|

**(7) Approval of Hamilton County Sanitary Engineer**

Each final plat submitted to the City Council for approval shall carry a certificate to be signed by the Hamilton County Sanitary Engineer in substantially the following form:

APPROVED  
HAMILTON COUNTY SANITARY ENGINEER  
Engineer  
This day of, (Year)

**(8) EPA Or County Health Approval**

Each final plat submitted to the City Council for approval shall carry a certificate to be signed by the appropriate official of the Ohio Environmental Protection Agency in substantially the following form:

APPROVED  
OHIO ENVIRONMENTAL PROTECTION AGENCY  
This day of, (Year)

NOTE: If septic tanks are involved, certification shall be by the health department of the county of jurisdiction.

**(KK) Developer Performance Bond**

Each final record plat submitted to Council for approval shall be accompanied by a performance bond agreement on a form provided by the City Engineer. The performance bond agreement shall be signed by the subdivider or developer.

**(LL) Certificate of Occupancy**

No building certificate of occupancy shall be issued by the Chief Building Official for the city for the occupancy of any building, structure or improvement to the land or any lot within a subdivision as defined herein, which has been approved for platting or replatting, until all subdivision plans have been approved, the final plat recorded, the zoning requirements met, and the performance bond posted to guarantee installation of all the required improvements.

**(MM) Right-Of-Way Permit Required**

No person, corporation or firm, other than an authorized employee of the city, shall construct a driveway approach connecting to a public street or right-of-way, or cut, break out or remove any curb along any street or other public way without first obtaining a driveway approach/curb cut permit. Each day of such violation shall constitute a separate offense. Applications for such driveway approach/curb cut permits shall be made at the City Engineer's office, according to the application procedures in this subchapter. The City Engineer or his or her designate may require such construction plans or drawings with the permit application as he deems necessary to:

- (1) Permit all reviewing authorities to make an intelligent and conclusive review of the application;
- (2) Enable the contractor to construct the proposed facility in accordance with the terms of the permit;

- (3) Enable the individual responsible for inspection to ensure that the facility is constructed in accordance with the terms of the permit; and
- (4) Serve as a record of the construction authorized by the permit.

**(NN) Right-Of-Way Permit and Fees**

If the City Engineer has determined that a permit to work in the right-of-way is required, the applicant shall submit the completed permit, available from the City Engineer's office, together with the fees for such permit. The fees shall be established and amended from time to time by City Council.

**(OO) Conditions**

The City Engineer may impose conditions in the permit upon the construction of the driveway approach/curb cut, which conditions are designed to facilitate the safe movement of pedestrian traffic and the safe and expeditious movement of motor vehicles on the public streets or ways affected by the driveway approaches/curb cuts. The conditions imposed upon driveway approaches/curb cuts under this section shall take into consideration the designed speed limit and sight distance at the location and may include, but are not limited to, the following:

- (1) Limitations of the number, size and location of driveway approaches/curb cuts for any premises to which the permit applies;
- (2) Requiring the use of alternative means of access such as service or private drives or frontage roads, to run parallel to the public street or way, rather than direct connection to the public street or way where such alternate means are accessible to the premises to which the permit applies and/or requiring that direct connection of driveway approaches/curb cuts to the public street or way be limited and used only until alternative means of access such as service or private drives or frontage roads are made accessible to the permit premises;
- (3) Limiting the construction of driveway approaches/curb cuts to only one public street or way where the premises to which the permit applies abuts more than one public street or way;
- (4) Requiring that driveway approaches/curb cuts be marked and/or constructed to allow only entrance to or only exit from the permit premises;
- (5) Requiring the construction of safety islands to separate two driveway approaches/curb cuts;
- (6) Requiring the construction of right hand and/or left-hand deceleration/acceleration and/or storage lanes, which shall be required to be a minimum of 200 feet each way with a 100-foot taper, or longer as determined by the traffic impact study. Such lanes may be permitted to be decreased, based on the physical conditions, characteristics and use of the property. Such lanes shall meet the requirements of the Silverton Construction Standards and include the appropriate traffic control devices, including, but not limited to, signals, as necessary;
- (7) Requiring the construction of driveway turnaround facilities so that vehicular traffic can change direction on the permit premises and enter the roadway in a forward direction;
- (8) Requiring the consolidation of access points. Major access points on opposite sides of roadways shall be located opposite each other. If not so located, turning movement restrictions may be imposed as determined necessary by the City Engineer. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with and between adjacent properties developed (present or future) for similar or compatible uses. As a condition of approval for construction, use, or reuse of any access point, the City Engineer may require that unobstructed and unencumbered access, in accordance with the provisions of this chapter, be provided from any such access point to adjacent properties;

(9) Requiring the consolidation of existing access points. Whenever the use of a parcel of land changes, or two or more parcels of land are assembled under one purpose, plan, entity, or usage, the existing driveway permits shall become void and the new permit shall be based upon the owner/developer's plans to use some existing driveways and/or close or relocate other driveways. Any such new or reauthorized access point must be in compliance with all applicable sections of this regulation.

**(PP) Written Notice of Conditions**

The conditions for the construction of driveway approaches/curb cuts specified by the City Engineer under this chapter shall be provided in writing to the applicant at the time the permit is issued.

**(QQ) Performance and Maintenance Bond or Letter Of Credit Required**

**(1) Performance Guarantee**

At the time of submittal of the final record plat to City Council for consideration of approval, a bond or letter of credit from the applicant or property owner to assure compliance with the conditions imposed under these Subdivision Regulations for the construction of all future public infrastructure shall be provided. The bond or letter of credit shall be in the amount of 110% of the estimated costs of the improvements. A detailed spreadsheet outlining the estimated costs of the approved public infrastructure improvements shall also be provided and approved by the City Engineer. Upon written request by the applicant, the city may permit the pro-rated reduction of the performance guarantee instrument value upon an inspection by the City Engineer documenting the project has progressed to the proposed pro-rated stage of the overall project.

**(2) Maintenance Guarantee**

Prior to the city accepting the public improvements, maintenance bonds shall be posted by all contractors for the infrastructure improvements for which they are responsible in the subdivision approved under this chapter for the full costs of those infrastructure improvements to the subdivision developer. Unless otherwise authorized in advance by the City Council, maintenance bonds for street paving and curb and gutter installation shall be for a minimum of one year. Prior to the release of the maintenance bond after the one year maintenance period, the City Engineer shall perform a final inspection of the improvements to confirm the required condition of the improvements.

**(RR) Existing Driveway Approaches and Curb Cuts**

In any case in which an application for a building permit includes a change in the primary use of the premises, or in any case in which there is construction, reconstruction, enlargement or expansion for larger and essentially commercial construction which must comply with the formal administrative procedures for a zoning permit in [§153.02\(G\)](#), the existing driveway approaches/curb cuts for the premises may be reviewed in accordance with the provisions of this subchapter.

**(SS) Specific Land Use Categories**

The City Engineer may establish general conditions applicable to the construction of all driveway approaches/curb cuts for premises within specific land use categories.

**(TT) Expense of Interference with Public Facilities**

When a proposed driveway approach/curb cut or any facilities required to be constructed in conjunction with any driveway approach/curb cut interferes with street light poles or posts, traffic signal standards, signs, storm water inlets, hydrants, utility poles, fire alarm supports, underground ducts or pipes, drainage facilities or other necessary street structures, the owner of the parcel of land served by the driveway approach/curb cut shall pay the expense of moving and/or altering such structure as determined to be necessary by the City Engineer.

**(UU) Conformance with Transportation Master Plan, Subdivision Regulations and Zoning Code**

Proposed driveway approaches and curb cuts or improvements to existing driveway approaches and curb cuts shall comply with the official Transportation Master Plan as provided in the City Comprehensive Plan, the design and improvement standards under these Subdivision Regulations and with the purpose and restrictions of the Zoning Code before a permit is issued. Whenever a driveway approach and/or curb cut or improvements to existing driveway approaches and/or curb cuts embraces any part of a roadway, such part of the public way shall be platted by the owner or subdivider in the location and at the width indicated by the aforementioned documents.

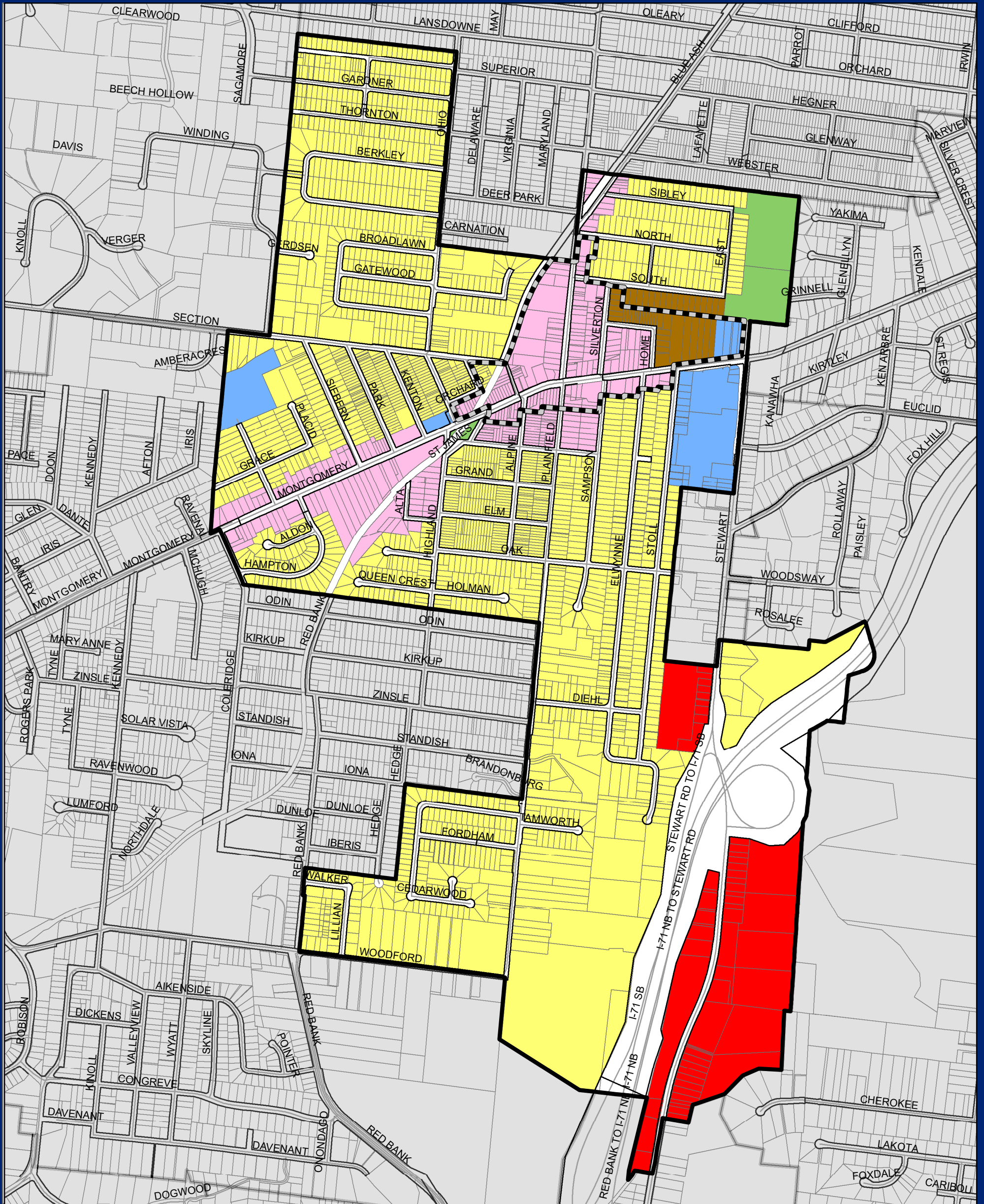
**(VV) Violation**

No person, corporation or firm shall violate any condition specified by the City Engineer under this subchapter in a driveway approach/curb cut permit. Each day of such violation shall constitute a separate offense.

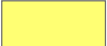






**(WW) Penalty for Subdivision Regulations**

Whoever violates any provisions of these Subdivision Regulations shall be guilty of a minor misdemeanor and shall be fined up to a maximum of \$100 for each offense. Each day's violation is a separate offense.

# SILVERTON ZONING MAP



## Silverton Zoning Districts

- |  |                               |   |                                    |
|--|-------------------------------|---|------------------------------------|
|  | R-1 Single Family Residential |  | R-E Recreation-Education           |
|  | R-2 Multi-Family Residential  |  | SRD Silverton Renaissance District |
|  | C-1 Neighborhood Commercial   |  | PUD Planned Unit Development       |
|  | C-2 Highway Commercial        |   |                                    |

0 250 500 1,000 1,500 2,000 Feet

