

SAN JUAN REGIONAL PLANNING COMMISSION
AGENDA
May 16, 2023
San Juan County Courthouse

San Juan Regional Planning Commission meeting will be conducted in a hybrid virtual/in-person format. All persons including Board Members, Staff, Applicants and interested Public may meet in person or via Zoom. The information necessary to connect to the public meeting is listed below.

7:00 PM Roll Call of Members and Minutes

7:05 PM Ordinance 2023-01, An Ordinance of the Town of Silverton Concerning Defining Affordable Housing, and Concerning the Collection of Expenses Related to Land Development Applications, and Providing for Developer Cost Reimbursement Agreements, by Modifying Section 1-2-10, General Definitions; And Adding Section 16-1-80, Cost Reimbursement; And Adding Section 17-1-90, Cost Reimbursement.

7:25 PM Ordinance 2023-XX, An Ordinance of the Town of Silverton Concerning Accessory Dwelling Units by Modifying Section 16-1-20, Zoning Definitions, Modifying Section 16-3-20 R-1-A Single-Family Residential District; Section 16-3-30 R-1 Single-Family Residential District; Section 16-3-40 R-2 Multiple Family Residential District; Section 16-3-50 B-P Business Pedestrian District; Section 16-3-60 B-A Business Automobile District; Section 16-3-70 E-D Economic Development District; and Section 16-3-80 P Public Use District; and Modifying Section 16-8-80, Placement and construction of accessory dwelling units for residential housing needs.

7:45 PM Ordinance 2023-XX, An Emergency Ordinance of the Town of Silverton Concerning wetland disturbance regulations, by Modifying Section 13-2-20 Watershed Protection Definitions; and Modifying Section 16-1-20 Zoning Definitions; and Inserting Section 16-1-90 Disturbance Permit; and Inserting Section 16-8-90 Wetlands.

8:05 PM Ordinance 2023-XX, An Ordinance of the Town of Silverton Concerning the Historic Review Committee, and Concerning the Establishment of the Committee, Members, Terms of Office, Officers, Quorum and Voting, Compensation, Powers and Duties, Meetings, and Vacancies and Removal; by Modifying Chapter 16, Article 2, Division 4, Historic Review Committee.

OTHER:

ADJOURN: Next Regular Meeting – 6:30 PM, Tuesday June 20, 2023

Assigned Times Listed above are approximate.

Discussion of an agenda item may occur before or after the assigned time.

Join Zoom Meeting

<https://zoom.us/j/92136473203>

Meeting ID: 921 3647 3203

One tap mobile

+16699006833,,92136473203# US (San Jose)

+12532158782,,92136473203# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 921 3647 3203

The San Juan Regional Planning Commission met virtually via zoom and in the Commissioner room on April 18, 2023, at 7:07 PM with roll call showing the following attendance:

Bev Rich	X	Ken Safranski	Absent
Jim Weller	X	Melissa Childs	X
Sally Barney	X Alt	Austin Lashley	X (7:25)
Jim Harper	X		

Also present via Zoom were Bev Rich, Melissa Childs, Jim Harper, Sally Barney (the alternate for T. George) Fritz Klinke and various participants on phones. Chairperson Jim Weller and Austin Lashley who came late, Lucy Mulvihill, William Tookey, County Administrator and Chris Tookey, Secretary were present in the Commissioners Room.

MINUTES March 21, 2023

Bev Rich made a motion to approve the minutes of March 21, 2023, with a second from Melissa Childs. The motion passed with a show of hands.

RESOLUTION 2023-02 TO AMEND 10-103.4 FLOODPLAIN HAZARD AREAS OF THE ZONING AND LAND USE REGULATIONS TO ADOPT THE FLOOD INSURANCE STUDY FOR SAN JUAN COUNTY

William Tookey explained to the Commissioners that FEMA had updated the flood plan in compliance with the State. After discussion, Melissa Childs made a motion to recommend that the San Juan County Commissioners approve Resolution 2023-02 to amend the Zoning and Land Use Regulations section 10-103-4 Floodplain Hazard Areas and adopt the FEMA Flood Insurance Study and flood Insurance Rate Maps. Bev Rich seconded, and the motion passed with a show of hands.

A letter was sent to the San Juan County Commissions.

ORDINANCE 2023-XX AN EMERGENCY ORDINANCE TO AMEND CHAPTER 16 ARTICLE 4 SECTION 16-4-20 TO ADOPT THE FLOOD INSURANCE STUDY FOR TOWN OF SILVERTON, COLORADO, AND INCORPORATED AREAS WITH ACCOMPANYING RATE MAPS.

Lucy Mulvihill was present to give the Commissioners the background of the proposed Town Ordinance.

Melissa Childs made the motion to recommend that the Town of Silverton Trustees approve the proposed Emergency Ordinance to amend Chapter 16, Article 4, Section 16-4-20 to adopt the FEMA Flood insurance Rate Maps for the Town of Silverton.

Jim Harper seconded the motion. The motion passed with a show of hands.

A Letter was sent to the Town Trustees.

San Juan Regional Planning Commission
April 18, 2023

ORDINANCE 2023-XX AN ORDINANCE AMENDING CHAPTER 16 OF THE MUNICIPAL CODE OF THE TOWN OF SILVERTON COLORADO AND VARIOUS SUBSECTIONS AS PRESENTED.

Katie Kent was present on Zoom to explain to the Commissioners the proposed amendments to Chapter 16 of the Municipal Code and the various subsections.

After listening to Katie Kent's presentation and discussions of all the subsections, the Planning Commission made a motion to recommend that the Town of Silverton approve An Ordinance Amending Chapter 16 Of The Municipal Code Of The Town Of Silverton Colorado, By Amending Subsection 16-1-20, Concerning The Definition Of A Reasonable Timeframe; And Amending Subsection 16-1-40, Concerning The Timeline For The Planning Commission To Return A Recommendation Regarding A Code Amendment Or Change To The Board Of Trustees; And Subsection 16-1-50 Concerning The Board Of Trustees Rendering A Decision Within 60 Days Of Application Submission; And Subsection 16-4-730, Concerning The Timeline For The Historic Review Committee To Render A Decision After A Complete Submittal; And Subsection 16-5-20, Concerning The Board Of Trustees Issuing A Decision Within 30 Days From The Date Of A Mobile Home Park Submittal; And Subsection 16-5-40 Concerning The Board Of Trustees Issuing A Decision Within 60 Days Of The Date Of A Camper Park Submittal; And Chapter 17 Of The Municipal Code Of The Town Of Silverton Colorado, By Amending Subsection 17-1-30, Concerning The Definition Of A Reasonable Timeframe; And Amending Subsection 17-2-20, Concerning The Town Rendering A Decision On An Outline Development Plan Within 45 Days; And Subsection 17-2-30, Concerning The Planning Commission Rendering A Decision Within 30 Days Of Submittal; And Subsection 17-2-40, Concerning The Planning Commission Approving Or Disapproving A Final Plat Within 30 Days After Submission; And Subsection 17-2-50, Concerning The Town Rendering A Decision Within 45 Days From An Application Submittal. The motion above was presented by Melissa Childs and seconded by Jim Harper. All the subsections were filled in as presented and the motion passed unanimously with a show of hands.
A Letter was sent to the Town Trustees.

INTRODUCTION TO THE CERTIFIED LOCAL GOVERNMENT ORDINANCE
Background and overview were presented to give assistance and information to be used to help draft the final Ordinance!

The meeting was adjourned at 9:15 PM.

Respectfully Submitted,

Christine M. Tookey, Secretary

Approved _____ -

**San Juan Regional
Planning Commission**
SAN JUAN COUNTY TOWN OF SILVERTON
Silverton, Colorado 81433
P.O. Box 223

April 18, 2023

Board of County Commissioners
San Juan County
Silverton, CO 81433

Members of the Commission:

RE: Resolution 2023-02 to amend 10-103.4
Floodplain Hazard Areas of the Zoning and
Land Use Regulations to Adopt the Flood
Insurance Study for San Juan County

At a regular meeting of the San Juan Regional Planning Commission on April 19, 2023, members of that Commission discussed the proposed Resolution 2023-02

After discussion the members made a motion that the Planning Commission recommends that the San Juan County Commissioners approve Resolution 2023-02 to amend the Zoning and Land Use Regulations section 10-103-.4 Floodplain Hazard Areas to adopt the Federal Emergency Management Agency (FEMA) Flood Insurance Study and Flood Insurance Rate Maps for San Juan County, Colorado and Incorporated Areas dated May 9, 2023, as presented.

Thank you for considering this recommendation.

Sincerely,
Jim Weller
Chairman and the Planning Commission Members

**San Juan Regional
Planning Commission**
SAN JUAN COUNTY TOWN OF SILVERTON
Silverton, Colorado 81433
P.O. Box 223

April 18, 2023

Town of Silverton Trustees
PO Box 250
Silverton, CO 81433

Mayor Shane Fuhrman:
Town of Silverton Trustees

**RE: Town of Silverton
Ordinance 2023-XX To Amend Chapter
16 Article 4 Section 16-4-20 To Adopt
Flood Insurance Study For Town of
Silverton, CO**

At a special meeting of the San Juan Regional Planning Commission on April 18, 2023, members of that Commission discussed the Ordinance 2023-XX to Amend Chapter 16 Article 4 Section 16-4-20 to adopt Flood Insurance for Town of Silverton, CO.

After discussion, the Planning Commission made a motion to recommend that the Town of Silverton approve the proposed Emergency Ordinance to amend Chapter 16, Article 4, Section 16-4-20 to adopt the Federal Emergency Management Agency (FEMA) Flood Insurance Study and Flood Insurance Rate Maps for the Town of Silverton, Colorado and Incorporated Areas dated May 9, 2023, as presented.

Thank you for considering this recommendation.

Sincerely,
The Planning Commission Members and
Jim Weller
Chairman

**San Juan Regional
Planning Commission**
SAN JUAN COUNTY TOWN OF SILVERTON
Silverton, Colorado 81433
P.O. Box 223

April 18, 2023

Town of Silverton Trustees
PO Box 250
Silverton, CO 81433

Mayor Shane Fuhrman:
Town of Silverton Trustees

**RE: Town of Silverton
Ordinance 2023-XX To Amend Chapter
16 of the Municipal Code**

At a special meeting of the San Juan Regional Planning Commission on April 18, 2023, members of that Commission discussed the Ordinance 2023-XX to Amend Chapter 16 of the Municipal Code and various subsections as presented in the motion.

After discussion, the Planning Commission made a motion to recommend that the Town of Silverton approve An Ordinance Amending Chapter 16 Of The Municipal Code Of The Town Of Silverton Colorado, By Amending Subsection 16-1-20, Concerning The Definition Of A Reasonable Timeframe; And Amending Subsection 16-1-40, Concerning The Timeline For The Planning Commission To Return A Recommendation Regarding A Code Amendment Or Change To The Board Of Trustees; And Subsection 16-1-50 Concerning The Board Of Trustees Rendering A Decision Within 60 Days Of Application Submission; And Subsection 16-4-730, Concerning The Timeline For The Historic Review Committee To Render A Decision After A Complete Submittal; And Subsection 16-5-20, Concerning The Board Of Trustees Issuing A Decision Within 30 Days From The Date Of A Mobile Home Park Submittal; And Subsection 16-5-40 Concerning The Board Of Trustees Issuing A Decision Within 60 Days Of The Date Of A Camper Park Submittal; And Chapter 17 Of The Municipal Code Of The Town Of Silverton Colorado, By Amending Subsection 17-1-30, Concerning The Definition Of A Reasonable Timeframe; And Amending Subsection 17-2-20, Concerning The Town Rendering A Decision On An Outline Development Plan Within 45 Days; And Subsection 17-2-30, Concerning The Planning Commission Rendering A Decision Within 30 Days Of Submittal; And Subsection 17-2-40, Concerning The Planning Commission Approving Or Disapproving A Final Plat Within 30 Days After Submission; And Subsection 17-2-50, Concerning The Town Rendering A Decision Within 45 Days From An Application Submittal.

Thank you for considering this recommendation.

Sincerely,
The Planning Commission Members and
Jim Weller
Chairman



SUBJECT: Implementing Cost Reimbursement Policy for Planning Department application review

STAFF CONTACT: Katie Kent

PURPOSE:

In the past few years, the Town has seen an increase in the number of land development applications received. As the built environment grows, Silverton is experiencing applications which require a more comprehensive review for the public health, safety, and welfare of the Town. These applications may come with geotech reports, site specific engineering studies, wetland delineation, etc. that take additional time and expertise to review and analyze.

As of June 2022, the Town of Silverton has partnered with Consultant *Community Planning Strategies*, to add capacity and expertise to our Planning Department. CPS has taken on both long range and current planning responsibilities including a full land use code assessment, updating of in-house zoning maps, a constraints analysis for shrine hill, and processing all land development applications.

Through the recently conducted Development Readiness Assessment performed for the Town, numerous disparities in the existing code language have been identified, leading to staff reviews, reports, and recommendations being a difficult and lengthy process.

The Town has budgeted \$64,000 towards CPS long-range planning services for the fiscal 2023 year. However complex applications will consume these funds if the Town's Application Fees are not adjusted to cover the cost of review and associated writing of staff reports and presentations before Town Boards/Commissions. In addition to CPS and Town staff services, the Planning Department often consults with our Town attorney and consulting engineer. Additionally, the Town is exploring the possibility of working with hydrologists and other consultants in the future to better assess the impacts of development in our town's sensitive natural areas for the health, safety, and welfare of our citizens.

The proposed Agreement for Payment of Development Review Expenses ("Agreement") will allow the Town to charge applicants for any additional services not covered by the Town's application fees, including but not limited to planning, legal, and engineering services. This proposed policy shall apply to land development applications pursuant to Chapter 16 and Subdivision/PUD applications pursuant to Chapter 17. This policy will have the greatest impact on the cost of large scale and complex applications that require extensive staff time and review by technical experts.

As is standard in communities that utilize a similar policy, the Agreement may be negotiated between the Town and applicant if a waiver of fees is requested for projects meeting a Town goal such as Affordable Housing.

To allow an applicant to request a reduction in application fees if a development is proposed to be affordable housing, a definition is required for affordable housing. In association with the proposed cost reimbursement, Staff has proposed a definition of "Affordable Housing" to be inserted into Silverton Municipal Code, Section 1-2-10.

The Town's Building and Public Works department currently have Pass-Through Cost policies in place for both in-house and consultant services. It is common practice for Planning Departments to have a Pass through Cost Policy. Communities such as Hot Sulfur Springs, Rio Grande County, and Town of Parachute have a similar policy in place.

PROPOSED SECTIONS OF TOWN CODE TO BE AMENDED:

SMC, Section 1-2-10. General Definitions

Insert definition of Affordable Housing

Affordable Housing. A dwelling unit that is restricted through recordation of a covenant, for sale or rent to persons earning a maximum of 140% Area Medium Income ("AMI"), at a rate established by the Housing and Urban Development for that income level. Development for the purposes of affordable housing, as defined within this Chapter, may formally request the board of trustees allow a reduction in application fees.

SMC, Section 16-1-80. Cost Reimbursement

Insert new Sec. 16-1-80. Cost Reimbursement within the Zoning Regulations which outlines general requirements and references the Agreement for Payment of Development Review Expenses ("Agreement").

SMC, Section 17-1-90. Cost Reimbursement

Insert new Sec. 17-1-90. Cost Reimbursement within the Subdivision Regulations which outlines general requirements and references the Agreement for Payment of Development Review Expenses ("Agreement").

SILVERTON COMPASS PLAN

The Silverton Compass Plan states a Community Strategy under Housing is to address code and policy barriers to encourage housing choices and affordability.

Strategy D: Address Code and Policy Barriers to Encourage Housing Choices and Affordability includes:

Action Item #5: Reduced or waived fees for developments that include significant deed restricted housing.

Trustee Priority:

1. Expand Staff Capacity
3. Housing
5. Streamline process and make more user friendly

PLANNING COMMISSION ACTION

Pursuant to SMC Sec. 16-1-40, all applications for an amendment shall be referred to the Planning Commission, which shall review and return a recommendation either for or against the proposed amendment or change to the Board of Trustees within 30 days of the receipt of the application. The Planning Commission shall recommend approval as presented, recommend approval with modifications, or recommend denial of the proposed language as presented in Ordinance 2023-01.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission recommend approval of Ordinance 2023-01 as presented.

SUGGESTED MOTION: *"I move that the Planning Commission recommends the Board of Trustees approve Ordinance 2023-01, amending sections under Chapters 1, 16, and 17, as presented."*

ATTACHMENTS

Ordinance 2023-01

**TOWN OF SILVERTON
COLORADO ORDINANCE 2023-01**

AN ORDINANCE TO AMEND CHAPTER 1 ARTICLE 2 TO CREATE A DEFINITION
FOR AFFORDABLE HOUSING AND AMEND CHAPTER 16 ARTICLE 1 AND
CHAPTER 17 ARTICLE 1 TO ESTABLISH A COST REIMBURSEMENT POLICY
FOR LAND DEVELOPMENT APPLICATIONS

WHEREAS, the Town of Silverton (“Town”), Colorado is a statutory town incorporated under the laws of the state of Colorado; and

WHEREAS, the Town acting by and through its Town Board of Trustees has the power to regulate land use matters pursuant to Colorado Revised Statutes (C.R.S.) Section 31, Article 23 et seq.; and

WHEREAS, the Board of Trustees of the Town recognizes that, upon the submission of a land development application, the Town incurs significant expenses, including, but not limited to, the cost of third party engineers, surveyors, construction and building inspectors, legal advisors and planning professionals; and

WHEREAS, the Board of Trustees desires to provide a method by which the applicant, or owner of the property that is the subject of the application, reimburse the Town for the expenses related to the land development application, including authorization for the execution of a developer cost reimbursement agreement and submission of a cost deposit; and

WHEREAS, the Board of Trustees finds that a definition of Affordable Housing is needed within the Code; and

WHEREAS, the Board of Trustees finds that providing an option for a reduction of application fees for projects proposing affordable housing is in the best interest of the Town; and

WHEREAS, the Board of Trustees finds that the passage of this Ordinance is in the best interests of the Town of Silverton.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF Silverton, COLORADO:

- I. Amendment to Chapter 1, Article 2, modifying Section 1-2-10 of the Municipal Code. Chapter 1, Article 2 Section 1-2-10 of the Municipal Code is modified by adding the capitalized and underlined text, as follow:

AFFORDABLE HOUSING. A DWELLING UNIT THAT IS RESTRICTED THROUGH RECORDATION OF A COVENANT, FOR SALE OR RENT TO PERSONS EARNING A MAXIMUM OF 140% AREA MEDIUM INCOME ("AMI"), AT A RATE ESTABLISHED BY THE HOUSING AND URBAN DEVELOPMENT FOR THAT INCOME LEVEL. DEVELOPMENT FOR THE PURPOSES OF AFFORDABLE HOUSING, AS DEFINED WITHIN THIS CHAPTER, MAY FORMALLY REQUEST THE BOARD OF TRUSTEES ALLOW A REDUCTION IN APPLICATION FEES.

- II. Amendment to Chapter 16, Article 1 establishing Section 16.1.80 of the Municipal Code. Chapter 16, Article 1 Section 16.1.80 of the Municipal Code is established by adding the text, as follows:

Section 16-1-80. Cost reimbursement.

- (a) *Applicant to pay all application review expenses.* At the time of submission of any use subject to review application, or disturbance permit, as described in this chapter, the applicant shall pay to the Town the established fees and deposits for the purpose of the Town's review and processing of the application. The Board of Trustees may, by Resolution, adopt and amend from time to time a fee schedule for all applications and proceedings under these zoning regulations.
- (b) *Reimbursement agreement required.* At the time of submission of any application for any type of land development approval described in this Chapter, the applicant shall execute an Agreement for Payment of Development Review Expenses ("Agreement"), issued by the Planning Department. The terms, conditions and obligations of the Agreement are incorporated as requirements of this Chapter as set forth in full in this Section. The final form of an agreement for a land development application shall be subject to review, revision and approval of the Town Attorney based on the particular circumstances of the proposed development and, following such approval, shall be presented to the Town Administrator for execution. The Town Administrator may, at their discretion, execute the Agreement on behalf of the Town or forward such agreement to the Board of Trustees for the Board of Trustees' consideration. No application shall be deemed complete unless accompanied by a properly executed Agreement for Payment of Development Review Expenses.
- (c) The Town shall maintain separate accounts of all monies expended as a result of the review of an application. Statements of expenses incurred will be made available to the applicant upon reasonable request.
- (d) In the event the Town incurs expenses for the review of the applicant's request greater than the monies collected from the applicant, the applicant shall reimburse the Town for the additional expenses. Reimbursement shall be made by the applicant within ten (10) days of the date of the Town's submission of an invoice to the applicant for the additional expenses. Failure by the applicant to pay the invoice in full within the specified time shall be cause for the Town to cease processing the application and/or deny approval of the application.
- (e) Waivers and modification of fees and expenses. Upon written request by an applicant, the Board of Trustees may administratively waive, modify, adjust or refund any fee or

expense associated with the processing of any application where the Board of Trustees determines that the project is specifically addressing an identified community need, and a covenant is proposed to be recorded on the property ensuring the community need will be secured.

- III. Amendment to Chapter 17, Article 1 establishing Section 17.1.90 of the Municipal Code. Chapter 17, Article 1 Section 17.1.90 of the Municipal Code is established by adding the text, as follows:

Section 17-1-90. Cost reimbursement.

- (a) Applicant to pay all expenses: At the time of submission of any application for any type of subdivision approval described in this Title, the applicant shall pay to the Town the established fees and deposits for the purpose of the Town's review and processing of the application. The Board of Trustees may, by Resolution, adopt and amend from time to time a fee schedule for all applications and proceedings under these subdivision regulations.
- (b) Reimbursement agreement required: At the time of submission of any application for any type of subdivision approval described in this Title, the applicant shall execute an Agreement for Payment of Development Review Expenses ("Agreement"), issued by the Planning Department. The terms, conditions and obligations of the Agreement are incorporated as requirements of this Chapter as set forth in full in this Section. The final form of an agreement for a subdivision application shall be subject to review, revision and approval of the Town Attorney based on the particular circumstances of the proposed development and, following such approval, shall be presented to the Town Administrator for execution. The Town Administrator may, at their discretion, execute the Agreement on behalf of the Town or forward such agreement to the Board of Trustees for the Board of Trustees' consideration. No application shall be deemed complete unless accompanied by a properly executed Agreement for Payment of Development Review Expenses.
- (c) The Town shall maintain separate accounts of all monies expended as a result of the review of an application. Statements of expenses incurred will be made available to the applicant upon reasonable request.
- (d) In the event the Town incurs expenses for the review of the applicant's request greater than the monies collected from the applicant, the applicant shall reimburse the Town for the additional expenses. Reimbursement shall be made by the applicant within ten (10) days of the date of the Town's submission of an invoice to the applicant for the additional expenses. Failure by the applicant to pay the invoice in full within the specified time shall be cause for the Town to cease processing the application and/or deny approval of the application.
- (e) Waivers and modification of fees and expenses. Upon written request by an applicant, the Board of Trustees may administratively waive, modify, adjust or refund any fee or expense associated with the processing of any application where the Board of Trustees determines that the project is specifically addressing an identified community need, and

a covenant is proposed to be recorded on the property ensuring the community need will be secured.

- (VI) Adoption of Agreement for Cost Reimbursement. The “Agreement for Payment of Development Expenses” is incorporated herein by reference and is hereby adopted in substantially the same form and format as the attached Exhibit A. The Town Manager may approve, upon review by the Town Attorney, any amendments, deletions and/or additions to the Agreement in order to effectuate the purpose of this Ordinance.
- (VII) Incorporation of Recitals. The recitals set forth above are incorporated and ordained hereby as if set forth hereafter in full.
- (VIII) Ordinance Approval. The Amendments to Chapter 1 - Article 2, Chapter 16 - Article 1, and Chapter 17 - Article 1, as outlined herein are hereby approved, establishing a cost reimbursement policy for Land Development and Subdivision Applications.
- (IX) Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.
- (X) Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.
- (XI) Posting, Publication and Effective Date. Following the passage of this Ordinance on second reading, the Town Clerk shall publish this Ordinance in full in a newspaper published within the limits of the Town. This Ordinance shall take effect 30 days after such publication.

INTRODUCED, READ, AND ORDERED FOR SECOND READING BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF SILVERTON, ON THE 22ND DAY OF MAY, 2023.

TOWN OF SILVERTON

By:

Shane Fuhrman, Mayor

ATTEST:

Matthew Green, Town Clerk

FINALLY PASSED, ADOPTED AND APPROVED ON SECOND AND FINAL READING AND ORDERED POSTED AND PUBLISHED IN THE MANNER PROVIDED IN SECTION VII HEREOF BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN HALL ON THE 12TH DAY OF JUNE, 2023, BY A VOTE OF THIS ORDINANCE AS IS ON FILE IN THE TOWN CLERK'S OFFICE FOR PUBLIC INSPECTION.

TOWN OF SILVERTON

By:

Shane Fuhrman, Mayor

ATTEST:

Matthew Green, Town Clerk

**Town of Silverton
Agreement for Payment of Development Review
Expenses Pursuant to Sections 16-1-80 and 17-1-90 of
the Municipal Code**

THIS AGREEMENT is made and entered into by and between the **TOWN OF SILVERTON, COLORADO**, a Colorado statutory municipal Corporation, ("Town") and

_____, hereinafter referred to as the "Applicant." The Applicant and the Town shall collectively be referred to as the "Parties." This Agreement shall be effective following execution by the Applicant and immediately upon the date of the authorized execution of this Agreement by the Mayor or other authorized Town official or employee.

RECITALS AND REPRESENTATIONS:

WHEREAS, the Applicant is the owner of, or represents that they are the authorized agent of the owner of, certain property situated in the Town of Silverton, San Juan County, State of Colorado (the "Property"), which is either legally described as or commonly known as:

[check one]

Legal Description Attached as Exhibit A.

Name or Title of Subdivision Plat or Property Address: _____

WHEREAS, the Applicant desires to develop or to seek land use approval for the Property and has made an application ("Application") to the Town of Silverton for the review and consideration for approval by the Town of the following: [check all that apply]

- Subdivision Application
- Rezoning Petition
- Use Subject to Review Application
- Zoning Text Amendment
- Right-of-Way Vacation
- Annexation
- Public Improvements
- Steep Slope Hazard Development
- Flood Hazard Development
- Architectural Review Overlay District
- Historic Overlay District
- Avalanche Hazard Development
- Disturbance Permit
- Other:

WHEREAS, For purposes of this Agreement, "Application" shall mean and include all documentation, data and information submitted to the Town in order to seek or obtain approval of development of, or land use approval for, the Applicant's Property including but not limited to site plans, engineering and surveying documentation, engineering and other professional reports and studies, and any construction documentation required to authorize the construction of improvements within the Property.

WHEREAS, the Parties hereto recognize that the land use application fees specified by the Municipal Code of the Town of Silverton cover the typical or standard administrative processing expenses of the Town for routine projects and these fees may not be, or are not likely to be, adequate to fully cover the Town's expenses in considering the Applicant's application and project, including but not limited to expenses incurred for legal and notice publications, engineering services, attorney fees, consultant fees, reproduction and photocopying of materials, public hearing expenses, recording costs and inspections by Town staff to ensure the Applicant's compliance with the requirements of the approved plans and specifications;

WHEREAS, the Town has customarily incurred significant expenses associated with ensuring an applicant's compliance with design and construction specifications for public improvements, such as roads, drainage improvements and bridges, and these expenses oftentimes exceed the land use fees paid by the applicant as part of the customary review processes;

WHEREAS, Section 16-1-80 of the Municipal Code for the Town of Silverton requires that every applicant for land development applications, including but not limited to Use by Special Right and Disturbance Permit applications, execute an agreement for the payment of Town expenses incurred in the processing and review of the applicant's application and that this requirement is based on the policy that the applicant is the party that should properly bear the costs of application, review, consideration and inspection associated with development; and

WHEREAS, Section 17-1-90 of the Municipal Code for the Town of Silverton requires that every applicant for subdivision of land, or Planned Unit Development, execute an agreement for the payment of Town expenses incurred in the processing and review of the applicant's application and that this requirement is based on the policy that the applicant is the party that should properly bear the costs of application, review, consideration and inspection associated with development; and

WHEREAS, the Applicant understands that the review and processing fees incurred by the Town are independent, separate and apart from the Town's decision to approve or deny the submitted Application and that such fees are owed by the Applicant regardless of the Town's decision on the Application or the Applicant's decision to postpone, abandon or terminate processing of the Application.

NOW THEREFORE, in consideration of the premises and of the mutual promises and conditions hereinafter contained and the requirements of the Town's Municipal Code, it is hereby agreed as follows:

1.0 APPLICANT SHALL PAY ALL EXPENSES

The Applicant shall pay in accordance with this Agreement all expenses which are directly related to the Town's review, processing, consideration and inspection (including pre-application review, formal application review and processing, and post-application follow-up) of the Application.

2.0 "EXPENSES" DEFINED

2.1 Generally: For purposes of this Agreement, "expenses" shall include all expenses, costs, fees, assessments and other charges incurred by the Town and directly related to the Town's processing, review, consideration and inspection (including pre-application review, formal application review and processing, and post-application follow-up) of the Application and the Property. Such expenses shall include, but shall not be limited to: legal and notice publication(s); engineering services (Town Engineer and/or other necessary engineering professional); land use planning services (Town Planner and/or other necessary planning professional); inspections and inspection services necessary to ensure compliance of the Applicant's approved development with the approved Application and construction documentation (but not including building permit inspections performed by the Building Official to ensure compliance of the structures with uniform building codes); fees and charges billed to the Town by other agencies and entities statutorily or legally required to review the Applicant's documentation and development (including state and federal regulatory agencies); attorney fees and charges (for the Town Attorney only unless otherwise pre-approved by the Applicant); specialized consultant fees necessary to insure Application or development conformance with federal, state or local laws (e.g., water, wetlands, biological and/or geo-technical consultants); reproduction and photocopying of Application and other supporting or necessary materials; public hearing, public meeting and administrative meeting expenses (including all costs of conducting a special meeting if requested by the Applicant); and inspections and review necessary to ensure and investigate compliance with applicable laws, ordinances, regulations and the Applicant's approved development and construction plans.

2.2 Applicant/Staff Meeting as an Expense: Where the Town Code, or the Applicant, requires or requests an administrative or formal meeting with Town staff members (e.g., Town Administrator, Public Works Director, Town Engineer, Town Planner, Town Attorney or other executive or administrative representative(s) of the Town), "expenses" shall include all costs incurred by the Town for the attendance of each staff member at the meeting, which shall be computed at the hourly fee customarily charged to the Town by such staff member(s) or \$30.00/hour, whichever amount is greater. Hourly charges for consultation or meetings with "in-house" Town staff (e.g., Town Administrator, Public Works Director, Parks Director, etc.) shall not be charged to the Applicant unless: (1) the Town Administrator determines that the meeting is not in the best interest of the Town; and (2) the Town Administrator notifies the Applicant in writing that the cost for attendance of "in-house" staff members will be charged to the Applicant pursuant to this Agreement. The Town Administrator may modify, reduce or waive all or a portion of the expenses charged to the Applicant which are associated with a staff meeting or may set a maximum cost for any meeting. It is the express intent of this paragraph that the Applicant shall bear and pay in full all expenses and costs of the Town in the processing of the Application and, if such Application is approved, for the Town's inspection and review of the development until such time that the development is complete in accordance with the approved Application.

3.0 FULL AND SEPARATE ACCOUNTING OF REVIEW EXPENSES.

3.1 Separate Account and Accounting of Expenses. The Town shall maintain separate accounts of all expenses incurred for the Application. A current statement of expenses incurred will be made available to the Applicant within a reasonable time following the Applicant's request. The Parties understand that, due to customary delays in billing by the Town's outside consultants, a current statement may only include expenses billed to the Town as of the date of the Applicant's request.

3.2 Resolution of Disagreement Concerning Expenses. The Applicant may administratively contest an expense billed to the Applicant pursuant to this Agreement. The Applicant's contest shall be made in writing delivered to the Town Administrator within ten (10) days after the Applicant's receipt of notice of the billed expense. The written contest shall specify in detail the expense challenged and reason(s) for the contest. The Town Administrator shall use their best efforts to review a timely written contest within five (5) business days and to promptly respond in writing to the Applicant by: (1) affirming the expense as appropriate under this Agreement; (2) deleting or rescinding the expense as inappropriate under the Agreement; or (3) modifying or reducing the expense with reasons for the modification or

reduction. The Applicant may appeal the Town Administrator's decision to the Board of Trustees by delivering a written request for appeal to the Town Clerk within ten (10) days after the Applicant's receipt of the Town Administrator's decision. Such appeal shall be considered by the Board of Trustees as an administrative matter (no notice or hearing required to be provided to the applicant) and the Board of Trustees, following review of the Applicant's written contest and the Town Administrator's written decision in response, shall:

(1) affirm the expense as appropriate under this Agreement; (2) delete or rescind the expense as inappropriate under the Agreement; or (3) modify or reduce the expense. The Board of Trustees' administrative decision shall be final. Review and processing of an Applicant's timely written contest shall not be an expense within the meaning of this Agreement.

4.0 DEPOSIT ACCOUNT

The Applicant shall make all deposits for land use fees and expenses required by the Town's Municipal Code, and the Town's Fee Schedule, at the time of Application submittal and shall maintain a deposit account with the Town ("Deposit Account"). The Town shall charge expenses against the Deposit Account and shall deduct for payment the expenses from the Deposit Account. At such time that the expenses charged against the Deposit Account exceed ninety percent (90%) or more of the Deposit Account, and within ten (10) days of the Applicant's receipt of notice by the Town, the Applicant shall supplement the Deposit Account by making an additional deposit with the Town Clerk of an amount of at least fifty percent (50%) of the amount of the initial deposit for land use fees and expenses. The Town Administrator may reduce the amount of, or may waive, the Applicant's making of an additional deposit where the Town Administrator finds that the estimated or anticipated additional expenses for the processing of the Application will not likely exceed the remaining balance held in the Deposit Account by the Town. The Applicant shall be obligated to maintain a positive balance in the Deposit Account at all times. Failure by the Applicant to maintain a positive balance in the Deposit Account and to timely make an additional deposit within ten (10) days of notice by the Town in accordance with this Section shall constitute a material breach of this Agreement.

5.0 APPLICATION TERMINATION.

Except as otherwise precluded or prohibited by law or an agreement with the Town, the Applicant may terminate the processing of an application at any time by delivering written notice to the Town. The Town shall immediately take all reasonable steps necessary to terminate the accrual of additional and continuing expenses to the Applicant. In no event shall the Applicant be obligated to pay an expense associated with work or service performed on the Application which is more than forty-eight (48) hours after the date and time of the delivery of the Applicant's notice of termination.

6.0 LIEN AGAINST PROPERTY

To the extent permitted by law, expenses incurred by the Applicant in accordance with this Agreement, together with an amount equal to ten percent (10%) of the total expenses for the cost of collection, shall constitute a lien against the Property described in this Agreement and described in the Application. By this Agreement, the Applicant consents to the imposition of a lien and the cost of collection against the property and represents that the Applicant is authorized to so consent as the owner of the property or as the authorized agent of the owner. The Town may seek enforcement of the lien in the same manner as real estate taxes against the Property.

7.0 ENFORCEMENT AND COLLECTION OF EXPENSES.

In the event of the Applicant's breach of this Agreement, all amounts owed shall be due and payable immediately and such amount shall accrue interest at an amount equal to eighteen percent (18%) per annum until paid in full. In such event, the Town shall be entitled to and may invoke one (1) or more of

the following remedies following the Town's mailing of a letter demanding payment in full to the Applicant:

7.1 Postponement, cessation and/or termination of the processing of the Application or any other development or subdivision application or approval related to the Property;

7.2 Denial of the Application;

7.3 Imposition of a condition upon approval that the Applicant pay all expenses prior to issuance of further approvals, including building permits, for all or any portion of the Property;

7.4 Withholding, postponing and/or denying: (1) any building permit(s) for any part or portion of the Property or for any improvement which serves or will provide service to the Property; (2) construction documentation review or approval; (3) grading, road cut or other construction or permit approval; and/or

(4) the submission, receipt, processing or approval of any application or request by the Applicant or the Applicant's affiliate(s) for any form of land use or construction application related in any way to the Property;

7.5 Refusal or denial of the acceptance of any other application for land use approval or development of any kind for the Property submitted by the Applicant or any other person;

7.6 Commencement of any remedy provided by law or equity, including an action for declaratory judgment, injunction and/or damages; and/or

7.7 Certification of the lien for collection to the appropriate officials for San Juan County.

8. NO IMPLICATION OF APPROVAL.

The Applicant agrees to pay all Expenses regardless of whether the Town approves or denies the Application. The Applicant understands that the approval of the Application is not, and shall not constitute, consideration for the Applicant's payment in accordance with this Agreement. The Town shall not be estopped or otherwise limited or precluded from denial or conditional approval of the Application by the terms, conditions or obligations of this Agreement.

9.0 MISCELLANEOUS PROVISIONS.

9.1 No Waiver: A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

9.2 No Waiver of Governmental Immunity: Nothing in this Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by law to the Town, its officials, employees, contractors or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

9.3 Binding Effect: The parties hereto agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives and assigns thereof and shall constitute covenants running with the described properties. To the extent permitted by law, the Applicant and all future successors, heirs, legal representatives and assigns of the Applicant shall be jointly and severally responsible for all terms, conditions and obligations set forth in this Agreement. The Town may, at its discretion, record this Agreement with the Clerk and Recorder for San Juan County.

9.4 No Third Party Beneficiaries: It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Town and Applicant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement. It is the express intention of the Town and Applicant that any person other than the Town or Applicant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

9.5 Governing Law, Venue and Enforcement: This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising from this Agreement shall lie with any appropriate court within San Juan County, Colorado, or any appropriate court of appeal from such San Juan County court.

9.6 Attorney's Fees: If the Applicant breaches this Agreement, the Applicant shall pay the Town's reasonable costs of collection and costs and attorney's fees incurred in the enforcement of the terms, conditions and obligations of this Agreement, whether or not legal proceedings are instituted.

9.7 Assignment and Release: All or part of the rights, duties, obligations, responsibilities or benefits set forth in this Agreement shall not be assigned by the Applicant without the express written consent of the Board of Trustees for the Town of Silverton. Any such written assignment shall expressly refer to this Agreement, specify the particular rights, duties, obligations, responsibilities or benefits so assigned, and shall not be effective unless approved by resolution or motion of the Board of Trustees. No assignment shall release the Applicant from performance of any duty, obligation or responsibility unless such release is clearly expressed in such written document of assignment. Prior to approving any release of the Applicant, the Town may, at its sole discretion, require the party assuming any duty, obligation or responsibility of the Applicant to provide to the Town written evidence of financial or other ability or capability to meet the particular duty, obligation or responsibility being assumed by the party.

9.8 Paragraph Captions: The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

9.9 Severability: Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

9.10 Integration and Amendment: This Agreement represents the entire agreement between the parties, and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties.

9.11 Incorporation of Exhibits: Unless otherwise stated in this Agreement, exhibits, applications or documents referenced in this Agreement shall be incorporated into this Agreement for all purposes.

9.12 Applicant Includes Agents: For purposes of incurring expenses (such as, but not limited to, requesting meetings and submitting reports and studies for Town review), the term "Applicant" shall include any authorized agent, consultant or other person acting on behalf of the Applicant.

9.13 Notices: Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be deemed to have been given when deposited in the United States Mail.

If to the Town:

Town of Silverton
Attention: Town Administrator
1360 Greene Street P.O. Box
250
Silverton, CO 81433

If to Applicant:

IN WITNESSES WHEREOF, the Town and the Applicant have caused this Agreement to be duly executed and effective following execution by the Applicant and immediately upon the date of the authorized execution of this Agreement by the Mayor or other authorized Town official or employee.

APPLICANT

By: _____

Date: _____

- Owner of Property
- Authorized Agent of Owner

Print Name: _____

Position/Title: _____

STATE OF _____ ss. COUNTY OF _____

Acknowledged before me this _____ day of _____ 20_____

Notary Public My Commission Expires: _____

TOWN OF SILVERTON, COLORADO

_____ Date: _____

ATTEST:

_____ Town Clerk

Town Administrator/Mayor

STAFF REPORT

To: Planning Commission
From: Katie Kent, Contracted Town Planner, CPS
Through: Lucy Mulvihill, Community Development Coordinator
Date: May 10, 2023
RE: Planning Commission recommendation: Proposed Amendments to Silverton Municipal Code
Accessory Dwelling Units, Ordinance No. 2023-XXX

PURPOSE:

The need for local housing and the desire for infill has been expressed by the community as stated within the Silverton Compass Master Plan, and the recently completed Development Readiness Assessment. Accessory Dwelling Units (ADUs) are a tool to promote increased residential dwelling units on properties which contain an existing structure. Currently in the Silverton Municipal Code ("SMC"), Accessory Dwelling Units are a defined use within Chapter 16, Zoning. All zone districts, except the Public Use District allow accessory dwelling units as a use by special review. Additionally, SMC contains Sec. 16-8-80. Placement and construction of accessory dwelling units for residential housing needs. This section of the SMC contains standards for ADUs.

Before the Planning Commission, to review and provide a recommendation to the Board of Trustees, are amendments to the SMC to encourage ADUs within the Town limits. Proposed changes include:

- ✓ Designating ADUs as permitted use within all zone districts.
- ✓ Revising the existing standards within Sec. 16-8-80 to encourage greater flexibility of ADU's design.

The proposed revised standards meet the Town's current needs. It is recognized that this language is to serve as an interim solution until a full code rewrite is performed that will involve more discussion on Affordable Housing as a general topic within which Accessory Dwelling Units will be part of.

Accessory Dwelling Units will still require a use by special review if proposed within the Avalanche Hazard District and/or Slope Hazard Overlay District.

Additionally, if proposed within the Historic Overlay District and/or Architectural Review Overlay District, Accessory Dwelling Units will still require special review as stated within the SMC.

PROPOSED SECTIONS OF TOWN CODE TO BE AMENDED:

SMC, Section 16-1-20. Zoning Definitions

Proposed revisions to the existing definition of an Accessory Dwelling Unit to clarify what constitutes an ADU:

Accessory dwelling unit or *ADU* means a dwelling unit accessory and subordinate to a primary structure on a single legally described parcel. The ADU shall require a permit from the Town of Silverton a residential dwelling unit, but not a mobile home or recreational vehicle, located on the same lot as a primary dwelling unit or commercial unit, either within the same building or in a detached building. The unit includes its own independent living facilities with provisions for sleeping, cooking, and sanitation, and is designed for residential occupancy independent of the primary dwelling unit or commercial unit.

SMC, Section 16-3-20. R-1-A Single-Family Residential District
SMC, Section 16-3-30. R-1 Single-Family Residential District
SMC, Section 16-3-40. R-2 Multiple Family Residential District
SMC, Section 16-3-50. B-P Business Pedestrian District
SMC, Section 16-3-60. B-A Business Automobile District
SMC, Section 16-3-70. E-D Economic Development District

Remove "Accessory dwelling units" as a use subject to review and insert under "Accessory uses and structures".

SMC, Section 16-3-80. P Public Use District

Insert "Accessory dwelling units" under "Accessory uses and structures". Currently, an ADU is not allowed at all within the Public Use District.

SMC, Section 16-8-80. Placement and construction of accessory dwelling units for residential housing needs.

Sec. 16-8-80 has been rewritten to include more clarification of existing standards and to encourage ADUs within the Town. Due to the large amount of insertions/modifications, Staff has proposed a complete deletion of the existing Section 16-8-80, and replacement of the section with inserted text as written in the Ordinance.

Staff notes that the existing standards for ADUs are written in a manner which does not encourage easy comprehension for a user. Many of the same standards have been carried over, however they have a different appearance than what viewer sees currently. Changes to standards that have been made include:

- Unit size: Existing SMC Sec. 16-8-80(j) states:

Unit size: New Structures: ADUs to be located in a new structure shall contain a minimum of 300 square feet, and a maximum of 700 square feet, measured from the ADU interior perimeter footprint. ADUs constructed above outbuildings shall have a minimum of 300 square feet and a maximum of 700 square feet of usable floor area, as defined by the currently adopted building codes.

Proposed language removes the 700 sq. ft. unit size limit and allows ADUs to be up to 800 sq. ft. of usable floor area, or 50% of the gross floor area of the principal dwelling, whichever is greater.

- Unit types: Existing SMC Sec. 16-8-80(h) states:

Unit types: ADUs shall be detached from the primary structure. ADUs may be located in conjunction with an existing garage and/or accessory outbuilding. ADUs contained within a primary structure are not permitted. ADUs shall not be attached to the primary structure; however, an existing structure which is already physically attached

to the exterior of the primary structure, may be converted into an ADU, after being reviewed by the Planning Commission, and approval by the Board of Trustees.

This provision is proposed to be removed so that ADUs may be permitted attached to the primary unit, or detached, as a use permitted by-right.

- Height: Existing SMC Sec. 16-8-80(k) Code language states:

Height and width: ADUs shall be a maximum of two stories. The term "story" shall be as defined by the current Building Codes adopted by the Town of Silverton. ADUs exceeding one story may be permitted on a case-by-case basis if approved by the Town Board. ADUs shall comply with the site zoning district's most stringent maximum height requirements. Height and width requirements are also subject to review and modification per other applicable requirements, as determined by the Town Board of Trustees.

This language is proposed to be removed so that ADU's are just required to meet the zone district's most stringent maximum height requirements.

- Leases: Existing SMC Sec. 16-8-80(r) Code language states:

Leases: ADUs are intended to provide rental housing opportunities for working residents, seasonal workers, emergency service volunteers, or senior citizens, and shall have a minimum written lease duration of at least three months per tenancy.

Whereas this language states an intent, there is no existing requirement that ADUs be rented for working residents, seasonal workers, emergency volunteers, or senior citizens. It is Staff's understanding that the Town wants to encourage ADUs as a method to get more beds in town; not necessarily to require them to be rented to workforce housing. The minimum three-month lease per tenancy has been carried into the new code language. There continues to be no requirement restricting occupancy or requiring the rental of an ADU.

SILVERTON COMPASS PLAN:

The Silverton Compass Plan states a Community Strategy under Housing is to build the resources to create and preserve affordable housing and address code and policy barriers to encourage housing choices and affordability.

Strategy C: Establish Programs to Create and Preserve Long-term Affordable Housing includes:

Action Item #2: Empower and incentivize investors and/or developers to provide affordable/workforce housing.

Strategy D: Address Code and Policy Barriers to Encourage Housing Choices and Affordability includes:

Action Item #4: Ensure desired housing types are designated "use by right" in desired areas.

PLANNING COMMISSION ACTION:

Pursuant to SMC Sec. 16-1-40, all applications for an amendment shall be referred to the Planning Commission, which shall review and return a recommendation either for or against the proposed amendment or change to the Board of Trustees within 30 days of the receipt of the application. The Planning Commission shall recommend approval as presented, recommend approval with modifications, or recommend denial of the proposed language as presented in Ordinance 2023-XX.



STAFF RECOMMENDATION: Staff recommends that the Planning Commission recommends approval of Ordinance 2023-XX as presented.

SUGGESTED MOTION: *"I move that the Planning Commission recommends the Board of Trustees approve Ordinance 2023-XXX, amending sections under Chapter 16 as presented."*

Attachments: Ordinance 2023-XXX

**TOWN OF SILVERTON COLORADO
ORDINANCE 2023-XX**

**AN ORDINANCE OF THE TOWN OF SILVERTON, COLORADO
AMENDING CHAPTER 16, ZONING, OF THE SILVERTON MUNICIPAL CODE
ADDRESSING ACCESSORY DWELLING UNITS**

WHEREAS, the Town of Silverton, Colorado is a statutory town incorporated under the laws of the state of Colorado; and

WHEREAS, the Town of Silverton has adopted regulations related to the processing of zoning applications per Municipal Code, Chapter 16; and

WHEREAS, the Town of Silverton acting by and through its Town Board of Trustees has the power to regulate land use matters pursuant to Colorado Revised Statutes (C.R.S.) Section 31, Article 23 et seq.; and

WHEREAS, the Silverton Compass Master Plan specifically states local housing as an identified need of the community and states that town shall ensure desired housing types are designated “use by right” in desired areas; and

WHEREAS, the San Juan Regional Planning Commission has reviewed the proposed amendments to Chapter 16 on May 16, 2023, and has made a recommendation to approve the amendments to the Town Board of Trustees.

WHEREAS, the Board of Trustees held Public Hearings on May 22, 2023, and June 12, 2023, to receive public comment, evidence and testimony relative to the proposed amendments to the Municipal Code.

WHEREAS, the San Juan Regional Planning Commission and the Board of Trustees have determined that the establishment of these regulations intended to modify the existing definition of an Accessory Dwelling Unit and revise the existing standards related to Accessory Dwelling Units, of the Municipal Code of the Town of Silverton, is in the best interests of the citizens’ health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF SILVERTON COLORADO BOARD OF TRUSTEES THAT:

- I. Amendment to Chapter 16, Article 1 Section 16.1.20 of the Municipal Code. Chapter 16, Article 1, Section 16.1.20 of the Municipal Code is amended by removing the strike-through text and adding the capitalized and underlined text, as follows:

~~*Accessory dwelling unit or ADU means a dwelling unit accessory and subordinate to a primary structure on a single legally described parcel. The ADU shall require a permit from the Town of Silverton.*~~

ACCESSORY DWELLING UNIT OR ADU MEANS A RESIDENTIAL DWELLING UNIT, BUT NOT A MOBILE HOME OR RECREATIONAL VEHICLE, LOCATED ON THE SAME LOT AS A PRIMARY DWELLING UNIT OR COMMERCIAL UNIT, EITHER WITHIN THE SAME BUILDING OR IN A DETACHED BUILDING. THE UNIT INCLUDES ITS OWN INDEPENDENT LIVING FACILITIES WITH PROVISIONS FOR SLEEPING, COOKING, AND SANITATION, AND IS DESIGNED FOR RESIDENTIAL OCCUPANCY INDEPENDENT OF THE PRIMARY DWELLING UNIT OR COMMERCIAL UNIT.

- II. Amendment to Chapter 16, Article 1 Section 16.3.20 of the Municipal Code. Chapter 16, Article 1, Section 16.3.20 of the Municipal Code is amended by omitting strikethrough text and adding the capitalized and underlined text, as follows:

Sec. 16-3-20. R-1-A Single-Family Residential District.

- (a) *Purpose.* This District is established for the purpose of providing an area for single-family dwellings on large lots.
- (b) *Uses permitted by right:*
- (1) Single-family dwellings.
 - (2) Manufactured homes.
 - (3) Child care centers.
 - (4) Family care homes.
 - (5) Group homes for the aged.
 - (6) Group homes for the developmentally disabled.
- (c) *Uses subject to review:*
- (1) Educational institutions.
 - (2) Religious institutions.
 - (3) Keeping of horses, asses and mules for private, noncommercial use.
 - ~~(4) Accessory dwelling units~~
 - (5) Bed and breakfast.
- (d) *Accessory uses and structures:*
- (1) Home occupations.
 - (2) Garages.
 - (3) Greenhouses, tool houses, play houses and sheds.
 - (4) Fences and walls.
 - (5) Temporary structures, shipping containers and portable storage units.
 - (6) ACCESSORY DWELLING UNITS.
- (e) *Requirements:*
- (1) Minimum lot area: 7,500 square feet.
 - (2) Minimum lot width: 75 feet.
 - (3) Maximum height of structure: 30 feet.
 - (4) Minimum floor area of dwelling unit: 500 square feet.
 - (5) Minimum setback. Principal and accessory structures (walls and fences six feet high or less excluded):

- a. Front setback: seven feet.
- b. Side setback: seven feet.
- c. Rear setback: five feet.

III. Amendment to Chapter 16, Article 1 Section 16.3.30 of the Municipal Code. Chapter 16, Article 1, Section 16.3.30 of the Municipal Code is amended by omitting strikethrough text and adding the capitalized and underlined text, as follows:

Sec. 16-3-30. R-1 Single-Family Residential District.

- (a) *Purpose.* This District is established for the purpose of providing an area for single-family dwellings.
- (b) *Uses permitted by right:*
 - (1) Single-family dwellings.
 - (2) Manufactured homes.
 - (3) Child care centers.
 - (4) Family care homes.
 - (5) Group homes for the aged.
 - (6) Group homes for the developmentally disabled.
- (c) *Uses subject to review:*
 - (1) Educational institutions.
 - (2) Religious institutions.
 - (3) Keeping of horses, asses and mules for private, noncommercial use.
 - (4) Vacation rental.
 - ~~(5) Accessory dwelling units.~~
 - (6) Bed and breakfast.
- (d) *Accessory uses and structures:*
 - (1) Home occupations.
 - (2) Garages.
 - (3) Greenhouses, tool houses, play houses and sheds.
 - (4) Fences and walls.
 - (5) ACCESSORY DWELLING UNITS.
- (e) *Requirements:*
 - (1) Minimum lot area: 5,000 square feet.
 - (2) Minimum lot width: 50 feet.
 - (3) Maximum height of structure: 30 feet.
 - (4) Minimum floor area of dwelling unit: 500 square feet.
 - (5) Minimum setback. Principal and accessory structures (walls and fences six feet high or less excluded):
 - a. Front setback: seven feet.
 - b. Side setback: seven feet.
 - c. Rear setback: five feet.

IV. Amendment to Chapter 16, Article 1 Section 16.3.40 of the Municipal Code. Chapter 16, Article 1, Section 16.3.40 of the Municipal Code is amended by omitting strikethrough text and adding the capitalized and underlined text, as follows:

Sec. 16-3-40. R-2 Multiple Family Residential District.

- (a) *Purpose.* This District is established for the purpose of providing an area for multifamily and single-family dwelling units.
- (b) *Uses permitted by right:*
 - (1) Single-family dwellings.
 - (2) Multifamily dwellings.
 - (3) Child care centers.
 - (4) Family care homes.
 - (5) Manufactured homes.
 - (6) Mobile homes.
 - (7) Group homes for the aged.
 - (8) Group homes for the developmentally disabled.
- (c) *Uses subject to review:*
 - (1) Educational institutions.
 - (2) Religious institutions.
 - (3) Mobile home parks.
 - (4) Bed and breakfast establishments.
 - (5) Keeping of horse, asses and mules for private, noncommercial use.
 - (6) Vacation rental.
 - ~~(7) Accessory dwelling units.~~
- (d) *Accessory uses and structures:*
 - (1) Home occupations.
 - (2) Garages.
 - (3) Greenhouses, tool houses, playhouses and sheds.
 - (4) Fences and walls.
 - (5) ACCESSORY DWELLING UNITS.
- (e) *Requirements:*
 - (1) Minimum lot area: 5,000 square feet.
 - (2) Minimum lot area per multifamily dwelling unit: 1,250 square feet.
 - (3) Minimum lot width: 50 feet.
 - (4) Maximum height of structure: 30 feet.
 - (5) Minimum floor area of dwelling unit:
 - a. Single family unit: 750 square feet.
 - b. Multifamily unit: an additional 500 square feet, for a total of 1,250 square feet.
 - (6) Minimum setback. Principal and accessory structures (walls and fences six feet high or less excluded):

- a. Front setback: seven feet.
- b. Side setback: seven feet.
- c. Rear setback: five feet.

V. Amendment to Chapter 16, Article 1 Section 16.3.50 of the Municipal Code. Chapter 16, Article 1, Section 16.3.50 of the Municipal Code is amended by omitting strikethrough text and adding the capitalized and underlined text, as follows:

Sec. 16-3-50. B-P Business Pedestrian District.

- (a) *Purpose.* This District is established for the purpose of providing an area for a wide range of retail uses, offices, personal and professional services, places of amusement and restaurants, which are readily accessible to a person on foot.
- (b) *Uses permitted by right:*
 - (1) Retail shops.
 - (2) Offices.
 - (3) Places of recreation or entertainment.
 - (4) Financial institutions.
 - (5) Personal or professional services.
 - (6) Arts and crafts studios or shops.
 - (7) Post offices.
 - (8) Print shops.
 - (9) Hotels and motels.
 - (10) Restaurants and bars.
 - (11) Religious institutions.
 - (12) Social or fraternal clubs.
 - (13) Transportation facilities.
 - (14) Low impact repair shops.
 - (15) Single-family or multifamily dwellings.
 - (16) Manufactured homes.
 - (17) Child care centers or family care homes.
 - (18) Group homes for the aged or for the developmentally disabled.
 - (19) Centers for the performing, visual or literary arts.
 - (20) Community centers.
 - (21) Convention and conference facilities.
 - (22) Scientific or educational facilities.
 - (23) Venues for public entertainment.
 - (24) Bed and breakfast.
 - (25) Vacation rental.
- (c) *Uses subject to review:*
 - (1) Any use or activity not conducted within an enclosed building.
 - (2) Fabrication, manufacture and assembly facilities.

- ~~(3) Accessory dwelling units.~~
- (d) *Accessory uses and structures:*
- (1) Garages.
 - (2) Greenhouses, tool houses, play houses and sheds.
 - (3) Fences and walls.
 - (4) Service yards, subject to the provisions contained in Paragraph 16-8-10(1) of this Chapter.
 - (5) ACCESSORY DWELLING UNITS.
- (e) *Requirements (including dwellings in conjunction with other principal use):*
- (1) Minimum lot area: 2,500 square feet.
 - (2) Minimum lot width: 25 feet.
 - (3) Maximum height of structure: 40 feet.
 - (4) Minimum floor area:
 - a. Per principal use (other than dwelling): 500 square feet.
 - b. Per dwelling unit (single-family or multifamily) in conjunction with another principal use: 500 square feet.
 - (5) Minimum setback. Principal and accessory structures (walls and fences six feet high or less excluded):
 - a. Front setback: zero feet.
 - b. Side setback: zero feet.
 - c. Rear setback: five feet.
- (f) *Requirements for single-family or multifamily dwellings not in conjunction with other principal use:*
- (1) Minimum lot area: 5,000 square feet.
 - (2) Minimum lot area per multifamily dwelling unit: 1,250 square feet.
 - (3) Minimum lot width: 50 feet.
 - (4) Maximum height of structure: 30 feet.
 - (5) Minimum floor area of dwelling unit: 500 square feet.
 - (6) Minimum setback. Principal and accessory structures (walls and fences six feet high or less excluded):
 - a. Front setback: seven feet.
 - b. Side setback: seven feet.
 - c. Rear setback: five feet.
- (g) *Limited "B-P-L" Overlay Districts.* Whenever a "B-P" zone designation has the suffix's "L" added thereto (i.e, "B-P-L"), uses therein shall also comply with the regulations in Article 4, Division 4, of this Chapter.

VI. Amendment to Chapter 16, Article 1 Section 16.3.60 of the Municipal Code. Chapter 16, Article 1, Section 16.3.60 of the Municipal Code is amended by omitting strikethrough text adding the capitalized and underlined text, as follows:

Sec. 16-3-60. B-A Business Automobile District.

- (a) *Purpose.* This District is established for the purpose of providing an area suited to the needs of travelers and tourists arriving by motor vehicle.
- (b) *Uses permitted by right, subject to site plan review:*
 - (1) Hotels and motels.
 - (2) Multifamily dwellings.
 - (3) Service stations.
 - (4) Keeping of horses, asses and mules for private, noncommercial use.
 - (5) Centers for the performing, visual or literary arts.
 - (6) Community centers.
 - (7) Convention and conference facilities.
 - (8) Scientific or educational facilities.
 - (9) Venues for public entertainment.
- (c) *Uses subject to review:*
 - (1) Restaurants and bars.
 - (2) Gift shops.
 - (3) Home occupations (subject to the procedures established in Section 16-8-20 of this Chapter).
 - (4) Service yards, subject to the provisions of Paragraph 16-8-10(1) of this Chapter.
 - (5) ~~Accessory Dwelling Units~~

(D) ACCESSORY USES AND STRUCTURES

(1) ACCESSORY DWELLING UNITS.

- (e) *Requirements:*
 - (1) Minimum lot area: 30,000 square feet.
 - (2) Minimum lot area per dwelling unit: 3,750 square feet.
 - (3) Minimum lot width: 200 feet.
 - (4) Maximum height of structure: 30 feet.
 - (5) Minimum floor area per principal use or per dwelling unit: 500 square feet.
 - (6) Minimum setbacks. Principal and accessory structures (walls and fences six feet high or less excluded):
 - a. Front setback: 20 feet.
 - b. Side setback: 15 feet.
 - c. Rear setback: five feet.
 - (7) Site plan: required for review 60 days prior to issuance of a building permit.
 - (8) Landscaping: 30 percent of the area of any lot or parcel must be landscaped.
 - (9) Accessory uses: the aggregate square footage of all accessory uses shall not exceed 15 percent of the gross square footage of the building.
- (f) *Limited "B-A-L" Overlay Zone.* Whenever a "B-A" zone designation has the suffix "L" added thereto (i.e., "B-A-L"), uses therein shall also comply with the regulations in Article 4, Division 4, of this Chapter.

VII. Amendment to Chapter 16, Article 1 Section 16.3.70 of the Municipal Code. Chapter

16, Article 1, Section 16.3.70 of the Municipal Code is amended by omitting strikethrough text adding the capitalized and underlined text, as follows:

Sec. 16-3-70. E-D Economic Development District.

- (a) *Purpose.* This District is established for the purpose of creating an area where economic development is encouraged, and where varied business activities can take place. Single-family use is permitted.
- (b) *Uses permitted by right:*
 - (1) Fabrication, manufacture and assembly facilities.
 - (2) High impact repair shops.
 - (3) Warehousing, storage and distribution facilities.
 - (4) Transportation facilities.
 - (5) Personal services.
 - (6) Bed and breakfast.
- (c) *Uses subject to review:*
 - (1) Single-family dwellings.
 - (2) Manufactured homes.
 - (3) Mobile homes.
 - (4) Mobile home parks.
 - (5) Camper parks.
 - (6) Child care centers or family care homes.
 - (7) Group homes for the aged or developmentally disabled.
 - (8) Kennels.
 - (9) Horse stables or businesses.
 - (10) Any use or activity not conducted within an enclosed building.
 - (11) Keeping of horses, asses and mules for private, noncommercial use.
 - (12) Vacation rental.
 - (13) ATV staging areas.
 - ~~(14) Accessory dwelling units~~
- (d) *Accessory uses and structures:*
 - (1) Home occupations.
 - (2) Garages.
 - (3) Greenhouses, tool houses, play houses and sheds.
 - (4) Fences and walls.
 - (5) ACCESSORY DWELLING UNITS.
- (e) *Requirements:*
 - (1) Minimum lot area: 5,000 square feet.
 - (2) Minimum lot width: 50 feet.
 - (3) Maximum height of structure: 30 feet.

- (4) Minimum floor area of dwelling unit:
 - a. Dwelling unit: 500 square feet.
 - b. Any use other than dwelling: 500 square feet.
- (5) Minimum setbacks. Principal and accessory structures (walls and fences six feet high or less excluded):
 - a. Front setback: seven feet.
 - b. Side setback: seven feet.
 - c. Rear setback: five feet.
- (f) *Limited "E-D-L" Overlay District*. Whenever an "E-D" zone designation has the suffix "L" added thereto (i.e., "E-D-L"), uses therein shall also comply with the regulations in Article 4, Division 4, of this Chapter.

VIII. Amendment to Chapter 16, Article 1 Section 16.3.80 of the Municipal Code. Chapter 16, Article 1, Section 16.3.80 of the Municipal Code is amended by adding the capitalized and underlined text, as follows:

Sec. 16-3-80. P Public Use District.

- (a) *Purpose*. This District is established for the purpose of creating an area where publicly owned uses are accommodated.
- (b) *Uses permitted by right*:
 - (1) Public offices.
 - (2) Jails.
 - (3) Public parks.
 - (4) Open spaces.
 - (5) Public recreation facilities.
 - (6) Public safety facilities for police, fire or emergency service.
 - (7) Courts.
 - (8) Libraries.
 - (9) Museums.
 - (10) Educational institutions.
 - (11) Hospitals and clinics.
 - (12) Areas subject to natural hazards.
- (c) *Uses subject to review*:
 - (1) Equipment storage yards.
 - (2) Public works garages.

(D) ACCESSORY USES AND STRUCTURES

(1) ACCESSORY DWELLING UNITS.

- (e) *Requirements*:
 - (1) Minimum lot area: 7,500 square feet.
 - (2) Minimum lot width: 75 feet.
 - (3) Maximum height of structure: 30 feet.

- (4) Minimum floor area: zero square feet.
- (5) Minimum setbacks. Principal and accessory structures (walls and fences six feet high or less excluded):
 - a. Front setback: seven feet.
 - b. Side setback: seven feet.
 - c. Rear setback: five feet.

IX. Amendment to Chapter 16, Article 1 Section 16.8.80 of the Municipal Code. Chapter 16, Article 1, Section 16.8.80 of the Municipal Code is amended by omitting strikethrough text adding the capitalized and underlined text, as follows:

(a) Sec. 16-8-80. Placement and construction of accessory dwelling units for residential housing needs.

~~(a) — Purpose: For the Town of Silverton to adopt a policy that promotes and encourages the creation of legal ADUs, to increase available long-term housing, while minimizing any increase in infrastructure maintenance, and while retaining existing neighborhood character.~~

~~(b) — Definitions: "Accessory" means that an ADU is subordinate to and smaller than the primary structure on the same parcel, and ADU is the general term for an accessory dwelling unit, including but not limited to, carriage house, miner's cabin, granny flat, and outbuilding. An ADU provides complete independent living facilities for a limited number of persons. It shall include permanent provisions for living, cooking, eating, sleeping, heating, lighting, electric, water, and sanitation, on the same parcel as the primary structure. The ADU shall meet all requirements as a habitable residence, per provisions of the currently adopted building codes, and all other applicable ordinances, and it shall receive a Certificate of Occupancy prior to becoming a legal ADU. Applications for ADUs will be reviewed and may or may not be permitted, on a case-by-case basis, based on compliance with this Ordinance.~~

~~(c) — Review process: ADUs require a Town Use Subject to Review Application, which shall first be reviewed by the Town Staff for completeness and compliance with the applicable regulations. A Site Plan, Utility Plan, Building Plans, and a text description of the project shall be submitted by the Applicant, along with the Town Use Subject to Review Application form, and adopted fee. Additional copies and reasonable additional submittal items shall be submitted as required by the Town Staff, to adequately evaluate the project. Property owners within 300 feet of the proposed ADU parcel's exterior boundaries shall be notified by mail by the Town Staff, using pre-stamped pre-addressed envelopes submitted by the Applicant. Once determined to be complete, the application shall be reviewed by the Planning Commission, for compliance with this Section, with its recommendation and any conditions of approval forwarded to the Board of Trustees. If an ADU application complies with all of the provisions of this section, related regulations, and there are no material concerns expressed in writing by adjacent land owners, then the Town Staff may exempt the ADU application from Planning Commission and Board of Trustee review. If the application is not exempt and after Planning Commission review, the Town Staff shall schedule a public hearing for the Board of Trustees to approve with~~

conditions, table, or deny the application. Public notice shall be given a minimum of ten days in advance of the public hearing by publication. Any ADU application that does not fully comply with all provisions of this Section shall automatically be subject to review by the Planning Commission and Board of Trustees. Requests for variances to the Chapter 16 Zoning are required to be reviewed by the Town Board of Adjustment.

(d) — *Occupancy:* The maximum number of persons occupying an ADU shall be based upon the latest adopted building code, per square footage occupancy calculations. As of the date of this Ordinance, ADUs from 400 to 700 square feet are allowed an occupancy of up to three persons. ADUs that are 400 square feet or less are allowed up to two persons, with exiting and fire protective measures and/or upgrades as required by the Town Building Inspector.

(e) — *Density:* ADUs are not a unit of density; they are an accessory use in conjunction with a primary structure. A legally conforming parcel may be permitted for one ADU.

(f) — *Lot size:* Minimum parcel size shall conform to the zoning district requirements.

(g) — *Setbacks:* Side lot line setbacks and rear lot line setbacks shall conform to the zoning district minimum requirements. ADUs shall be located in a subordinate location on the parcel, in relation to the primary structure. ADUs that are to be newly constructed shall comply with all required setbacks. ADUs proposed in existing structures are not required to meet the setback requirements; however, when reasonably feasible, as determined by the Town Staff, the non-conforming alley setback shall be increased. If the approximate setback distances cannot be determined, then the Town Staff may require the Applicant to submit a Survey or an Improvement Location Certificate (ILC). ADUs shall be located a minimum of ten feet from any existing or proposed propane tank(s) or as otherwise required by IBC and NFPA standards. New construction and proposed additions to existing structures being converted to ADUs shall conform with the current minimum setback requirements.

(h) — *Unit types:* ADUs shall be detached from the primary structure. ADUs may be located in conjunction with an existing garage and/or accessory outbuilding. ADUs contained within a primary structure are not permitted. ADUs shall not be attached to the primary structure; however, an existing structure which is already physically attached to the exterior of the primary structure, may be converted into an ADU, after being reviewed by the Planning Commission, and approval by the Board of Trustees.

(i) — *ADU in existing structure:* An ADU that is to be located within an existing structure may require foundation improvements to accommodate the adaptive reuse and conversion into an ADU. This foundation work typically includes footings and foundation walls for a crawl space or a basement. The footprint of the foundation work shall not exceed the footprint of the existing structure above, where the lot line setbacks are non-compliant. If the work requires the temporary moving of the existing structure, it may be placed back into the same historic location and elevation upon the completion of work. However, if the non-compliant setback from the alley can feasibly be increased, then the structure shall be re-placed to cause the maximum possible compliance with the current minimum setback requirements. The requirements and interpretation of these provisions, and the site specific feasibility thereof, shall be as determined by the Town Staff. ADUs proposed in existing structures are not limited by minimum square foot

limits; however, every ADU shall meet all applicable adopted building codes. The occupied spaces of an ADU shall be limited to 700 square feet. If a basement area is to be occupied for living, kitchen, bath, sleeping, the occupied spaces shall meet all IBC requirements, for exiting, emergency egress and rescue, along with snow diversion requirements. Non-occupied areas of a basement, partial basement or crawl space may be utilized for the storage needs of the ADU occupant(s), and as a mechanical room. All construction of ADUs in existing structures exceeding 50 years in age shall comply with historic preservation standards, whenever feasible, to retain the historic integrity of the structure and neighborhood; said requirements shall be as reasonably determined by the Town Staff.

(j) — *Unit size:* New Structures: ADUs to be located in a new structure shall contain a minimum of 300 square feet, and a maximum of 700 square feet, measured from the ADU interior perimeter footprint. ADUs constructed above outbuildings shall have a minimum of 300 square feet and a maximum of 700 square feet of usable floor area, as defined by the currently adopted building codes.

(k) — *Height and width:* ADUs shall be a maximum of two stories. The term "story" shall be as defined by the current Building Codes adopted by the Town of Silverton. ADUs exceeding one story may be permitted on a case-by-case basis if approved by the Town Board. ADUs shall comply with the site zoning district's most stringent maximum height requirements. Height and width requirements are also subject to review and modification per other applicable requirements, as determined by the Town Board of Trustees.

(l) — *Orientation and privacy:* ADUs shall be oriented and designed in a manner that maintains the privacy of the occupants on adjacent properties, as determined by a site visit and site-specific conditions, including but not limited to building heights, solar access, locations of doors, windows and outdoor spaces, walls, fences and landscape screening. ADU applications shall depict and propose methods to minimize impacts to adjacent properties.

(m) — *Design standards:* ADUs shall be designed to be compatible with the architectural character of the primary structure, or neighboring structures, and nearby historic structures. ADU decorative features, details, ornamentation, and accessory components shall reflect the architectural character of the neighborhood, and shall be compatible with the architectural design of structures found in the community.

(n) — *Access:* ADUs shall have an individual exterior entry, with direct pedestrian access to a public right-of-way. Provisions for maintaining safe exiting from the ADU and to the public right-of-way during all weather conditions shall be addressed.

(o) — *Parking:* ADUs shall have no off-street parking requirements. The applicant shall note the availability of two on-street parking spaces that are adjacent to the parcel, with the intent of protecting parking availability for neighboring properties. No posting of reserved parking for the ADU or the primary structure is allowed.

(p) — *Utilities, billing and ADU address:* ADUs shall have separate and independent billing for sewer, water, and refuse services, unless exempted from this requirement by the Board of Trustees. Electricity, heat, phone, internet, and other utility services shall be

~~designed so as to allow for the continued use of the primary structure and/or the ADU when one is not occupied, as well as meeting the requirements of the service provider. Addresses for ADUs shall be the same as the primary residence plus one-half, or shall be assigned a number by the tap location method, as determined by the Town Staff. Existing site and utility conditions may permit the joint usage of the primary structure's water and/or sewer tap(s) and service line(s) to serve the ADU, if approved by the Public Works Director and Building Inspector. In such circumstances, independent metering, accessible shutoff, and lock of the ADU water service shall be installed. The applicable standard residential service fees for water, sewer, and refuse shall apply to all ADUs. If a new water tap is required to be installed on the water main for the ADU, as determined by the Public Works Director and Building Inspector, then the applicable water tap fee and water plant investment fee shall be paid. If a new sewer tap is required to be installed on the sewer main for the ADU, as determined by the Public Works Director and Building Inspector, then the applicable sewer tap fee and sewer plant investment fee shall be paid.~~

~~(q) — *Ownership and use:* The primary structure and ADU shall remain on one parcel with a single ownership. Parcels with ADUs shall not be subdivided. Owners may occupy either the primary structure or the ADU. Neither the primary structure nor the ADU shall be used as a Vacation Rental. In the event of the simultaneous rental of both the ADU and the residential dwelling of a primary structure, the lease term for both units shall be for a minimum of six months.~~

~~(r) — *Leases:* ADUs are intended to provide rental housing opportunities for working residents, seasonal workers, emergency service volunteers, or senior citizens, and shall have a minimum written lease duration of at least three months per tenancy.~~

SEC. 16-8-80. PLACEMENT AND CONSTRUCTION OF ACCESSORY DWELLING UNITS FOR RESIDENTIAL HOUSING NEEDS.

- (A) PURPOSE: THE CREATION OF LEGAL ACCESSORY DWELLING UNITS (“ADUS”) IS GENERALLY ENCOURAGED AS AN EFFECTIVE MEANS TO INCREASE AVAILABLE LONG-TERM HOUSING, WHILE MINIMIZING ANY INCREASE IN INFRASTRUCTURE MAINTENANCE, AND WHILE RETAINING EXISTING NEIGHBORHOOD CHARACTER.
- (B) ANY ACCESSORY DWELLING UNIT (ADU) SHALL:
- (1) HAVE A MINIMUM SIZE OF THREE HUNDRED (300) SQUARE FEET USABLE FLOOR AREA, AS DEFINED BY THE CURRENTLY ADOPTED BUILDING CODES; AND
 - (2) NOT EXCEED 800 SQ. FT. OF USABLE FLOOR SPACE, OR FIFTY PERCENT (50%) OF THE GROSS FLOOR AREA OF THE PRINCIPAL DWELLING, WHICHEVER IS GREATER; AND
 - (3) INCLUDE A KITCHEN (TO INCLUDE, BUT NOT BE LIMITED TO, A SINK, A REFRIGERATOR, AND A RANGE); AND
 - (4) INCLUDE A FULL BATHROOM (TO INCLUDE, BUT NOT BE LIMITED TO, A SINK, A TOILET, AND A SHOWER OR BATHTUB); AND

- (5) HAVE AN INDIVIDUAL EXTERIOR ENTRY, WITH DIRECT PEDESTRIAN ACCESS TO A PUBLIC RIGHT-OF-WAY. PROVISIONS FOR MAINTAINING SAFE EXITING FROM THE ADU AND TO THE PUBLIC RIGHT-OF-WAY WAY DURING ALL WEATHER CONDITIONS SHALL BE ADDRESSED.
- (6) NOT BE SUBDIVIDED AND/OR SUBSEQUENTLY SOLD AS FEE SIMPLE OWNERSHIP. IT SHALL REMAIN AS PART OF THE PROPERTY WHERE THE PRIMARY UNIT IS LOCATED; AND
- (7) NOT BE COUNTED AS A UNIT OF DENSITY.
- (C) DETACHED ADUS SHALL BE:
 - (1) SEPARATED FROM THE PRINCIPAL DWELLING UNIT BY A MINIMUM OF TEN (10) FEET.
 - (2) LOCATED TO THE SIDE OR THE REAR OF THE PRINCIPAL DWELLING UNIT.
- (D) DIMENSIONAL STANDARDS.
 - (1) LOT SIZE. LOT SIZE SHALL CONFORM TO THE ZONE DISTRICT'S REQUIREMENTS.
 - (2) HEIGHT. ADUS SHALL COMPLY WITH THE ZONE DISTRICT'S MOST STRINGENT MAXIMUM HEIGHT REQUIREMENTS.
 - (3) SETBACKS. FRONT, SIDE, AND REAR SETBACKS SHALL CONFORM TO THE ZONE DISTRICT MINIMUM REQUIREMENTS. IF THE APPROXIMATE SETBACK DISTANCES CANNOT BE DETERMINED, THEN THE TOWN STAFF MAY REQUIRE THE APPLICANT TO SUBMIT A SURVEY OR AN IMPROVEMENT LOCATION CERTIFICATE (ILC). ADUS SHALL BE LOCATED A MINIMUM OF TEN FEET FROM ANY EXISTING OR PROPOSED PROPANE TANK(S) OR AS OTHERWISE REQUIRED BY IBC AND NFPA STANDARDS.
- (E) PARKING. ADUS SHALL HAVE NO OFF-STREET PARKING REQUIREMENTS. THE APPLICANT SHALL NOTE THE AVAILABILITY OF TWO ON-STREET PARKING SPACES THAT ARE ADJACENT TO THE PARCEL, WITH THE INTENT OF PROTECTING PARKING AVAILABILITY FOR NEIGHBORING PROPERTIES. NO POSTING OF RESERVED PARKING FOR THE ADU OR THE PRIMARY STRUCTURE IS ALLOWED.
- (F) USE AND OCCUPANCY OF PRINCIPAL AND ACCESSORY DWELLING UNITS.
 - (1) OWNERS MAY OCCUPY EITHER THE PRIMARY STRUCTURE OR THE ADU; AND
 - (2) NEITHER THE PRIMARY STRUCTURE NOR THE ADU SHALL BE USED AS A VACATION RENTAL; AND
 - (3) IN THE EVENT OF THE SIMULTANEOUS RENTAL OF BOTH THE ADU AND THE RESIDENTIAL DWELLING OF A PRIMARY STRUCTURE, THE LEASE TERM FOR BOTH UNITS SHALL BE FOR A MINIMUM OF THREE MONTHS; AND

(4) IN THE EVENT THAT THE UNIT IS RENTED, IT SHALL BE BY PERSONS WHO MEET WHO MEET THE FOLLOWING CRITERIA:

- A. THE UNIT SHALL BE THE PRIMARY RESIDENCE OF THE TENANT(S); AND
- B. THE TENANT(S) MUST WORK A MINIMUM OF THIRTY-TWO (32) HOURS PER WEEK OR ONE THOUSAND (1,000) HOURS PER YEAR AT A JOB WITHIN SAN JUAN COUNTY; AND
- C. LONG TERM TENANCY SHALL MEAN RENTAL FOR A TERM OF A MINIMUM OF THREE (3) MONTHS IS REQUIRED FOR AN INITIAL LEASE.

(5) THE TOWN MAY ALLOW EXCEPTIONS TO THE RESIDENCY REQUIREMENTS FOR UNITS DESIGNATED AS ON-SITE EMPLOYEE DWELLING UNITS, FOR PERSONS WITH DISABILITIES, OR FOR PERSONS WHO HAVE REACHED RETIREMENT AGE.

(G) DESIGN STANDARDS.

- (1) ALL CONSTRUCTION OF ADUS IN EXISTING STRUCTURES EXCEEDING 50 YEARS IN AGE SHALL COMPLY WITH HISTORIC PRESERVATION STANDARDS, WHENEVER FEASIBLE, TO RETAIN THE HISTORIC INTEGRITY OF THE STRUCTURE AND NEIGHBORHOOD; SAID REQUIREMENTS SHALL BE AS REASONABLY DETERMINED BY THE TOWN STAFF.
- (2) ADUS SHALL BE ORIENTED AND DESIGNED IN A MANNER THAT MAINTAINS THE PRIVACY OF THE OCCUPANTS ON ADJACENT PROPERTIES, AS DETERMINED BY A SITE VISIT AND SITE-SPECIFIC CONDITIONS, INCLUDING BUT NOT LIMITED TO BUILDING HEIGHTS, SOLAR ACCESS, LOCATIONS OF DOORS, WINDOWS AND OUTDOOR SPACES, WALLS, FENCES AND LANDSCAPE SCREENING
- (3) ADUS SHALL BE DESIGNED TO BE COMPATIBLE WITH THE ARCHITECTURAL CHARACTER OF THE PRIMARY STRUCTURE, OR NEIGHBORING STRUCTURES, AND NEARBY HISTORIC STRUCTURES. ADU DECORATIVE FEATURES, DETAILS, ORNAMENTATION, AND ACCESSORY COMPONENTS SHALL REFLECT THE ARCHITECTURAL CHARACTER OF THE NEIGHBORHOOD, AND SHALL BE COMPATIBLE WITH THE ARCHITECTURAL DESIGN OF STRUCTURES FOUND IN THE COMMUNITY.

(H) UTILITIES, BILLING AND ADU ADDRESS: ADUS SHALL HAVE SEPARATE AND INDEPENDENT BILLING FOR SEWER, WATER, AND REFUSE SERVICES, UNLESS EXEMPTED FROM THIS REQUIREMENT BY THE BOARD OF TRUSTEES. ELECTRICITY, HEAT, PHONE, INTERNET, AND OTHER UTILITY SERVICES SHALL BE DESIGNED SO AS TO ALLOW FOR THE CONTINUED USE OF THE PRIMARY STRUCTURE AND/OR THE ADU WHEN ONE IS NOT OCCUPIED, AS WELL AS MEETING THE REQUIREMENTS OF THE SERVICE

PROVIDER. ADDRESSES FOR ADUS SHALL BE THE SAME AS THE PRIMARY RESIDENCE PLUS ONE-HALF, OR SHALL BE ASSIGNED A NUMBER BY THE TAP LOCATION METHOD, AS DETERMINED BY THE TOWN STAFF. EXISTING SITE AND UTILITY CONDITIONS MAY PERMIT THE JOINT USAGE OF THE PRIMARY STRUCTURE'S WATER AND/OR SEWER TAP(S) AND SERVICE LINE(S) TO SERVE THE ADU, IF APPROVED BY THE PUBLIC WORKS DIRECTOR AND BUILDING INSPECTOR. IN SUCH CIRCUMSTANCES, INDEPENDENT METERING, ACCESSIBLE SHUTOFF, AND LOCK OF THE ADU WATER SERVICE SHALL BE INSTALLED. THE APPLICABLE STANDARD RESIDENTIAL SERVICE FEES FOR WATER, SEWER, AND REFUSE SHALL APPLY TO ALL ADUS. IF A NEW WATER TAP IS REQUIRED TO BE INSTALLED ON THE WATER MAIN FOR THE ADU, AS DETERMINED BY THE PUBLIC WORKS DIRECTOR AND BUILDING INSPECTOR, THEN THE APPLICABLE WATER TAP FEE AND WATER PLANT INVESTMENT FEE SHALL BE PAID. IF A NEW SEWER TAP IS REQUIRED TO BE INSTALLED ON THE SEWER MAIN FOR THE ADU, AS DETERMINED BY THE PUBLIC WORKS DIRECTOR AND BUILDING INSPECTOR, THEN THE APPLICABLE SEWER TAP FEE AND SEWER PLANT INVESTMENT FEE SHALL BE PAID.

(I) ENFORCEMENT. ANY PROPERTY CONTAINING AN ACCESSORY DWELLING UNIT NOT PROPERLY LEASED OR INHABITED IN ACCORDANCE WITH THESE REQUIREMENTS SHALL BE DEEMED A VIOLATION OF THE ACCESSORY DWELLING UNIT APPROVAL AND A BREACH OF THE COVENANT RESTRICTING THE UNIT. THE TOWN SHALL HAVE THE ABILITY TO PURSUE ANY AND ALL REMEDIES NECESSARY TO ENFORCE THE REQUIREMENTS OF THIS SECTION INCLUDING REVOCATION OF THE ACCESSORY DWELLING UNIT APPROVAL. AND THE TOWN SHALL BE ENTITLED TO RECOVER ALL COSTS, INCLUDING REASONABLE ATTORNEY FEES, INCURRED IN ENFORCING THE SAME.

X. Incorporation of Recitals. The recitals set forth above are incorporated and ordained hereby as if set forth hereafter in full.

XI. Ordinance Approval. The Amendments to Chapter 16 as outlined herein, associated with Accessory Dwelling Units, are hereby approved.

XII. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

XIII. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

XIV. Posting, Publication and Effective Date. Following the passage of this Ordinance on second reading, the Town Clerk shall publish this Ordinance in full in a newspaper published within the limits of the Town. This Ordinance shall take effect 30 days after such publication.

INTRODUCED, READ, AND ORDERED FOR SECOND READING BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF SILVERTON, ON THE 22ND DAY OF MAY, 2023.

TOWN OF SILVERTON

By:

Shane Fuhrman, Mayor

ATTEST:

Matthew Green, Town Clerk

FINALLY PASSED, ADOPTED AND APPROVED ON SECOND AND FINAL READING AND ORDERED POSTED AND PUBLISHED IN THE MANNER PROVIDED IN SECTION VII HEREOF BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN HALL ON THE 12TH DAY OF JUNE, 2023, BY A VOTE OF THIS ORDINANCE AS IS ON FILE IN THE TOWN CLERK'S OFFICE FOR PUBLIC INSPECTION.

TOWN OF SILVERTON

By:

Shane Fuhrman, Mayor

ATTEST:

Matthew Green, Town Clerk

STAFF REPORT

To: Planning Commission
From: Katie Kent, Contracted Town Planner, CPS
Through: Lucy Mulvihill, Community Development Coordinator
Date: May 10, 2023
RE: Planning Commission recommendation: Proposed Amendments to Silverton Municipal Code
Creation of Wetland Regulations, Ordinance No. 2023-XXX

PURPOSE:

Through the review of applications over the past few months, it has come to the Town's attention that the existing Silverton Municipal Code ("SMC") does not include local regulations for protection of wetlands. An expressed need by the community as stated within the Silverton Compass Master Plan, and the recently completed Development Readiness Assessment, water quality regulations specifically with regards to wetlands are a priority for the Town.

Currently, any property owner is required to follow United States Army Corps of Engineers (USACE) permitting requirements for wetland disturbance. The Town has expressed a need for stronger local regulations that will require more wetland protection than the USACE has in place.

Whereas SMC, Article 2, Watershed Protection, addresses the Town's watershed and waterworks, it is stated that the Watershed District Map designates areas subject to the Town's jurisdiction to this Article. This map delineates land within five miles above the point where water is taken, none of which is land within the Town of Silverton. Therefore, SMC Article 2, does not have regulations for in-town wetlands.

Before the Planning Commission, to review and provide a recommendation to the Board of Trustees, is draft language proposed to be inserted as a new Section 16-8-90, titled Wetlands. This will be located under Chapter 16 Zoning, Article 8 Supplementary Regulations. The proposed new section provides basic standards that meet the Town's current needs. It is recognized that this language is to serve as an interim solution until a full code rewrite is performed that will involve more discussion on water quality including with the community and local experts in the field.

By proposing the new section within Chapter 16, Article 8, Supplementary Regulations it accomplishes the following:

- ✓ It is setting up the section in the Code in a way that will be utilized when a Code re-write is completed
- ✓ By having wetlands under zoning, it will be applied town-wide
- ✓ Disturbance to wetlands and an associated wetland buffer, even if non-jurisdictional through the USACE, will be required to be reviewed to Town standards

At this time, the intent is to get a set of standards in place that meet the desired need of the Town recognizing a timeliness to have these in effect so future development will not disturb sensitive wetland areas in Town. It is recognized that many local jurisdictions across the country have stronger wetland regulations within their code language.

In connection with the proposed standards regarding wetland disturbance, a new zoning application is proposed to be inserted into Sec. 16-1-90 outlining the process for a disturbance permit. Additionally, a definition of "wetland" is proposed within Sec. 16-1-20 and a revised definition of "wetland" is proposed within Sec. 13-2-20.

PROPOSED SECTIONS OF TOWN CODE TO BE AMENDED:

SMC, Section 16-1-90

A new Section, Disturbance Permit, is proposed to be inserted under Chapter 16 Zoning, Article 1 General Provisions.

SMC, Section 16-8-90

The creation of Section 16-8-90 Wetlands outlines standards for wetland disturbance. Staff notes:

- This section of Code will apply if there is any evidence that a proposed development may contain wetlands. If a property owner is unsure, Staff will use existing maps, such as the [Colorado Wetlands Inventory Mapping Tool](#) and existing conditions on the property to determine if a wetland may be present on the property.
- A twenty-five foot natural buffer around a wetland area is suggested.
 - The Town does not have to regulate a wetland buffer if they choose not to have it in the Code. Wetland buffers are important as they provide an area to reduce adverse impacts to wetland functions and values from adjacent development. Buffers:
 - Moderate stormwater runoff; and
 - Provide essential habitat for wetland-associated species; and
 - Reduce adverse impacts of human disturbance on wetland habitats.
- If wetlands are on a property, the applicant is required to submit a disturbance permit. This is a new permit application that the Community Development Department will process. The Planning Commission will provide a recommendation and the Board of Trustees is suggested as the decision-making authority.
- Proposed Code language allows for permitted disturbances under certain circumstances.
- Disturbance Criteria shall be met for a disturbance permit to be granted.
- An applicant may propose mitigation on a 1:1 basis which would be reviewed and authorized by the Town through the disturbance permit.
 - Mitigation varies throughout communities. 1:1 is typically the minimum required. Some jurisdictions require a 2:1 mitigation requirement meaning for every square foot of wetland disturbance that is proposed, the applicant would be required to provide double that square footage of newly created wetland in an approved area in accordance with the proposed standards.
- Financial security for any wetland disturbance shall be provided to the Town. This is proposed at 200% based on input from Town Staff received during the Development Readiness Assessment regarding bonding for improvements.

SMC, Section 16-1-20. Zoning Definitions.

In association with the proposed new language for wetland disturbance, a definition for wetland is proposed to be inserted into the general definition section under Zoning.

Wetland. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Common wetlands in and around Silverton include wet meadows, shallow marshes, willow stands, wet forested areas associated with high groundwater or snowmelt, peatlands, and other areas along water courses or where groundwater is near the ground surface. The procedures used to identify wetlands are those described in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (U.S. Army Corps of Engineers 2010). All wetlands identified using this methodology are regulated by the Town, regardless of whether they are regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act.

SMC, Section 13-2-20. Watershed Protection Definitions.

To avoid two different definitions of a wetland within the Town Code, Staff is proposing to strike through the existing definition of wetland within Sec. 13-2-30 and replace it with the proposed definition under Chapter 16.

~~*Wetland means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands includes by illustration swamps, marshes, bogs and similar areas.*~~

Wetland. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Common wetlands in and around Silverton include wet meadows, shallow marshes, willow stands, wet forested areas associated with high groundwater or snowmelt, peatlands, and other areas along water courses or where groundwater is near the ground surface. The procedures used to identify wetlands are those described in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (U.S. Army Corps of Engineers 2010). All wetlands identified using this methodology are regulated by the Town, regardless of whether they are regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act.

SILVERTON FEE SCHEDULE:

A disturbance permit is proposed to be added to the existing Silverton Fee Schedule. To cover the cost of the processing and review of the application, notice of public hearing(s), and associated staff review time, an application fee of \$500.00 is proposed. Pass through costs are proposed to be utilized if necessary for a disturbance permit.

Modifications to the Town's Fee Schedule is required to be approved by the Board of Trustees through a Resolution. The proposed Resolution and amended Fee Schedule will be presented to the Board of Trustees after approval of the second reading of the Ordinance.

DISTURBANCE PERMIT:

A disturbance permit application has been drafted and has been included as an attachment for Planning Commission feedback.



Building People, Places & Community



SILVERTON COMPASS PLAN:

The Silverton Compass Plan states a Community Strategy under Responsible Land Use, Growth, and Development is to create environmental land use policies. In explanation, the Plan states:

"Prioritizing sustainable initiatives and codes will set Silverton up for a successful and vibrant future. By implanting environmental land use policies, Silverton will be opening the doors for its future generations to enjoy the quality of life Silvertonians experience today. Additionally, there is a need to officially recognize wildlife and their habitats within land use policy changes.

Strategy B: Create Environmental Land Use Policies under Responsible Land Use, Growth, and Development includes:

Action Item #1: Prioritize and clearly define environmental and wildlife habitat protection as part of the land use development code.

Action Item #3: Factor in future air and water quality measures into the building design for new and redevelopment projects.

PLANNING COMMISSION ACTION:

Pursuant to SMC Sec. 16-1-40, all applications for an amendment shall be referred to the Planning Commission, which shall review and return a recommendation either for or against the proposed amendment or change to the Board of Trustees within 30 days of the receipt of the application. The Planning Commission shall recommend approval as presented, recommend approval with modifications, or recommend denial of the proposed language as presented in Ordinance 2023-XX.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission recommends approval of Ordinance 2023-XXX as presented.

SUGGESTED MOTION: *"I move that the Planning Commission recommends the Board of Trustees approve Ordinance 2023-XXX, amending sections of Chapter 13 and Chapter 16 as presented.*

Attachments: Ordinance 2023-XXX
Modified Fee Schedule
Disturbance Permit Submittal Requirements



ORDINANCE NO. 2023-XX

AN EMERGENCY ORDINANCE OF THE TOWN OF SILVERTON FOR THE PRESERVATION OF HEALTH, PEACE, AND SAFETY TO AMEND THE MUNICIPAL CODE OF THE TOWN OF SILVERTON COLORADO TO ESTABLISH WETLAND DISTURBANCE STANDARDS AND ASSOCIATED PERMITTING AND REGULATIONS

WHEREAS, the Town of Silverton (the "Town") is a Colorado statutory municipality governed by its elected Board of Trustees (the "Board");

WHEREAS, pursuant to the authority conferred via C.R.S. §§ 31-23-30 I, et seq. and C.R.S. §§ 29-20-10 I, et seq. the Town is empowered to regulate and restrict the use of buildings, structures and land within its statutory jurisdiction, so long as such restraints are determined necessary to promote the general health, safety and welfare of the community;

WHEREAS, the Board of Trustees of the Town of Silverton desires to make certain additions to Chapters 13 and 16 of the Municipal Code of the Town of Silverton Colorado;

WHEREAS, the San Juan Regional Planning Commission has reviewed the proposed additions to Chapters 13 and 16 and has made a positive recommendation to the Board of Trustees as required by Municipal Code;

WHEREAS, there is a real and immediate concern that development that results in disturbance within the Town's wetlands can threaten the Town of Silverton's natural environment;

WHEREAS, the Board of Trustees held duly noticed public hearings to receive public comment, evidence and testimony relative to the proposed amendment to the Municipal Code;

WHEREAS, the San Juan Regional Planning Commission and the Board of Trustees have determined that the Town of Silverton having wetland regulations and an associated permitting process is in the best interests of the Citizens' health, safety, and welfare; and

WHEREAS, the Board finds and declares that it is necessary to the immediate preservation of the public peace, health, or safety to adopt the regulations contained herein in order to protect the Town of Silverton's natural environment.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON THAT:

1. **Amendment.** Chapter 13, Article 2, Section 13-2-20 of the Municipal Code shall be amended by removing the language with strikethrough text, and adding the capitalized and underlined text, which shall read as follows:

~~Wetland means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands includes by illustration swamps, marshes, bogs and similar areas.~~

WETLAND. THOSE AREAS THAT ARE INUNDATED OR SATURATED BY SURFACE OR GROUND WATER AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT, AND THAT UNDER NORMAL CIRCUMSTANCES DO SUPPORT, A PREVALENCE OF VEGETATION TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL CONDITIONS. COMMON WETLANDS IN AND AROUND SILVERTON INCLUDE WET MEADOWS, SHALLOW MARSHES, WILLOW STANDS, WET FORESTED AREAS ASSOCIATED WITH HIGH GROUNDWATER OR SNOWMELT, PEATLANDS, AND OTHER AREAS ALONG WATER COURSES OR WHERE GROUNDWATER IS NEAR THE GROUND SURFACE. THE PROCEDURES USED TO IDENTIFY WETLANDS ARE THOSE DESCRIBED IN THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: WESTERN MOUNTAINS, VALLEYS, AND COAST REGION (U.S. ARMY CORPS OF ENGINEERS 2010). ALL WETLANDS IDENTIFIED USING THIS METHODOLOGY ARE REGULATED BY THE TOWN, REGARDLESS OF WHETHER THEY ARE REGULATED BY THE U.S. ARMY CORPS OF ENGINEERS UNDER SECTION 404 OF THE CLEAN WATER ACT.

2. **Amendment.** Chapter 16, Article 1, Section 16-1-20 of the Municipal Code shall be amended to add the capitalized and underlined text, which shall read as follows:

WETLAND. THOSE AREAS THAT ARE INUNDATED OR SATURATED BY SURFACE OR GROUND WATER AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT, AND THAT UNDER NORMAL CIRCUMSTANCES DO SUPPORT, A PREVALENCE OF VEGETATION TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL CONDITIONS. COMMON WETLANDS IN AND AROUND SILVERTON INCLUDE WET MEADOWS, SHALLOW MARSHES, WILLOW STANDS, WET FORESTED AREAS ASSOCIATED WITH HIGH GROUNDWATER OR SNOWMELT, PEATLANDS, AND OTHER AREAS ALONG WATER COURSES OR WHERE GROUNDWATER IS NEAR THE GROUND SURFACE. THE PROCEDURES USED TO IDENTIFY WETLANDS ARE THOSE DESCRIBED IN THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: WESTERN MOUNTAINS, VALLEYS, AND COAST REGION (U.S. ARMY CORPS OF ENGINEERS 2010). ALL WETLANDS IDENTIFIED USING THIS METHODOLOGY ARE REGULATED BY THE TOWN, REGARDLESS OF WHETHER THEY ARE REGULATED BY THE U.S. ARMY CORPS OF ENGINEERS UNDER SECTION 404 OF THE CLEAN WATER ACT.

3. **Amendment.** Chapter 16, Article 1, of the Municipal Code shall be amended to add the capitalized and underlined text, which shall read as follows:

16-1-90. DISTURBANCE PERMIT.

- (A) APPLICATIONS FOR A DISTURBANCE PERMIT PURSUANT TO SECTION 16-8-90 WETLANDS, SHALL BE FILED, IN WRITING, WITH THE TOWN CLERK, ALONG WITH THE REQUIRED FEE AS SET FORTH ON THE TOWN'S FEE SCHEDULE.
- (B) A DISTURBANCE PERMIT SHALL BE APPROVED BY THE BOARD OF TRUSTEES, FOLLOWING REVIEW AND RECOMMENDATION BY THE PLANNING COMMISSION.
- (C) APPLICATION PROCEDURE.
- (1) THE APPLICATION FOR A DISTURBANCE PERMIT SHALL INCLUDE ALL REQUIRED INFORMATION AS STATED IN SECTION 16-8-90, WETLANDS.
- (2) ALL APPLICATIONS SHALL BE REFERRED BY THE TOWN CLERK TO THE PLANNING COMMISSION, WHICH SHALL REVIEW AND RETURN A RECOMMENDATION EITHER FOR OR AGAINST THE PROPOSED DISTURBANCE PERMIT.
- (3) BEFORE ACTION IS TAKEN ON A DISTURBANCE PERMIT, A PUBLIC HEARING SHALL BE HELD BY THE BOARD OF TRUSTEES. AT LEAST TEN DAYS' ADVANCE NOTICE OF THE DATE, TIME AND PLACE OF SUCH HEARING SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE TOWN.
- (4) THE BOARD OF TRUSTEES SHALL RENDER ITS DECISION WITH A REASONABLE TIMEFRAME OF THE DATE OF SUBMISSION OF A COMPLETE APPLICATION.

4. **Amendment.** Chapter 16, Article 8, of the Municipal Code shall be amended to add the capitalized and underlined text, which shall read as follows:

SECTION 16-8-90. WETLANDS

- (A) THIS SECTION ESTABLISHES MINIMUM ACCEPTABLE STANDARDS FOR WETLAND DISTURBANCE. THE WETLAND STANDARDS ARE ESTABLISHED TO PROTECT THE BENEFICIAL FUNCTIONS AND VALUES OF WETLAND AREAS BY PROHIBITING SOIL DISTURBANCE IN WETLANDS AND WITHIN 25 FEET OF A BODY OF WETLAND, REFERRED TO AS THE WETLAND SETBACK. THESE AREAS PROTECT WATER QUALITY BY MAINTAINING A NATURAL BUFFER THROUGH WHICH POLLUTANTS PASS AND SERVE TO PROTECT THE HABITAT AND VISUAL APPEARANCE OF THE TOWN'S WETLANDS. THE REGULATIONS SET FORTH IN THIS SECTION ARE INTENDED TO COMPLEMENT AND OPERATE IN CONJUNCTION WITH THE DISTINCT JURISDICTIONAL WETLAND DISTURBANCE PROCESS SET FORTH IN SECTION 404 OF THE FEDERAL CLEAN WATER ACT AND ADMINISTERED BY THE U.S. ARMY CORPS OF ENGINEERS. ACCORDINGLY, THE DISTURBANCE STANDARDS OF THIS CODE MAY APPLY INDEPENDENTLY OF THE DETERMINATION OF THE JURISDICTIONAL NATURE OF THE WETLANDS BY THE U.S. ARMY CORPS, AND RESULT IN DISTURBANCE LIMITATIONS AND MITIGATION REQUIREMENTS IN ADDITION TO SECTION 404 REQUIREMENTS. THESE REQUIREMENTS ARE IN ADDITION TO, AND DO NOT REPLACE OR SUPERSEDE, ANY OTHER APPLICABLE STORMWATER MANAGEMENT REQUIREMENTS

WITHIN THE TOWN OF SILVERTON.

- (1) DEVELOPMENT PROHIBITED: DEVELOPMENT AND SOIL DISTURBANCE ARE GENERALLY PROHIBITED IN OR WITHIN 25 FEET OF ALL WETLANDS. DEVELOPMENT IN THESE AREAS SHALL ONLY BE PERMITTED IN ACCORDANCE WITH THE STANDARDS IN SECTION 16-8-90(A)(3).
- (2) INDEPENDENT SURVEY REQUIRED: IF THERE IS ANY EVIDENCE THAT A PROPOSED DEVELOPMENT MAY CONTAIN WETLANDS, THE APPLICANT SHALL PROVIDE A WETLANDS SURVEY PREPARED BY A QUALIFIED CONSULTANT. THE BOUNDARY OF THE WETLAND WILL BE DETERMINED UTILIZING THE METHODS OUTLINED IN THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: WESTERN MOUNTAINS, VALLEYS, AND COAST REGION (U.S. ARMY CORPS OF ENGINEERS 2010). ALL WETLANDS IDENTIFIED USING THIS METHODOLOGY ARE REGULATED BY THE TOWN, REGARDLESS OF WHETHER THEY ARE REGULATED BY THE U.S. ARMY CORPS OF ENGINEERS UNDER SECTION 404 OF THE CLEAN WATER ACT.
- (3) DISTURBANCE PERMIT REQUIRED: THE TOWN MAY ALLOW DISTURBANCE OF WETLAND AREAS OR WETLAND SETBACKS IN CONJUNCTION WITH AN APPROVED DISTURBANCE PERMIT. THE AREA OF DISTURBANCE SHALL BE LIMITED TO THE MINIMUM AMOUNT NECESSARY TO ACHIEVE THE INTENDED PURPOSE. DISTURBANCE PERMITS FOR DEVELOPMENT IN WETLANDS AND WETLAND SETBACKS SHALL BE REVIEWED BY THE TOWN IN ACCORDANCE WITH THE DISTURBANCE PERMIT PROCESS FOR THE APPLICATION AS DESIGNATED IN SECTION 16-1-90. THE PERMIT REVIEW MAY BE CONSOLIDATED WITH OTHER DEVELOPMENT APPLICATIONS AS APPROPRIATE. PUBLIC NOTICE, PUBLIC HEARING, AND APPEALS REQUIREMENTS SHALL FOLLOW THE REQUIREMENTS FOR THE DISTURBANCE PERMIT PROCESS.
- (4) PROHIBITED DISTURBANCES:
 - A. USE, STORAGE, OR APPLICATION OF PESTICIDES, EXCEPT FOR THE SPOT SPRAYING OF NOXIOUS WEEDS OR NONNATIVE SPECIES;
 - B. FILLING OR DUMPING INCLUDING BUT NOT LIMITED TO YARD WASTE;
 - C. GRADING, STRIPPING, OR OTHER SOIL DISTURBING PRACTICES;
 - D. CLEARING OF EXISTING VEGETATION WITH THE EXCEPTION OF ROUTINE TRIMMING;
 - E. DRAINING THE BUFFER AREA BY DITCHING, UNDERDRAINS, OR OTHER SYSTEMS;
 - F. STORAGE OR OPERATION OF MOTORIZED VEHICLES EXCEPT FOR MAINTENANCE OR EMERGENCY USE.
- (5) PERMITTED DISTURBANCES:
 - A. THE PROPOSED ACTIVITY IS WATER-DEPENDENT; SUCH AS DOCKS OR PIERS;

- B. THE PROPOSED ACTIVITY IS THE MINIMUM NECESSARY TO ACHIEVE ACCESS TO PROPERTY OR PROVIDE UTILITY SERVICE TO PROPERTY, AND NO OTHER ACCESS ROUTE AVOIDING WETLAND AND/OR WETLAND SETBACKS IS PRACTICAL, OR THE PROPOSED ACCESS ROUTE RESULTS IN BETTER OVERALL DESIGN OF THE SITE DEVELOPMENT;
- C. DENIAL OF THE DISTURBANCE PERMIT WOULD RESULT IN UNCONSTITUTIONAL TAKING OF PROPERTY PURSUANT TO THE COLORADO AND UNITED STATES CONSTITUTIONS.
- D. THE PROPOSED ACTIVITY IS (A) PRIMARILY FOR THE PROMOTION OF THE SAFETY, HEALTH AND GENERAL WELFARE OF THE SILVERTON COMMUNITY, AND (B) THE PUBLIC BENEFIT IS GREATER THAN THE IMPACT TO WETLANDS
- E. PROJECTS WHICH ARE INTENDED FOR THE BENEFIT OF THE COMMUNITY AND INSTALLED BY OR UNDER SUPERVISION OF THE TOWN. THESE PROJECTS MAY INCLUDE, BUT ARE NOT LIMITED TO, STREAM BANK STABILIZATION AND EROSION CONTROL ACTIVITIES; ROAD AND UTILITY CROSSINGS; BIKE AND PEDESTRIAN PATHS; FLOOD CONTROL AND OTHER SAFETY RELATED PROJECTS; PUBLIC RECREATIONAL IMPROVEMENTS, INCLUDING BOATING AND MARINA FACILITIES SUCH AS DOCKS, PIERS AND LAUNCH SITES, AND DREDGING OPERATIONS.
- F. THE PRIMARY PURPOSE OF THE PROPOSED DISTURBANCE ACTIVITY IS TO RESTORE A WILDLIFE HABITAT, AND/OR TO CREATE, IMPROVE, OR RESTORE WETLANDS AND/OR WETLAND SETBACKS.
- G. THE PROPOSED DISTURBANCE IN A WETLAND SETBACK WOULD ENHANCE THE BENEFITS OF THE WETLAND SETBACK OR INVOLVES RESIDENTIAL LANDSCAPING THAT WOULD NOT DEGRADE THE BENEFITS OF THE WETLAND SETBACK, OR THE PROPOSED DISTURBANCE IN A WETLAND SETBACK IS FOR CONSTRUCTION OF A STORM WATER TREATMENT AREA OR EQUIPMENT.

(6) DISTURBANCE CRITERIA:

THE TOWN MAY ALLOW DISTURBANCE OF A WETLAND OR WETLAND SETBACK IF THE DISTURBANCE ACTIVITY MEETS ALL OF THE FOLLOWING CRITERIA:

- A. THERE IS NO PRACTICAL ALTERNATIVE THAT WOULD AVOID IMPACTS TO WETLANDS OR WETLAND SETBACKS, AND THE DEVELOPMENT IS TO EITHER MEET A POLICY OF THIS CODE OR ALLOW REASONABLE USE OF THE PROPERTY.
- B. THE DEVELOPMENT WILL LIMIT THE DEGREE OF IMPACT ON THE WETLAND, OR WETLAND SETBACKS TO THE GREATEST EXTENT POSSIBLE USING THE MITIGATION PROCEDURES OUTLINED IN SECTION 16-8-90(8).
- C. THE PROJECT'S STORMWATER DISCHARGES WILL NOT VIOLATE OTHER APPLICABLE REGULATIONS AND LAWS, OR

SIGNIFICANTLY DEGRADE THE WATERS OF THE UNITED STATES OR ANY OTHER WETLAND AS DEFINED IN SECTION 16-1-20 OF THIS CODE.

(7) SUBMITTAL REQUIREMENTS:

- A. A NARRATIVE EXPLAINING HOW DEVELOPMENT IN THE WETLAND OR WETLAND SETBACK IS CONSISTENT WITH ONE OR MORE OF THE PERMITTED DISTURBANCES AND ALL OF THE DISTURBANCE CRITERIA CONTAINED IN SECTION 16-8-90(6).
- B. A MAP OR DIAGRAM DEPICTING THE SURVEYED BOUNDARY OF ALL WETLANDS AND WETLAND SETBACK AREAS, AND ILLUSTRATING THE AMOUNT, LOCATION AND ACREAGE OF PROPOSED DISTURBANCE TO WETLAND AND WETLAND SETBACKS, INCLUDING FILL, EXCAVATION, POTENTIAL HYDROLOGIC MODIFICATIONS (INTENDED AND UNINTENDED), OR OTHER ALTERATIONS.
- C. A GRADING AND EROSION CONTROL PLAN, UTILIZING SOIL STABILIZATION MEASURES AND PRACTICES TO MINIMIZE THE IMPACTS OF THE PROPOSED DISTURBANCE, INCLUDING A TIMEFRAME FOR INSTALLATION AND CONSTRUCTION.
- D. EVIDENCE OF COMPLIANCE WITH SECTION 404 OF THE FEDERAL CLEAN WATERS ACT. IF THE SITE CONTAINS AREAS DEEMED JURISDICTIONAL WETLANDS BY THE U.S. ARMY CORPS OF ENGINEERS, THE APPLICANT MUST PRESENT EVIDENCE OF COMPLIANCE WITH SECTION 404 OF THE FEDERAL CLEAN WATER ACT. DOCUMENTATION AND COMPLIANCE WITH ALL POTENTIAL SECTION 404 MATTERS SHALL REMAIN THE SOLE AND ONGOING RESPONSIBILITY OF THE APPLICANT, AND ANY FAILURE TO MAINTAIN SUCH COMPLIANCE MAY LEAD TO SUSPENSION OR REVOCATION OF ANY APPROVALS PROVIDED UNDER THIS CODE.
- E. THE TOWN ADMINISTRATOR OR DESIGNEE, MAY WAIVE THE SUBMITTAL REQUIREMENT FOR ONE (1) OR MORE OF THE LISTED REQUIREMENTS IF THE TOWN ADMINISTRATOR OR DESIGNEE, DETERMINES THAT THERE IS NO EVIDENCE OF THE PRESENCE OF THE RESOURCE OR RESOURCES ON THE PARCEL OR LOT PROPOSED FOR DEVELOPMENT.

(8) MITIGATION REQUIREMENT: THE TOWN OF SILVERTON ACKNOWLEDGES THAT MUCH OF THE TOWN WAS DEVELOPED PRIOR TO AWARENESS OF THE VALUE OF PROTECTING WETLANDS. THE TOWN SEEKS TO FIND A REASONABLE BALANCE BETWEEN THE PROPERTY OWNERS' DESIRE TO MAKE REASONABLE USE OF THEIR PROPERTIES AND THE PUBLIC'S INTEREST IN PRESERVING AND PROTECTING THESE IMPORTANT WATER RESOURCES. WHEN THE DESTRUCTION OR REDUCTION IN FUNCTION OF THESE RESOURCES CANNOT BE AVOIDED, THE TOWN FINDS THAT IMPACTS ON WETLANDS SHOULD BE MINIMIZED AND MITIGATION PROVIDED FOR UNAVOIDABLE LOSSES. THE LOSS SHALL BE COMPENSATED FOR BY REPLACING OR SUBSTITUTING THE LOST AREAS IN TERMS OF BOTH QUALITY AND QUANTITY. RESTORED OR CREATED WETLANDS SHOULD BE CONSIDERED ON-SITE FIRST, THEN

IN CLOSE PROXIMITY TO THE IMPACTED WETLAND AREA, IN AN AREA OF SIMILAR TYPE AND FUNCTION OF THE IMPACTED WETLANDS. THE PROPOSED LOCATION AND JUSTIFICATION FOR MITIGATION SHALL BE IDENTIFIED IN THE MITIGATION PLAN AS DESCRIBED BELOW. THE REQUIRED RATIO OF NEW WETLANDS TO PERMANENTLY IMPACTED WETLANDS SHALL BE 1:1. A FEE IN-LIEU FOR WETLANDS REPLACEMENT MAY BE CONSIDERED IF NO FEASIBLE ALTERNATIVE IS AVAILABLE. THE FEE SHALL BE BASED ON THE ESTIMATED COST OF CONSTRUCTION FOR THE CREATION OF IMPROVEMENTS THAT ARE SIMILAR IN SIZE AND TYPE, IN A LOCATION SELECTED BY THE TOWN. THE APPLICANT SHALL BE RESPONSIBLE FOR OBTAINING THE COST ESTIMATE PREPARED BY A QUALIFIED WETLANDS CONSULTANT WITH EXPERIENCE IN COMPENSATORY WETLAND MITIGATION IN SAN JUAN COUNTY, COLORADO OR IMMEDIATELY ADJACENT COUNTIES.

A. MITIGATION PLAN SUBMITTAL REQUIREMENTS AND PERFORMANCE MEASURES: IN ORDER TO FACILITATE A STREAMLINED REVIEW PROCESS FOR APPLICANTS, THE TOWN WILL FOLLOW THE MITIGATION PLAN SUBMITTAL REQUIREMENTS AND PERFORMANCE MEASURES ESTABLISHED BY THE U.S. ARMY CORPS OF ENGINEERS IN THE FR 2008 COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES; 404(B)(1) GUIDELINES (40 CFR 230) AND THE COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES (33 CFR 332 AND 40 CFR 230), ALSO KNOWN AS THE 2008 FINAL RULE.

(9) FINANCIAL SECURITY: A FINANCIAL GUARANTEE IN THE AMOUNT OF TWO HUNDRED PERCENT (200%) OF THE WRITTEN ESTIMATED COST OF THE DISTURBANCE PLAN MEASURES SHALL BE PROVIDED FOR A MINIMUM OF TWO YEARS, AND UP TO FIVE YEARS UNTIL THE PERFORMANCE STANDARDS FOR THE MITIGATION SITE(S) HAVE BEEN ACHIEVED.

Emergency Declaration. The Board hereby finds, determines and declares that it is necessary that this Ordinance take effect immediately upon approval in order to protect the public peace, health or safety by preserving the Town of Silverton's natural environment.

INTRODUCED AND ADOPTED by the Board this 22nd day of May 2023.

TOWN OF SILVERTON

By:

Shane Fuhrman, Mayor

ATTEST:

Matthew Green, Town Clerk

SUBMITTAL REQUIREMENTS: WETLAND DISTURBANCE PERMIT

General Explanation:

The Wetland Standards are established to protect the beneficial functions and values of wetland areas by prohibiting soil disturbance in wetlands and within 25 feet of a body of wetland, referred to as the wetland setback. Development and soil disturbance are generally prohibited in or within 25 feet of all wetlands. Development in these areas shall only be permitted in accordance with the standards in Section 16-8-90 of the Silverton Municipal Code.

Disturbance Permit Required. The Town may allow disturbance of wetland areas or wetland setbacks in conjunction with an approved Disturbance Permit. The area of disturbance shall be limited to the minimum amount necessary to achieve the intended purpose. Disturbance Permits for development in wetlands and wetland setbacks shall be reviewed by the Town in accordance with the Disturbance Permit process for the application as designated in Section 16-1-90. The permit review may be consolidated with other development applications as appropriate. Public notice, public hearing, and appeals requirements shall follow the requirements for the Disturbance Permit process.

The Wetland Disturbance Permit application is submitted and circulated to the Town Clerk and relevant referral agencies who provide comments. Applications are reviewed by the Planning Commission who makes a recommendation to the Board of Trustees. Board of Trustees approval is required. The application will be reviewed in accordance with the procedures and requirements as outlined in Section 16-1-90 and Section 16-8-90 of the Silverton Municipal Code.

Review the below submittal requirements for applicable plans and documents which shall be submitted with the Wetland Disturbance Permit application. Before submitting, ensure you have all of the below information. An application that is missing required information will not be processed by the Town.

1. General Application Information

- | Project Street Address and Unit Number
- | Property Legal Description
- | Owner Name/Address
- | Applicant Name/Address
- | Description of Work

2. Property Owner Consent: If the applicant is not the owner of the property, a statement by the owner consenting to this application must be submitted.

3. Application Fee (major revisions to the original submittal may require additional fees)

- o **\$500.00** non-refundable fee submitted with the application
- o **Pass Through Fee**

4. Project Drawings: Each application shall include one (1) copy of each required plan set. Please refer to Sec. 16-8-80 for a complete list of requirements and procedures regarding wetland disturbance.

- o A narrative explaining how development in the wetland and/or wetland setback is consistent with one or more of the Permitted Disturbances and all of the Disturbance Criteria contained in Section 16-8-90.
- o Independent wetlands survey prepared by a qualified consultant depicting the surveyed boundary of all wetlands and wetland setback areas and illustrating the amount, location and acreage of proposed disturbance to wetland and wetland setbacks, including fill, excavation, potential hydrologic modifications (intended and unintended), or other alterations.

- A grading and erosion control plan, utilizing soil stabilization measures and practices to minimize the impacts of the proposed disturbance, including a timeframe for installation and construction.
- Mitigation Plan. A plan to mitigate the impacts of proposed alterations of wetland and wetland setbacks showing the proposed on-site restoration improvements, including those wetland areas to be restored or created in accordance with Section 16-8-90.
- Alternative analysis. A statement and analysis of any practical on-site development configuration alternatives to the proposed development activity causing disturbance which reduce or avoid such disturbances, including reduction in the scale of the proposed development.
- Evidence of compliance with Section 404 of the Federal Clean Waters Act. If the site contains areas deemed jurisdictional wetlands by the U.S. Army Corps of Engineers, the applicant must present evidence of compliance with Section 404 of the Federal Clean Water Act. Documentation and compliance with all potential Section 404 matters shall remain the sole and ongoing responsibility of the applicant, and any failure to maintain such compliance may lead to suspension or revocation of any approvals provided under this Code.

TOWN OF SILVERTON Website: https://townofsilverton.colorado.gov/ DISTURBANCE PERMIT APPLICATION FORM	
PROJECT INFORMATION	
Project Name:	Date:
Street Address (or general location if not addressed):	
Parcel Number(s):	
Site Area (in square feet or acres):	Existing Zoning:
Existing Land Use:	
Legal Description:	
OWNER / APPLICANT	
Name:	Phone:
Company:	Email:
Mailing Address:	
CONTACT PERSON	
Name:	Phone:
Company:	Email:
Mailing Address:	
AFFIDAVIT I, _____ being duly sworn, declare that I am (please check one) the <input type="checkbox"/> authorized representative to act for the property owner, <input type="checkbox"/> the owner of the property involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my knowledge and belief. By signing this application, I have read and agree to the reimbursement fees that may be charged for review of this project as outlined in Section XXX of the Silverton Municipal Code. At a minimum, this project will require consultants for engineering review and legal review and this shall serve as the written notice required by Section XXX of the Silverton Municipal Code for these two consultants.	
Signature of Owner	Date
Signature of Representative	Date
Acceptance of this application and required filing fee does not constitute a complete application. Plans and other material required to constitute a complete application are listed in the application procedure.	
STAFF USE ONLY (do not write below this line) Application Received By: _____ Case # Date / Time: _____ Total Fees: \$ Date Paid: Check # _____ Additional Comments: _____	

STAFF REPORT

To: Planning Commission
From: Katie Kent, Contracted Town Planner, CPS
Through: Lucy Mulvihill, Community Development Coordinator
Date: May 10, 2023
RE: Planning Commission recommendation: Proposed Amendments to Silverton Municipal Code
Historic Review Committee, Ordinance No. 2023-XXX

PURPOSE:

As Town Staff moves forward on becoming a Certified Local Government (CLG), they are finetuning future Code language which will be brought forward to the Town over the upcoming months. In the meantime, Staff has expressed a desire to move forward with the proposed language outlining the Historic Review Committee (HRC) concerning the establishment of the Committee, Members, Terms of Office, Officers, Quorum and Voting, Compensation, Powers and Duties, Meetings, and Vacancies and Removal.

History Colorado has specific requirements for CLGs to have regarding their Historic Review Committee which are not within the existing Code language. These include:

- At least five members that have a demonstrated interest, competence, or knowledge of preservation, and the commission must meet at least four times a year; and
- At least one Commission member must attend a SHPO – approved educational training event each year.

The proposed modifications to Silverton Municipal Code, Chapter 16, Article 2, Division 4 – Historic Review Committee are in compliance with the requirements of Historic Colorado.

Before the Planning Commission, to review and provide a recommendation to the Board of Trustees, are amendments to the Historic Review Committee.

PROPOSED SECTIONS OF TOWN CODE TO BE AMENDED:

SMC, Section 16-2-310. Committee formed.

Strike-through of existing language and insert proposed language as shown in Ordinance. This proposed language does separate the Historic Review Committee from the San Juan Regional Planning Commission.

SMC, Section 16-2-320. Members.

Strike-through of existing language and insert proposed language as shown in Ordinance. This proposed language states the composition of the Committee.

PROPOSED SECTIONS OF TOWN CODE TO BE INSERTED:

The following sections are proposed to be inserted under Chapter 16, Article 2, Division 4 – Historic Review Committee.

SMC, Section 16-2-330. Terms of Office.
SMC, Section 16-2-330. Officers.
SMC, Section 16-2-350. Quorum and Voting.
SMC, Section 16-2-360. Compensation.
SMC, Section 16-2-370. Powers and Duties.
SMC, Section 16-2-380. Meetings.
SMC, Section 16-2-390. Vacancies and Removal.

PLANNING COMMISSION ACTION:

Pursuant to SMC Sec. 16-1-40, all applications for an amendment shall be referred to the Planning Commission, which shall review and return a recommendation either for or against the proposed amendment or change to the Board of Trustees within 30 days of the receipt of the application. The Planning Commission shall recommend approval as presented, recommend approval with modifications, or recommend denial of the proposed language as presented in Ordinance 2023-XX.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission recommends approval of Ordinance 2023-XXX as presented.

SUGGESTED MOTION: *"I move that the Planning Commission recommends the Board of Trustees approve Ordinance 2023-XXX, amending sections under Chapter 16 as presented."*

Attachments: Ordinance 2023-XXX

**TOWN OF SILVERTON COLORADO
ORDINANCE 2023-XX**

**AN ORDINANCE AMENDING CHAPTER 16, ARTICLE 2, DIVISION 4, OF THE
MUNICIPAL CODE OF THE TOWN OF SILVERTON COLORADO, BY AMENDING
THE HISTORIC REVIEW COMMITTEE**

WHEREAS, the Town of Silverton, Colorado is a statutory town incorporated under the laws of the state of Colorado; and

WHEREAS, the Town of Silverton has adopted regulations related to the Historic Review Committee in Municipal Code, Chapter 16; and

WHEREAS, the Town of Silverton anticipates becoming a Certified Local Government, with which has requirements for the Historic Review Committee; and

WHEREAS, the proposed amendments to Chapter 16 meets the requirements of the Historic Review Committee that will be required for the Town to become a Certified Local Government; and

WHEREAS, the Town of Silverton acting by and through its Town Board of Trustees has the power to regulate land use matters pursuant to Colorado Revised Statutes (C.R.S.) Section 31, Article 23 et seq.; and

WHEREAS, the San Juan Regional Planning Commission has reviewed the proposed amendments to Chapter 16 on May 16, 2023, and has made a recommendation to approve the amendments to the Town Board of Trustees.

WHEREAS, the Board of Trustees held Public Hearings on June 12, 2023, and June 26, 2023, to receive public comment, evidence and testimony relative to the proposed amendments to the Municipal Code.

WHEREAS, the San Juan Regional Planning Commission and the Board of Trustees have determined that the establishment of these regulations intended to modify the Historic Review Committee, within Chapter 16 of the Municipal Code of the Town of Silverton, is in the best interests of the citizens' health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF SILVERTON COLORADO BOARD OF TRUSTEES THAT:

- I. Amendment to Chapter 16, Article 2, Division 4, Section 16.2.310 of the Municipal Code. Section 16.2.310 of the Municipal Code is amended by deleting the strikethrough text and adding the capitalized and underlined text, as follows:

Sec. 16-2-310. Committee formed.

~~A Historic Review Committee shall be formed for the purpose of reviewing all proposed structures in the Historic Overlay District for conformance with these standards.~~

SEPARATION. THIS HEREBY SEPARATES THE HISTORIC REVIEW COMMITTEE FROM THE SAN JUAN REGIONAL PLANNING COMMISSION, IN ACCORDANCE TO CERTIFIED LOCAL GOVERNMENT STANDARDS, AND HEREINAFTER REFERRED TO AS THE "COMMITTEE."

- II. Amendment to Chapter 16, Article 2, Division 4, Section 16.2.320 of the Municipal Code. Section 16.2.320 of the Municipal Code is amended by deleting strikethrough text and adding the capitalized and underlined text, as follows:

Sec. 16-2-320. Members.

~~The Historic Review Committee shall be comprised of five members, as follows: one member from the Board of Trustees, one member from the San Juan County Historic Impact Assessment Review Committee, two owners of property within the Historic Overlay District and one at-large year-round resident of the Town. All members shall be appointed by the Board of Trustees for a period of two years; however, the terms of office shall be staggered by making the appointments so that approximately one-third of the members' terms expire each year. A member may be reappointed for successive terms. Members shall be chosen only after adequate solicitation of applications published in the local newspaper.~~

(A) THE COMMITTEE SHALL BE COMPOSED OF 5 VOTING MEMBERS, ALL OF WHOM HAVE DEMONSTRATED INTEREST IN, COMPETENCE WITH OR KNOWLEDGE OF PRESERVATION. MEMBERS SHALL BE APPOINTED BY THE BOARD OF TRUSTEES,

(B) INCLUDING:

- (1) VOTING OWNER OF PROPERTY AND YEAR-ROUND RESIDENT IN THE HISTORIC OVERLAY DISTRICT (3 YEAR TERM)
- (2) VOTING YEAR-ROUND RESIDENT OF THE TOWN (3 YEAR TERM)
- (3) VOTING MEMBER OF THE BOARD OF TRUSTEES (2 YEAR TERM)
- (4) VOTING MEMBER OF THE BOARD OF TRUSTEES (2 YEAR TERM)
- (5) VOTING MEMBER OF THE HISTORICAL SOCIETY (1 YEAR TERM)
- (6) NON-VOTING HIGH SCHOOL MEMBER (WHEN AVAILABLE) (1 YEAR TERM)
- (7) NON-VOTING TOWN STAFF MEMBER

(C) ALL MEMBERS SHALL BE RESIDENTS OF THE TOWN, UNLESS APPROVED BY THE BOARD OF TRUSTEES.

(D) AT LEAST 40% OF THE VOTING MEMBERS SHALL BE PROFESSIONALS OR SHALL HAVE EXTENSIVE EXPERTISE IN A PRESERVATION-RELATED DISCIPLINE, INCLUDING BUT NOT LIMITED TO HISTORY, ARCHITECTURE, LANDSCAPE ARCHITECTURE, AMERICAN STUDIES, AMERICAN

CIVILIZATION, CULTURAL GEOGRAPHY, CULTURAL ANTHROPOLOGY,
PLANNING, OR ARCHAEOLOGY.

- III. Amendment to Chapter 16, Article 2, Division 4 of the Municipal Code. Chapter 16, Article 2, Division 4, of the Municipal Code is amended by adding the capitalized and underlined text, as follows:

SEC. 16-2-330. TERMS OF OFFICE.

- (A) MEMBERS SHALL SERVE ONE TO THREE-YEAR STAGGERED TERMS FROM THE DATE OF THEIR APPOINTMENT; PROVIDED, HOWEVER, THAT THE INITIAL APPOINTMENT TO THE COMMITTEE SHALL CONSIST OF TWO APPOINTMENTS OF A TERM OF ONE YEAR, ONE APPOINTMENTS OF A TERM OF TWO YEARS, AND TWO APPOINTMENTS OF A TERM OF THREE YEARS.
- (B) MEMBERS MAY CONTINUE TO SERVE UNTIL THEIR SUCCESSORS HAVE BEEN APPOINTED.

SEC. 16-2-340. OFFICERS.

THE COMMITTEE SHALL, BY MAJORITY VOTE, ELECT ONE OF ITS MEMBERS TO SERVE AS CHAIRPERSON TO PRESIDE OVER THE COMMITTEE'S MEETINGS, ONE MEMBER TO SERVE AS THE VICE-CHAIRPERSON AND ONE MEMBER TO SERVE AS SECRETARY. THE MEMBERS SO DESIGNATED SHALL SERVE IN THESE CAPACITIES FOR TERMS OF ONE YEAR.

SEC. 16-2-350. QUORUM AND VOTING.

A QUORUM FOR THE COMMITTEE SHALL CONSIST OF A MAJORITY OR 51% OF THE MEMBERS. A QUORUM IS NECESSARY FOR THE COMMITTEE TO CONDUCT BUSINESS, INCLUDING HOLDING A PUBLIC HEARING. A ROLL CALL VOTE SHALL BE TAKEN UPON THE REQUEST OF ANY MEMBER. A TIE VOTE SHALL BE DEEMED A DENIAL OF THE MOTION OR RECOMMENDED ACTION.

SEC. 16-2-360. COMPENSATION.

ALL MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COMPENSATION EXCEPT FOR SUCH AMOUNTS DETERMINED APPROPRIATE, IN ADVANCE, BY THE BOARD OF TRUSTEES TO OFFSET EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

SEC. 16-2-370. POWERS AND DUTIES.

THE COMMITTEE SHALL ADVISE THE BOARD OF TRUSTEES AND STAFF ON THE FOLLOWING.

- (A) CONDUCT SURVEYS AND CREATE INVENTORIES OF PROPERTIES AND AREAS FOR THE PURPOSE OF DEFINING THOSE OF HISTORIC SIGNIFICANCE.
- (B) REVIEW AND DETERMINE QUALIFICATIONS OF BUILDINGS, STRUCTURES, OBJECTS, SITES, AND DISTRICTS NOMINATED FOR DESIGNATION AND RECOMMEND THAT THE BOARD OF TRUSTEES DESIGNATE BY ORDINANCE SUCH BUILDINGS, STRUCTURES, OBJECTS, SITES, OR DISTRICTS QUALIFYING FOR SUCH DESIGNATION.
- (C) RECOMMEND TO THE BOARD OF TRUSTEES THE ESTABLISHMENT OF CONSTRUCTION AND DESIGN GUIDELINES, CONSISTENT WITH THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES, FOR REVIEW OF PROPOSALS TO ALTER, RELOCATE, OR DEMOLISH HISTORIC PROPERTIES.
- (D) MAKE RECOMMENDATIONS ON ANY APPLICATION FOR ALTERATION, RELOCATION, OR DEMOLITION OF A HISTORIC PROPERTY OR HISTORIC DISTRICT OR PLANNING AND DESIGN PROJECT THAT MAY AFFECT THE CHARACTER OR INTEGRITY OF THE HISTORIC PROPERTY OR HISTORIC DISTRICT.
- (E) PARTICIPATE IN REVIEW OF NATIONAL REGISTER OF HISTORIC PLACES NOMINATIONS.
- (F) MAINTAIN ONLINE DATA BASE OF RESOURCES RELATED TO PHYSICAL AND FINANCIAL ASPECTS OF PRESERVATION, REHABILITATION, RESTORATION, AND RECONSTRUCTION, INCLUDING NOMINATION TO THE TOWN'S HISTORIC REGISTER, THE COLORADO STATE REGISTER OF HISTORIC PROPERTIES, AND THE NATIONAL REGISTER OF HISTORIC PLACES.
- (G) DEVELOP AND ASSIST IN PUBLIC EDUCATION PROGRAMS ON HISTORY, ARCHAEOLOGY, AND HISTORIC PRESERVATION.
- (H) ADVISE THE BOARD OF TRUSTEES ON MATTERS RELATED TO PRESERVING THE HISTORIC CHARACTER AND SUBSTANCE OF THE TOWN AND RECOMMEND EASEMENTS, COVENANTS, LICENSES, AND OTHER METHODS WHICH WILL IMPLEMENT THE COMPLETION OF THE PURPOSES OF THIS ORDINANCE.
- (I) PARTICIPATE IN FEDERAL SECTION 106 REVIEW AS REQUESTED BY BOARD OF TRUSTEES OR STAFF.
- (J) DRAFT AND RECOMMEND FOR ADOPTION BY THE BOARD OF TRUSTEES SUCH BY-LAWS, OPERATING POLICIES AND OTHER RULES OF PROCEDURE AS THE COMMISSION MAY DEEM APPROPRIATE.

SEC. 16-2-380. MEETINGS.

- (A) THE COMMITTEE SHALL ESTABLISH A REGULAR MEETING SCHEDULE WITH NO LESS THAN FOUR SCHEDULED MEETINGS PER FISCAL YEAR.
- (B) THE COMMITTEE SHALL MEET MONTHLY UNLESS NO AGENDA ITEMS ARE PREPARED.
- (C) MINUTES SHALL BE KEPT OF ALL COMMITTEE PROCEEDINGS.
- (D) ALL MEETINGS OF THE COMMITTEE SHALL BE OPEN TO THE PUBLIC.

SEC. 16-2-390. VACANCIES AND REMOVAL.

- (A) VACANCIES. APPOINTMENTS TO FILL VACANCIES ON THE COMMISSION SHALL BE MADE BY THE BOARD OF TRUSTEES IN THE SAME MANNER AS REGULAR APPOINTMENTS.
- (B) REMOVAL. MEMBERS OF THE COMMISSION MAY BE REMOVED BY THE BOARD OF TRUSTEES WITH JUST CAUSE.

- IV. Incorporation of Recitals. The recitals set forth above are incorporated and ordained hereby as if set forth hereafter in full.
- V. Ordinance Approval. The Amendments to Chapter 16 as outlined herein are hereby approved, modifying the Historic Review Committee.
- VI. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.
- VII. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.
- VIII. Posting, Publication and Effective Date. Following the passage of this Ordinance on second reading, the Town Clerk shall publish this Ordinance in full in a newspaper published within the limits of the Town. This Ordinance shall take effect 30 days after such publication.

INTRODUCED, READ, AND ORDERED FOR SECOND READING BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF SILVERTON, ON THE 12TH DAY OF JUNE, 2023.

TOWN OF SILVERTON

By: _____

Shane Fuhrman, Mayor

ATTEST:

Matthew Green, Town Clerk

FINALLY PASSED, ADOPTED AND APPROVED ON SECOND AND FINAL READING AND ORDERED POSTED AND PUBLISHED IN THE MANNER PROVIDED IN SECTION VII HEREOF BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN HALL ON THE 26TH DAY OF JUNE, 2023, BY A VOTE OF THIS ORDINANCE AS IS ON FILE IN THE TOWN CLERK'S OFFICE FOR PUBLIC INSPECTION.

TOWN OF SILVERTON

By: _____
Shane Fuhrman, Mayor

ATTEST:

Matthew Green, Town Clerk