



**CITY OF SILVERTON – PLANNING COMMISSION
WORK SESSION**

Silverton City Council Chambers
421 S. Water Street

Meeting to be held in person with a virtual option – Masks required in the Council Chambers

February 22, 2022 - 6:00 PM

Zoom Meeting Link

<https://us02web.zoom.us/j/89030673435>

Dial in

253 215 8782 US (Tacoma)

Meeting ID: 890 3067 3435

AGENDA

I. ROLL CALL

II. BUSINESS FROM THE FLOOR

Items not on the Agenda.

III. AGENDA ITEM

3.1 Development Code Amendments – Landscape Conservation

3.2 Discuss topics for Joint City Council Planning Commission Work Session

IV. REPORTS AND COMMUNICATIONS

V. ADJOURNMENT

Americans with Disabilities Act – *The City of Silverton intends to comply with the A.D.A. The meeting location is accessible to individuals needing special accommodations such as a sign language interpreter, headphones, or other special accommodations for the hearing impaired. To participate, please contact the City at 503-874-2204 at least 48 hours prior to the meeting.*

Please submit written comments to Jgottgetreu@silverton.or.us prior to the meeting time. Comments received will be shared with Planning Commission at the meeting and included in the record. Comments may be mailed to City Hall at 306 S Water Street, put in the drop off box located at the driveway exit of City Hall or delivered to City Hall during regular business hours.

City of Silverton
Community Development Department

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MEMO

DATE: February 17, 2022

FROM: Jason Gottgetreu, Community Development Director

TO: Silverton Planning Commission

RE: Development Code Amendments – Landscape Conservation

The Planning Commission and City Council have identified a number of Development Code items to be reviewed to ensure the Code provisions are adequately promoting the goals and objectives of Silverton and ensuring they are enforceable given the clear and objective requirement for housing developments.

The new draft language regarding tree conservation has been added to the code section as *italics* for review and discussion.

Chapter 3.2 — Landscaping, Street Trees, Fences and Walls

Sections:

- 3.2.100 Purpose**
- 3.2.200 Landscape Conservation**
- 3.2.300 Landscaping**
- 3.2.400 Street Trees**
- 3.2.500 Fences and Walls**

3.2.100 Purpose

The purpose of Chapter 3.2 is to promote community health, safety, and welfare by protecting natural vegetation and setting development standards for landscaping, street trees, fences, and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health, and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Trees and other plants can also buffer pedestrians from traffic. Walls, fences, trees, and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces. The Chapter is organized into the following sections:

Section 3.2.200, Landscape Conservation, prevents the indiscriminate removal of significant trees and other vegetation, including vegetation associated with streams, wetlands, and other protected natural resource areas.

Section 3.2.300, Landscaping, sets standards for and requires landscaping of all development sites that require Land Use Review and Design Review. This section also requires buffering for parking and maneuvering areas, and between different land use districts. Note that other relevant standards are provided in Article 2, Land Use Districts, for specific types of development.

Section 3.2.400, Street Trees, sets standards for and requires planting of street trees for shading, comfort, water quality, and aesthetic purposes.

Section 3.2.500, Fences and Walls, regulates the design of fences and walls, including allowable height and materials, to promote security, personal safety, privacy, and aesthetics.

3.2.200 Landscape Conservation

- A. Applicability.** All development sites containing Significant Vegetation, as defined below, shall comply with the standards of this Section and be subject to development review. The purpose of this Section is to incorporate significant native vegetation into the landscapes of development and to protect vegetation in sensitive natural areas. The use of mature, native vegetation within developments is a preferred alternative to removal of vegetation and re-planting. Mature landscaping provides summer shade and wind breaks, controls erosion, and allows for water conservation due to larger plants having established root systems.
- B. Significant Vegetation.** “Significant vegetation” means street trees and plants within designated sensitive land areas such as flood plains, hillside protection areas, and wetlands, and trees not within such area that have a caliper of six (6) inches or larger at four (4) feet above grade; except that protection shall not be required for non-native, invasive plants (blackberries, poison oak, poison ivy, etc.) and any plants designated by the City as prohibited.
- C. Mapping and Protection Required.** Significant vegetation shall be mapped as required by Chapter 4.2, Design Review. Significant trees shall be mapped individually and identified by species and diameter or caliper at four (4) feet above grade. A “protection” area shall be defined around the edge of all branches (drip-line) of each tree. Drip lines may overlap between trees. The City also may require an inventory, survey, or assessment prepared by an arborist or other qualified professional to determine tree health, construction boundaries, building setbacks, and/or recommended protection or mitigation requirements.
- D. Protection Standards.** Trees on public lands shall not be removed, cut, felled, trimmed or otherwise damaged or destroyed, except as approved by the City. The City may approve removal or trimming when a tree poses an immediate hazard to public safety as determined by the Public Works Director.

Significant trees identified as meeting the criteria in subsection (B) of this section shall be retained unless approved by the City to be removed for development.

1. *Protection of Significant Trees. The applicant must submit a Tree Protection Plan on a site plan map, drawn to scale, that includes the following provisions where appropriate:*
 - a. *Inventory of Significant Vegetation. Depict all significant vegetation by DBH and species, showing property lines, two-foot contours and rock outcroppings.*
 - b. *Building Envelopes. The developer shall depict the buildable area of a lot that is consistent with the lot coverage area of the zone.*
 - c. *Barriers. The developer shall depict protection barriers on the site plan and locate and mark with flagging and/or signs all construction roads, parking places for workers, and areas for the storage of building materials, gravel and soil; stake out the exact locations of all utility trenches; erect physical barriers around*

all trees to be retained or groups of trees around the work site. Barriers that extend beyond the drip-line of the tree are preferred.

- d. Soil Compaction. The Tree Protection Plan shall depict typical details of methods for protecting the critical root zone. If barriers are not feasible to keep away vehicles and foot traffic, use six to eight inches of wood chips spread over the root zone or bridge root area overlaid by plates of steel or other suitable material.*
 - e. Grade Changes. If a grade change is unavoidable, retaining walls shall be used to protect the root system.*
 - f. Severing Roots. Avoid cutting anchoring roots if possible. Tunneling for smaller household utility lines may be an option for tree preservation. When root cuts are unavoidable, the cuts shall be made with a pruning saw.*
 - g. Above-Ground Injuries to Trees. Do not use trees for posting signs, electrical wires and pulleys. Keep trees free of nails, screws, and other fastening devices.*
- 2. Not less than 25% of the cumulative amount of total tree diameter on a site shall be protected and preserved.*

Steps for calculating the cumulative amount of total tree diameter on a site:

- a. Count all trees measuring 6" DBH (minimum 4.5 feet from the ground) or larger on the entire development site.*
 - b. Designate (in certified arborists report) the condition and size (DBH) of all trees pursuant to accepted industry standards.*
 - c. Document any trees that are currently diseased or hazardous.*
 - d. Subtract the number of diseased or hazardous trees in step (3) from the total number of trees on the development site in step (1). The remaining number is the number of healthy trees on the site.*
 - e. Sum the DBH of all healthy trees. This is the cumulative amount of total tree diameter on the site. Not less than 25% of the cumulative amount of total tree diameter on a site shall be protected and preserved.*
- 3. Unless removal is expressly authorized by a land use action or approval issued by the city of Silverton, it shall be unlawful to remove any Quercus garryana (Oregon Oak), on public or private property, larger than or equal to 30 inches in diameter, within the city limits without first making application to the city and obtaining a permit or as otherwise authorized by this code. Removal will not be authorized unless there are no reasonable design alternatives that would enable preservation of such trees. Reasonable design alternatives may include reducing Right-of-Way width, reducing dimensional lot standards and/or setbacks, or other such modifications that would enable the preservation of Oregon Oaks.*

E. Mitigation Required. *In addition to the minimum amount of trees being protected and preserved on site per 3.2.200.D.2, all healthy trees on the site shall either be retained or mitigated if proposed for removal in accordance with the following. The number of replacement trees required on a development site shall be calculated separately from, and in addition to, any public or street trees in the public right-of-way required under 3.2.400.*

1. *The applicant shall determine the number of trees to be mitigated on the site by counting all of the trees 6" DBH (minimum 4.5 feet from the ground) or larger on the entire site and either:*
 - (a) *Trees that are removed outside of the construction area, shall be replanted with the number of trees specified in Column 1 of Table 3.2.200.E-1. Trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2; or*
 - (b) *Diseased or hazardous trees, when the condition is verified by a certified arborist, may be removed from the tree replacement calculation. Regulated healthy trees that are removed outside of the construction area, shall be replanted with the number of trees specified in Column 1 of Table 3.2.200.E-1. Regulated healthy trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2.*
 - (c) *Oregon Oaks in excess of 30" that at proposed for removal shall be replaced with 25 trees regardless of being located within or outside of a construction area.*

Table 3.2.200.E-1

Tree Replacement Requirements
All replacement trees shall be either:
2 inch caliper deciduous, or
6 foot high conifer

Size of tree removed (DBH)	Column 1 Number of trees to be planted. (If removed Outside of construction area)	Column 2 Number of trees to be planted. (If removed Within the construction area)
6 to 12"	3	1
13 to 18"	6	2
19 to 24"	9	3
25 to 30"	12	4
31 and over"	15	5

(d.) *Steps for calculating the number of replacement trees:*

1. *Count all trees measuring 6" DBH (minimum 4.5 feet from the ground) or larger on the entire development site.*
2. *Designate (in certified arborists report) the condition and size (DBH) of all trees pursuant to accepted industry standards.*

3. *Document any trees that are currently diseased or hazardous.*
 4. *Subtract the number of diseased or hazardous trees in step (3) from the total number of trees on the development site in step (1). The remaining number is the number of healthy trees on the site. Use this number to determine the number of replacement trees in steps (5) through (8).*
 5. *Define the construction area (defined as right-of-way, public utility easements, and within the building footprint of a building site for any mixed-use, commercial or industrial development, or if a residential development, within the allowable building footprint permitted by the setback requirements of the zone district.)*
 6. *Determine the number and diameter of trees to be removed within the construction area. Based on the size of each tree, use Column 2 to determine the number of replacement trees required.*
 7. *Determine the number and diameter of trees to be removed outside of the construction area. Based on the size of each tree, use Column 1 to determine the number of replacement trees required.*
 8. *Determine the total number of replacement trees from steps (6) and (7).*
2. *Development applications which opt for removal of trees with subsequent replanting pursuant to this section shall be required to mitigate for tree cutting by complying with the following priority for replanting standards below:*
 - A. *First Priority. Replanting on the development site.*
 - B. *Second Priority. Off-site Replacement Tree Planting Locations. If the Community Development Director determines that it is not practicable to plant the total number of replacement trees on-site, a suitable off-site planting location for the remainder of the trees may be approved that will reasonably satisfy the objectives of this section. Such locations may include either publicly owned or private land and must be approved by the Community Development Director.*
 - C. *Third Priority. Cash-in-lieu of Planting (Tree Bank/Fund). In this case, the Community Development Director may approve the payment of cash-in-lieu into a dedicated fund for the remainder of trees that cannot be replanted in the manner described above.*
 1. *The cash-in-lieu payment per tree shall be as listed on the adopted fee schedule and shall be adjusted annually based on the Consumer Price Index (Index). The price shall include the cost of materials, transportation and planting.*
 2. *The amount of the cash-in-lieu payment into the tree bank shall be calculated as*

the difference between the value of the total number of trees an applicant is required to plant, including cost of installation and adjusted for Consumer Price Index, minus the value of the trees actually planted. The value of the trees shall be based on the adopted fee schedule.

F. Construction. All significant vegetation on a site that is not otherwise designated and approved by the City for removal shall be protected prior to, during, and after construction in accordance with a limit-of-clearing and grading plan approved by the Planning Official. The City may require chain link or other protective fencing around significant vegetation and limit grading activities and operation of vehicles and heavy equipment in and around significant vegetation areas to prevent damage to the resource and to prevent erosion, pollution, or landslide hazards.

1. *Performance Bond. To ensure that the significant trees identified through the development review process will be retained and protected, the Review Authority may require the developer to post a performance bond in an amount determined by the size of the trees being preserved as shown below:*

<i>Tree Size</i>	<i>Bond Amount</i>
<i>4 – 6 inches DBH</i>	<i>\$1,000</i>
<i>6 – 10 inches DBH</i>	<i>\$1,500</i>
<i>10 – 16 inches DBH</i>	<i>\$3,000</i>
<i>Greater than 16 inches DBH</i>	<i>\$5,000</i>

The amount of the required performance bond shall be determined by totaling the number of trees being preserved based on size and bonding value in the above table. The developer may utilize one of the following methods to assure full and faithful performance:

- a. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.*
- b. A cash deposit in a City account at an approved lending institution.*
- c. An irrevocable standby letter of credit from a federally insured banking institution or savings and loan operating in Oregon that unconditionally promises to pay the funds pledged upon demand by the City. Such obligation must be unaffected by the financial status of the person who has obtained the letter of credit.*
- d. An “assurance provider” arrangement between the developer, the City and a federally insured financial institution which assures the City that funds to mitigate the loss or damage of significant trees identified through the development review process for preservation and protection will be provided by the federally insured financial institution to the City in the event the developer does not perform in conformance*

with the Land Use Development Agreement, and the federally insured financial institution must be satisfactory to the City.

e. The City may place a second position lien on the subject property. The lien shall accrue interest at the rate of six percent until such time the lien amount has been collected. The lien amount shall be paid to the City in full prior to the final occupancy of a building or final plat recordation of a subdivision or partition plat.

2. Termination of Bond. If the developer fails to carry out the provisions of the agreement, the City shall call upon the bond, or letter of credit or cash deposit or property lien or assurance provider arrangement, to finance any cost or expenses resulting from said failure. If the amount of the deposit, letter of credit, bond, or property lien or assurance provider arrangement exceeds the cost and expense incurred by mitigating the loss or damage of the significant trees, the City shall deposit the remainder into a City account for the purpose of tree preservation education, tree planting and maintenance. If the amount of the deposit, letter of credit, bond or assurance provider arrangement is less than the cost and expense incurred by the City for the improvements and repairs, the developer shall be liable to the City for the difference

G. Tree Felling. Review approval is required for the felling of five (5) or more significant trees on a lot or property inside the City limits within a calendar year. Felling trees at the direction of the City or by the City necessary to remove or alleviate an immediate danger to life or property; removal of any tree that is defined as a nuisance under the Silverton Municipal Code; to restore utility service or to reopen or maintain a public street or easement is exempt from review.

An application following the submittal requirements for a Design Review shall be submitted to the City for review prior to any tree removal. The City may approve the request when the following review criteria are met.

1. Trees shall be retained in significantly large areas and dense stands so as to ensure against windthrow.
2. Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.
3. Wooded areas associated with natural drainage ways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least 10 feet in width or as required elsewhere in this code.
4. Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.
5. Tree felling on developable areas will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future City residents.
6. Wooded areas along property lines shall be retained at a minimum width of 10 feet to provide buffers from adjacent properties.
7. The plan for tree felling shall be consistent with the preservation of the site's future development potential and zoning.

H. Exemptions. The protection standards in “D” and “E” do not apply to:

1. Dead or Diseased Vegetation. Dead or diseased vegetation meeting the criteria for “significant vegetation” may be removed after approval of a Type I Land Use Review.
2. Hazardous Vegetation and Other Emergencies. Significant vegetation may be removed without land use approval when the vegetation poses an immediate threat to life or safety or protection of property (e.g., windstorm damage, fallen over house, road or power line, blocked drainage way, or similar circumstance).