

ORDINANCE NO. 2333

NOTE TO READER: CHANGES MADE SINCE DRAFT III APPEAR IN A SHADED BOX. THIS DRAFT ORDINANCE CONTAINS SUPPLEMENTARY EXPLANATORY INFORMATION THAT APPEARS IN A BOX THROUGHOUT THE DRAFT.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE OSWEGO AMENDING PORTIONS OF THE LAKE OSWEGO CODE, CHAPTER 50 TO ADD NEW REGULATIONS REGARDING FLOOR AREA, FRONT SETBACK PLANE, MAXIMUM SIDE YARD PLANE AND GARAGE OPENINGS AND PLACEMENT, FOR SINGLE FAMILY RESIDENTIAL DEVELOPMENT; AMENDING REGULATIONS REGARDING SETBACKS, LOT COVERAGE, ACCESSORY STRUCTURES, CALCULATION OF HEIGHT ON FLAG LOTS; AMENDING THE HEIGHT MEASUREMENT METHODOLOGY FOR STRUCTURES IN ALL CITY ZONES, AND CREATING A NEW, OPTIONAL PROCESS FOR REVIEW OF SINGLE FAMILY DETACHED DEVELOPMENT (LU 02-0018).

WHEREAS, a public hearing was held before the Lake Oswego City Council on _____ to review the Planning Commission recommendation to amend portions of the Community Development Code relating to zoning regulations and create additional zoning regulations for the purpose of creating development that is more compatible with surrounding structures and to improve the way in which building volume appears from the street;

WHEREAS, house sizes have increased over the past 20 years resulting in greater discrepancies in size between older, existing houses and abutting new development;

WHEREAS, by regulating the shape and volume of the house and also providing an alternative process that allows a property owner to select whether single family development is reviewed against clear and objective standards or through a more subjective design review process, community review of development may be balanced with property owner rights.

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings, Conclusions and Order (LU 02-0018) attached as Exhibit “A”.

Section 2. The Lake Oswego Code is hereby amended by deleting the text shown by ~~strikeout~~ and adding the new text shown in **bold and underline**.

Allowable Floor Area and Lot Coverage:

Objective: Relate house size to lot size so that house size increases at a diminishing rate as lot size increases in order to control overall bulk. Allow lower structures to spread out.

Strategy:

First Addition R-6: Keep .5 FAR for 6,000 sf. lots and 1% reduction per 1000 sf increase in lot size, but allow discount for basement area under certain circumstances. Increase maximum lot coverage for one-story structures.

LOC 50.07.040. Lot Coverage/Floor Area Ratios

1. Structures Lot coverage and floor area ratios in the R-6 zone on lots of 6,000 square feet or less shall not exceed 35% in total lot coverage and shall not exceed a .5 Floor Area Ratio (FAR)the lot coverage and floor area standards found in Appendix 50.07-C:

2. For lots from 6,001 to 15,000 square feet the percentage of allowable lot coverage shall be reduced by 1% and the allowable total FAR shall be reduced by .02 for each 1-1000 square foot increment that the lot exceeds 6,000 square feet.

[Move chart to Appendix 50.07-C].

<u>Lot Size (Square Feet)</u>	<u>Maximum Lot Coverage*</u>		<u>Maximum Floor Area Ratio*</u>
	<u>Primary Dwelling ≤ 22 feet in height</u>	<u>Primary Dwelling >22 feet in height</u>	<u>Primary Dwelling > 18' in height</u>
<u>< 6,000</u>	<u>45%</u>	<u>35%</u>	<u>.5</u>
<u>≥6,000, <7000</u>	<u>44%</u>	<u>34%</u>	<u>.48</u>
<u>≥ 7,000- < 8,000</u>	<u>43%</u>	<u>33%</u>	<u>.46</u>
<u>≥ 8,000- < 9,000</u>	<u>42%</u>	<u>32%</u>	<u>.44</u>
<u>≥ 9,000- < 10,000</u>	<u>41%</u>	<u>31%</u>	<u>.42</u>
<u>≥ 10,000- < 11,000</u>	<u>40%</u>	<u>30%</u>	<u>.40</u>
<u>≥ 11,000- < 12,000</u>	<u>39%</u>	<u>29%</u>	<u>.38</u>
<u>≥ 12,000- < 13,000</u>	<u>38%</u>	<u>28%</u>	<u>.36</u>
<u>≥ 13,000- < 14,000</u>	<u>37%</u>	<u>27%</u>	<u>.34</u>
<u>≥ 14,000- < 15,000</u>	<u>36%</u>	<u>26%</u>	<u>.32</u>
<u>≥ 15,000</u>	<u>35%</u>	<u>25%</u>	<u>.3</u>

*Floor Area in a basement that does not meet the definition of a story, shall be excluded from floor area calculations

3.2. For lots larger than 15,000 square feet, maximum allowable lot coverage for primary dwellings over 22' in height shall be 25% and the maximum allowable FAR shall be .3.

2.3. Decks less than 5 feet above grade, stairs, pergolas, trellises or other landscaping structures and concrete slabs shall be exempt from lot coverage and FAR calculations.

3.4.5. No more than 60% of a lot may be covered with impervious surfaces.

Two options are presented below that discount floor area and lot coverage for structures (e.g., garages) that are behind the primary dwelling. The first exempts up to 400 square feet from lot coverage (square footage of ground floor that is covering land area) and FAR calculations (square footage of habitable or living areas in the accessory structure). The second example allows an exemption of 200 square feet. In other zones this is suggested as a way to encourage property owners to locate their garages at the rear of their structure as opposed to the front. The question arises as to whether this is a necessary change for FAN since alley access to garages is available and required.

4.5a). Up to 400 square feet of ground floor area of a detached accessory structure may be exempt from lot coverage calculations. Habitable areas of detached accessory structures that would normally be counted as floor area, may be exempt from floor area calculations of to a maximum of 400 square feet

OR:

Alternative language

4.5b). Up to 200 square feet of the ground floor area of a detached garage area may be exempt from lot coverage calculations. Habitable areas of detached accessory structures that would normally be counted as floor area, may be exempt from floor area calculations up to a maximum of 200 square feet.

Strategy: Other Zones:

Currently, FAR is not regulated in R-5, R-7.5, R-10 and R-15 zones. The Task Force recommended potential language that gradually reduces FAR as lot size increases. The Task Force also recommended a more generous lot coverage standard for single story structures than for multiple story structures, which is also illustrated below. Lot coverage is currently regulated in these zones.

Staff also recommends removal of the distinction between new construction and alterations. It was originally created in the 1990's to prevent existing developed structures from becoming 'non-conforming' following text amendments to single family detached zoning standards. It has been difficult to track and to explain to property owners, and, other remedies exist in the code that allow for altering non-conforming structures within limits.

LOC 50.08.040 Lot Coverage and Floor Area Ratio (FAR)

1. Lot coverage shall not exceed ~~the following maximums:~~ **35% for a primary structure ≤22' feet in height or 25% for a multiple story primary structure >22 feet in height** ~~the following maximums:~~

<u>Zone</u>	<u>% Coverage</u>
R-7.5	New Construction: 25%
	Alteration that does not qualify as new construction: 35% for interior lot, 40% for corner lot.
R-10	New Construction: 25%
	Alteration that does not qualify as new construction: 30%
R-15	New Construction: 25%
	Alteration that does not qualify as new construction: 30%

2. Floor area ratios for structures 22 feet or greater in height, shall not exceed the following maximums standards found in Appendix 50.08-A:
[Move to Appendix 50.08-A]

Lot Size (Square Feet)	Maximum Floor Area Ratio (FAR)		
	R-7.5	R-10	R-15
< 5000	.6	.6	.6
≥ 5001 < 6000	.55	.55	.55
≥ 6000 < 7000	.5	.5	.5
≥ 7000 < 8000	.45	.45	.45
≥ 8000 < 9000	.4	.4	.44
≥ 9000 < 10000	.39	.4	.43
≥ 10,000 < 11000	.38	.4	.42
≥ 11000 < 12000	.37	.39	.41
≥ 12000 < 13000	.36	.38	.4
≥ 13000 < 14000	.35	.37	.39
≥ 14000 < 15000	.34	.36	.38
≥ 15,000 < 16000	.33	.35	.37
≥ 16000 < 17000	.32	.34	.36
≥ 17000 < 18000	.31	.33	.35
≥ 18000 < 19000	.30	.32	.34
≥ 19000 < 20000	.29	.31	.33
≥ 20,001	.28	.3	.32

Two options are presented below that discount floor area and lot coverage for structures (e.g., garages) that are behind the primary dwelling. The first exempts up to 400 square feet from lot coverage (square footage of ground floor that is covering land area) and FAR calculations (square footage of habitable or living areas in the accessory structure). The second example allows an exemption of 200 square feet. This is suggested as a way to encourage property owners to locate their garages at the rear of their structure as opposed to the front

3a). Up to 400 square feet of ground floor area of a detached accessory structure may be exempt from lot coverage calculations. Habitable areas of detached accessory structures that would normally be counted as floor area, may be exempt from floor area calculations of to a maximum of 400 square feet

Alternative language

3b). Up to 200 square feet of the ground floor area of a detached garage area may be exempt from lot coverage calculations. Habitable areas of detached accessory structures that would normally be counted as floor area, may be exempt from floor area calculations up to a maximum of 200 square feet.

Section 50.02 Definitions

Section 50.02.005 Definitions

New Construction.

- ~~a. Construction of a new structure; or~~
- ~~b. Alteration of an existing structure which increases the building footprint by more than 25% or height by more than 10%. For the purposes of this section, an “existing structure” is a structure as it exists on May 7, 1992. For the purposes of this section, “alteration” includes a determination of the cumulative effect on footprint and height of all alterations to an existing structure which occur after May 7, 1992.~~

Section 50.68 Variances

50.58.015 Classification of Variances

A variance which would allow development not in conformance with the requirements of the development standards may be granted.

1. Class 1 (minor) variances are small changes from the Code requirements which will have little or no effect on adjacent property or users.

Class 1 (minor) variances include:

- a. Variance from setback requirements for single family dwelling, or its associated accessory structure that does not comply with the three criteria set forth in LOC 50.14.005(a)-(c), of 20% or less.
- b. Variance from setback requirements for a structure other than those described in subsection (a) of this section of two feet or less in side or front yards or five feet or less in rear yards.
- c. Variances from minimum lot width or depth of five feet or less.
- d. Variances in lot coverage or floor area (FAR) on platted lots which were platted with an area less than the current zoning requirement for single-family residential dwellings and accessory structures of up to and including 15% of the maximum allowed lot coverage or FAR.
- ~~e. Variance to allow an addition of a second story on an existing one story, single family dwelling that meets the “alteration” setbacks and does not expand the existing building footprint.~~
- ~~ef. Variations from maximum fence height restrictions~~
- ~~fg. Variation to the maximum grade of a private street or driveway.~~
- ~~h. Variances to change of building height of an existing single family detached dwelling, when increased by changing the roof pitch or changing the roof form from flat to pitched without changing the height of the ceiling plate within the maximum height allowed for new construction by the underlying zone.~~

Strategy – R-5. Currently in the R-5 zone, lot coverage for “new construction” for single family detached development is 30% (1500 sf on a 5000 sf lot). Lot coverage for other types of construction is 35%. In the R-5 Zone, there is currently no floor area ratio requirement, however, for R-0 and R-2 zones, FAR is currently regulated. If a similar methodology is followed for R-5 as is suggested above for low density zones, the following language may be applicable:

Section 50.06.035 Lot Size, Density Transfer, Floor Area Ratio (FAR).

1. The standards are minimum lot area for each dwelling unit is as follows:

Zone Area

R-0 no minimum, FAR not to exceed 1.2:1.

R-2 no minimum, FAR not to exceed 1.2:1.

R-3 3,375 sq. ft.

R-5 5,000 sf. ft., **FAR for primary dwellings taller than 22 feet, not to**

exceed .6 for lots 5000-7000 square feet ; .5 for lots 7,001 to 9,000 square feet and .4 for lots 9001 square feet or larger.

WR 3,375 sq. ft.

Section above proposed to be reformulated as follows to provide additional clarification:

<u>Zone</u>	<u>Minimum Area</u>	<u>Minimum Lot Area Per Dwelling</u>	<u>Maximum FAR</u>
R-0	No minimum	No minimum	1.2: 1
R-2	No minimum	No minimum	1.2: 1
R-3	3,375 sq. ft.	3,375 sq. ft.	No maximum
R-5	5,000 sq. ft.	5,000 sq. ft.	<u>Lot area 5,000-7,000 sf.: .6: 1</u> <u>Lot area >7,000-9,000 sf.: .5: 1</u> <u>Lot area >9,000 sf.: .4: 1</u>

Section 50.06.040 Lot Coverage

Maximum lot coverage for buildings and required parking are is as follows:

Zone Maximum Lot Coverage

R-0 ~~60%~~**40%**

R-2

Single family detached 35% (excluding parking)

Row house 55% row house (excluding parking)

Duplex 55%—duplex **55%** (excluding parking)

Other Structures **50%**

R-3 50%

R-5

Single family detached

≤ 22 feet in height **45%**

> 22 feet in height 35%

Single family attached, 50%—attached

35%—detached multi-story (excluding parking) other than new construction

Other Structures **50%**

WR 100% subject to compliance with LOC Chapter 45 Building Regulation Requirements

A cleaned up version of this:

Maximum Lot Coverage	
Zone/Dwelling Type	Maximum Lot Coverage
R-0	40%
R-2	
Single family detached	35%
Row house	55%
Duplex	55%
Other Structures	50%
R-3	50%
R-5	
Single family detached:	
≤ 22 feet in height	45%
>22 feet in height	35%
Single family attached	50%
Other Structures	50%
WR	100%

Concurrent Amendments:

Section 50.06.050 Setbacks, Buffers.

1. a. Except as otherwise provided in this section, LOC 50.16.040, LOC 50.22.010, 50.22.025, 50.22.030, or 50.22.035, the following setbacks are required for new construction in the R-0, R-3 and R-5 zones:

Structure			
Dwelling			
Type	Front	Side	Rear
Attached Dwelling	10'	10' (exterior wall) 0' (attached wall)	10'
Detached Dwelling	20'	10'	20'
≤ 22 feet in height	20'	5'	20'
> 22 feet in height	20'	10'	20'
Other Structures	10'	10'	10'

b. Except as otherwise provided in this section or LOC 50.22.010, 50.22.025, 50.22.030 or 50.22.035, the required setback in the R-0, R-3 and R-5 zones for alteration that does not qualify as new construction is 10 feet.

b.e. Except as otherwise provided in this section or LOC 50.22.010, 50.22.025, 50.22.030, or 50.22.035, the following setbacks are required in the R-2 zone:

<u>Structure Dwelling</u>	Type	Front	Side	Rear....(Numbering change only, Add "other structure" as in a, above)
---------------------------	------	-------	------	---

d.c. Side yard setbacks for Detached Structures in R-2 Zone.....(Numbering change only).

e.d. A multi-story detached structure in the R-2 zone.....(Numbering change only)

Height

Objective: Create flexibility and incentive to orient roof height toward the middle of a lot and create flexibility and incentive to break large roof forms into smaller more complex ones.

Strategy:

First Addition R-6 and Lake Grove R-10: These two neighborhoods expressed a preference through the Infill Task Force process, for retaining the height measurement methodology to the peak of the roof, rather than the midpoint. The Task Force felt that this could also be extended to all zones within the city for single family development. FAN is the only neighborhood that the Task Force felt had been studied enough to apply a minimum roof pitch (FAN's minimum 6:12 roof pitch has been in effect for approximately 5 years). Many neighborhoods in the city contain a variety of roof pitches and the Task Force was not supportive of suggesting minimums for other neighborhoods. The language below provides for changing the method of measuring height, both with and without allowing for protections for certain types of roof forms and features as follows: Option 1 changes the height measurement methodology to require measurement to the peak of the roof Option 2 requires the change in measurement methodology, but allows for projections beyond the maximum allowed height for certain types of roof features. An additional change to the definition is also recommended by the Current Planning division. This change applies to the definition of a "flat lot" and its purpose is to prevent retaining walls or other artificial elevating of the ground surface prior to development and creating a façade that may tower over neighbors or the street.

OPTION 1: Changes height measurement methodology to require measurement to the peak of the roof, rather than the midpoint for all single family zones. **Article 50.02**

Section 50.02.005 Definitions

Height of Building. The vertical distance above a reference point measured to the coping of a flat roof or to the deck line of a mansard roof or to the ~~average height of~~ **highest point of** the gable of a pitched or hipped roof ~~above such point.~~

The reference points are determined as follows:

- a. On Flat Lots: The elevation of any ground surface at the exterior wall of the building **prior to construction of any structure which artificially elevates the ground surface**.
- b. On Sloped Lots: The elevation of any ground surface at the exterior wall of the building prior to construction of any structure which artificially elevates the ground surface.

EC Zone:

Currently, in the EC zone (Lake Oswego’s downtown), buildings are allowed to be 51 feet in height. In order to allow for the very steeply pitched roofs encouraged by the ‘Lake Oswego Style’ outlined in the downtown development guidelines and allow for measuring to the peak rather than the mid-point, 60’ is viewed as a comparable height for this area, given the new methodology.

Section 50.65.025 Building Siting and Massing.

50.65.025(5) Height Limit. No building shall be taller than ~~51~~**60** feet in height. No flat roofed building shall be taller than 41 feet in height. Height shall be measured pursuant to this code.

FAN.

Section 50.07.030 Height of Primary Structures.

Primary Structures shall not exceed 28 feet in height **on a flat lot or 35 feet on a sloped lot.**

R-7.5, R-10, R-15 Zones

Section 50.08.035 Height.

1. ~~R-7.5: New construction shall not exceed 28 feet in height on a flat lot or 35 feet on a sloped lot. An alteration that does not qualify as new construction shall not exceed 35 feet in height on a flat or a sloped lot.~~
2. ~~R-10: New construction shall not exceed 30 feet in height on a flat lot or 35 feet on a sloped lot. An alteration that does not qualify as new construction shall not exceed 35 feet in height on a flat or a sloped lot.~~
3. ~~R-15: New construction shall not exceed 35 feet in height on a flat lot or a sloped lot. An alteration that does not qualify as new construction shall not exceed 35 feet in height on a flat or a sloped lot.~~

1. Primary structures shall not exceed the following maximum heights:

<u>Zone</u>	<u>Maximum Height</u>	
	<u>Flat Lot</u>	<u>Sloped Lot</u>
<u>R-7.5</u>	<u>28 feet</u>	<u>35 feet</u>
<u>R-10</u>	<u>30 feet</u>	<u>35 feet</u>
<u>R-15</u>	<u>35 feet</u>	<u>35 feet</u>

Cross Reference: Height Measure: See also 50.18.005 and 50.18.010 for First Addition and the Lake Grove Building Height and Roof Pitch Overlay.

50.06 Residential Zones – Medium and High Density R-0, R-2, R-3, R-5, WR Zones

50.06.055 Height of Structures.

1. a. On a lot or lots being developed as one project of ½ acre or greater in total area for the R-0 and R-3 zones and attached development in the R-5 zone, the structure height may average 40 feet over the entire site with no individual structure exceeding 50 feet.
- b. On a lot or lots being developed as one project of ½ acre or greater in total area for the R-2 zone, the structure height may average 32 feet over the entire site with no individual structure exceeding 35 feet.
2. a. On lots of less than ½ acre, or for detached residential structures in the R-0, **R-2**, R-3 and R-5 zones, the height of a structure ~~which qualifies as new construction~~ shall not exceed 28 feet on flat lots or 35 feet on sloped lots. ~~The height of an alteration that does not qualify as new construction shall not exceed 35 feet on flat or sloped lots~~
- ~~b. On lots less than ½ acre, or for detached residential structures in the R-2 zone, the height of a structure shall not exceed 28 feet on flat lots or 35 feet on sloped lots.~~
3. A structure ~~that qualifies as new construction~~ shall not exceed a height of 28 feet on flat lots or 35 feet on sloped lots ~~or any lot~~ in the R-0, R-3 or R-5 zones if the structure is closer than 60 feet to a lot carrying a residential designation other than R-0, 3 or 5. ~~The height of alteration that does not qualify as new construction shall not exceed 35 feet on flat or sloped lots in the same circumstance~~

OPTION 2: Changes height measurement methodology from the mid-point to the peak, but allows for projections beyond the height under certain circumstances.

FAN's code section currently contains the new height methodology, which can now be removed since it is recommended to appear in the definitions section of LOC Chapter 50.

FAN: Section 50.07.030 Height of Primary Structures.

1. Maximum Height. Primary structures shall not exceed 28 feet in height on a flat lot or 35 feet on a sloped lot, except as otherwise specified in 50.07.030(3), below.

~~2. Calculation of Height. Notwithstanding LOC 50.02.005, Height of Building definition, the method for determining the height of buildings shall be as follows:~~

~~a. On Flat Lots: The vertical distance from any ground surface at the exterior wall of the building prior to construction of any structure which artificially elevates the ground surface, to the highest point of the roof.~~

~~b. On Sloped Lots: The vertical distance from any ground surface at the exterior wall of the building prior to construction of any structure which artificially elevates the ground surface, to the highest point of the roof.~~

2. Exceptions to Maximum Building Height. A greater height than otherwise permitted is allowed for roof forms, or architectural features, such as cupolas or dormers provided that these roof forms or features:

a. Do not extend more than 6 feet above the maximum specified height

b. Do not, in total, exceed one-third of the width of the building for an individual roof form or projection or do not exceed one-half of the width of the building for two or more separate roof forms or projections, as measured on any elevation drawing and,

c. Do not, in total, cover more than 20 percent of the roof area on which they are located, as viewed from directly above for an individual roof form or projection or 30% for multiple roof forms or projections.

Other Zones:

R-7.5, R-10, R-15 Zones

Section 50.08.035 Height.

1. Primary structures shall not exceed the following maximum heights:

<u>Zone</u>	<u>Maximum Height</u>	
	<u>Flat Lot</u>	<u>Sloped Lot</u>
<u>R-7.5</u>	<u>28 feet</u>	<u>35 feet</u>
<u>R-10</u>	<u>30 feet</u>	<u>35 feet</u>
<u>R-15</u>	<u>35 feet</u>	<u>35 feet</u>

2. Exceptions to Maximum Building Height. A greater height than otherwise permitted is allowed for roof forms, or architectural features, such as, cupolas or dormers, provided that these roof forms or features:

a. Do not extend more than 6 feet above the maximum specified height;

b. Do not, in total, exceed one-third of the width of the building or buildings as measured on any elevation drawing for an individual roof form or projection or do not exceed one-half of the width of the building for two or more separate roof forms or projections; and,

c. Do not, in total, cover more than 20 percent of the roof area on which they are located as viewed from directly above for an individual roof form or projection or 30% for multiple roof forms or projections.

(Add cross-reference: 50.22.015 General Exception to Structure Height Limitations:

50.06 Residential Zones – Medium and High Density R-0, R-2, R-3, R-5, WR Zones

5. Exceptions to Maximum Building Height. A greater height than otherwise permitted is allowed for roof forms, or architectural features, such as, cupolas or dormers, provided that these roof forms or features:

a. Do not extend more than 6 feet above the maximum specified height

b. Do not, in total, exceed one-third of the width of the building or buildings as measured on any elevation drawing for an individual roof form or projection or do not exceed one-half of the width of the building for two or more separate roof forms or projections; and,

c. Do not, in total, cover more than 20 percent of the roof area on which they are located as viewed from directly above for an individual roof form or projection or 30% for multiple roof forms or projections.

Other Height Issues: - Flag Lots

Height of structure on flag lot (CDC 50.20.30(3)).

Issue description: Current language in flag lot code section indicates that the height of a dwelling on a flag lot shall be no taller than the average of structures on all abutting parcels. Areas in which flag lots are being developed often contain single story structures of no more than 12-14' in height. For averaging purposes, a vacant lot butting the flag lot is given 16' as the "height". This has resulted in construction of single story, low-pitched roof structures that neighbors and property owners say offer a lack of flexibility in house design and choice on parcels that are generally not visible from the street. This problem will be exacerbated if the roof measurement methodology that measures to the peak of the roof, rather than the mid-point, is retained. In keeping with the distinction created between structures less than or equal to 22' feet in height and those greater than 22' feet in height, 22' seems to be a reasonable "default" height. The following language allows the taller of 22' or the average determined at the time of creation of the flag lot. If the flag lot was created before this ordinance is adopted, provisions are included for modifying the approved building height.

Amendments to Flag Lot Code Section:

Section 50.20.030 Building and Site Design Standards

(3). Maximum Structure Height. The height of single family residential structures and accessory structures on flag lots shall not exceed:

a. Flag Lot Created After [effective date of Ordinance].

The taller of:

i. 22 feet, or

ii. The average height of all dwellings on lots abutting the flag lot, as determined at the time of creation of the flag lot, provided:

(1). Where a vacant abutting lot is present, a height of 22 feet shall be used in calculating the average.

(2). Where an existing structure on an abutting lot exceeds the maximum height allowed by the underlying zone, then the maximum height permitted by the underlying zone shall be used for purposes of calculating the average.

b. Flag Lot Created Before [effective date of Ordinance].

The taller of:

i. The maximum building height limitation established at the time of creation of the flag lot. The methodology used to calculate the maximum building height permitted by this subsection shall be the same methodology used to at the time of lot creation to establish the maximum building height, or

ii. 22 feet (see LOC 50.02.005, “Height of Building” for methodology).

The City Manager may execute and record amendments to previously recorded development restrictions, upon the Owner’s or adjacent property owner’s request, or at the City’s discretion, if necessary to reflect a taller building height limitation than previously approved.

c. Modification of Approved Building Height.

The maximum building height of single family residential structures and accessory structures of a flag lot (whether created prior to or after [effective date of this Ordinance amendment]) may be modified from that previously determined at the time of creation of the flag lot to the average height of all dwellings on lots abutting the flag lot existing at the time of application for the modification, provided:

- i. Where a vacant abutting lot is present, a height of 22 feet shall be used in calculating the average.
- ii. Where an existing structure on an abutting lot exceeds the maximum height allowed by the underlying zone, then the maximum height permitted by the underlying zone shall be used for purposes of calculating the average.

An application for modification of maximum building height for a flag lot shall be processed pursuant to LOC 50.86.025 as a new application. The City Manager may execute and record amendments to previously recorded development restrictions.

Section 50.22.015 General Exception to Structure Height Limitations.

1. Notwithstanding 50.07.030(2), 50.08.035 and 50.08.055(5), The following type of structures or structural parts are not subject to the structure height limitations of this Code in the following zones:

<u>Zone</u>	<u>Structures or Structural Parts Exempt from height limitations:</u>
<u>Residential Zones – Residential Uses</u>	<u>Chimneys, flag poles, ham radio aerials, and other similar structures.</u>
<u>Residential Zones – Non-residential uses</u>	<u>Chimneys, church spires, belfries, domes, monuments, radio aerials, fire and hose towers, flag poles, and other similar structures.</u>
<u>Commercial and Industrial Zones</u>	<u>Chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, masts, ham radio aerials, cooling towers, elevator shafts, smokestacks, flagpoles, radio and television towers, and other similar structures.</u>

~~; chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, masts, ham radio aerials, cooling towers, elevator shafts, smokestacks, flagpoles, radio and television towers and other similar projects.~~

2. Aerials, other than ham radio aerials are permitted to 10 feet over the building height maximum in a residential zone. Collocated telecommunication facilities in residential zones may exceed the height limits of the underlying zone, but shall not exceed ten (10) feet above the existing structure height. Collocated telecommunication facilities in commercial and industrial zones may exceed the height limits of the underlying zone, but shall not exceed twenty (20) feet above the existing structure height.

Massing to Street

Objective: Direct larger, taller masses and volumes away from the street toward the centers of lots and direct smaller masses and volumes toward streets.

Strategy: **FAN:** Structure must fit behind a plane located at the front setback line extending up from grade to a specified height, then back at a specified slope up to the maximum allowable height.

Section 50.07.040 **Single Family Dwelling Design.**

1. Roof Design. The minimum roof pitch for primary roof forms of a single family dwelling shall be 6:12. Shed type and flat roofs are not permitted as primary roof forms on single-family dwellings. Secondary roof forms, such as sunrooms, balconies, dormers, porticos, or bays may be flat or shed roof types (See Appendix 50.07).

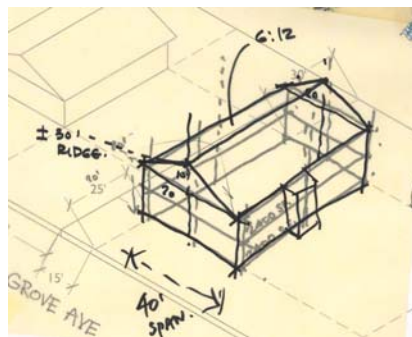
2. Front Porch Required. All new dwellings shall include a projecting covered front porch a minimum width of 50% of the building width at the front building line and six feet deep. Porch supports shall be provided and shall be wood or masonry or a solid material with the appearance of wood or masonry.

3. Front Setback Plane. The front profile of a structure shall fit behind a plane that starts at the front setback line and extends upward, to 20' in height, then slopes toward the rear of the lot at a minimum slope of 6:12, up to 28' in height at the peak, as illustrated in Appendix 50.07-C. This requirement shall not apply to flag lots

At 8-11-02 PC meeting, concern was expressed about the front setback plane not being applicable to R-5 flag lots due to the small front and rear yard setback requirements.

Potential Option that could be added to Front Setback Plane:

b. Exceptions to the front setback plane. Any individual roof form may penetrate the front setback plane if it is less than one-third of the total structure width at 20 feet in height. Two separate and distinct roof forms, such as dormers may project into the front setback plane if they are less than one-half of the total structure width at 20' in height. (needs graphic)



Allowed – Less than 1/3 width of building
At 20' in height

Not allowed – At 20' in height exceeds
1/3 of building width

Strategy – Other Zones: R-7.5, R-10 and R-15 – New Standard

Article 50.08 Residential – Low Density R-7.5, R-10, R-15 Zones

Section 50.08.045 Single Family Dwelling Design.

1. Front Setback Plane. The front profile of a structure shall fit behind a plane that starts at the front setback line and extends upward, to 20 feet in height, then slopes toward the rear of the lot at a minimum slope of 6:12, up to the maximum allowed height at the peak, as illustrated in Appendix 50.07:

2. Exceptions to the front setback plane. Any individual roof form may penetrate the front setback plane if it is less than one-third of the total structure width at 20 feet in height. Two separate and distinct roof forms, such as dormers, may project into the front setback plane if they are less than one-half of the total structure width at 20 feet in height.

Definitions: 50.02

Profile. Utility: A “sideview” of a proposed utility pipe or street showing grade, changes in grade, depth of pipe and vertical curves of streets.

Structure: A “sideview” of a proposed structure showing the front building wall and roof line, from the front building line at the setback, to the highest point of the roof.

(Needs a drawing).

R-5

Section 50.06.050 Setbacks, Buffers

8. Front Setback Plane

a. Front Setback Plane. The front profile of a structure shall fit behind a plane that starts at the front setback line and extends upward, to 20 feet in height, then slopes toward the rear of the lot at a minimum slope of 6:12, up to the maximum allowed height at the peak, as illustrated in Appendix 50.07

b. Exceptions to the front setback plane. Any individual roof form may penetrate the front setback plane if it is less than one-third of the total structure width at 20 feet in height. Two separate and distinct roof forms, such as dormers may project into the front setback plane if they are less than one-half of the total structure width at 20 feet in height

Setbacks

Objective: Current standards tend to push larger houses into smaller footprints and taller volumes with little flexibility to distribute the volume or “fit” it to its context. If the buildable area of a lot is expanded for one to one and one-half story structures, more flexibility is created.

Strategy - FAN: Relax setbacks for single story or one and one-half story structures.

Section 50.07.025 Setbacks.

1. Except as otherwise provided in this section, LOC 50.16.040, 50.22.010, 50.22.025, 50.22.030 or 50.22,035, the following minimum setbacks are required for development in the R-6 zone:

<u>Setback location:</u>	<u>Required Minimum Setback</u>
a. Front Yard	20 feet
b. Side Yard Adjacent to a Street: 20 feet on arterials and collectors. 10 feet on local streets	20 feet 10 feet
e. Other Side Yards: — i. Single Story Structures — ii. Multi-Story Structures:	5 feet 15 feet cumulative, 5 feet minimum on a side, except as provided in subsection 3 of this section.
<u>Structures ≤22 feet in height</u>	<u>5 feet</u>
<u>Structures > 22 feet in height</u>	<u>15 feet cumulative, 5 feet minimum width on a side, 15 feet cumulative; except as provided in subsection 3 of this section.</u>

2. A projecting covered front porch may extend into the front yard setback up to 6 feet.

3. A multi-story structure may have a smaller side yard setback than required in subsection 1(c)(ii) of this section where the ground floor is setback a minimum of 5 feet and the remainder of the structure is stepped back from the side building line by at least four feet on each side.

4. Eaves, bay windows, chimneys and other decorative features that do not expand the plane of the primary exterior wall may extend into the setback areas as long as minimum fire code distances are met.

Strategy –R-7.5, R-10, R-15: Relax setbacks for single story structures and for multiple story accessory structures.

Section 50.08.030 Setbacks.

1. a. Except as otherwise provided in this section, LOC 50.16.040, 50.22.010, 50.22.025, 50.22.030, or 50.22.035, the following setbacks are required for primary structures new construction in each zone:

Zone	Front Yard	Side Yard Adjacent to a Street	Other Side Yard		Rear Yard – Primary Structure	Side and Rear Yards Accessory Structures	
			<u>Primary Structure ≤ 22 feet in height</u>	<u>Primary Structure >22 feet in height</u>		<u>Structure ≤ 22 feet in height</u>	<u>Structure >22 feet in height</u>
R-7.5	25 feet	20 feet on arterial and collector 10 feet on local streets	10 feet 5 ft. min. width, total combined width 15 feet	10 feet	30 feet	5 feet, side; 10 feet, rear	10 feet, side; 15 feet, rear
R-10	25 feet	20 feet on arterial and collector, 15 feet on local streets	15 feet 10 feet	15 feet	30 feet	10 feet, side; 15 feet, rear	15 feet
R-15	25 feet	20 feet on arterial and collector, 15 feet on local streets	15 feet 10 feet	15 feet	30 feet	10 feet, side; 15 feet, rear	15 feet

~~b. Except as otherwise provided in this section, or LOC 48.20.535, the following setbacks are required for in each zone for an alteration that does not qualify as new construction: (Remove two existing tables showing setbacks.)~~

The above highlighted changes were made to illustrate which existing side yard setbacks were changing (fourth column) and, to adjust the side and rear yard setbacks for accessory structures, based on comments at the Planning Commission hearing that indicated that the side yard setbacks should be no more restrictive than they are now.

R-5
Changes to R-5 code section appear in Section 50.06.050 (Allowable Floor Area and Lot Coverage Section of this Report)

Garage Openings Facing the Street

Objective: Reduce the visual impact of large façade openings at the front building elevation.

FAN (R-6): This is not currently an issue in FAN because properties with alley access are required to locate garages on the alley. If an alley is not available, regulations are in place to require garages to be set back from the front elevation a minimum of 15'. However, some members of FAN have suggested relaxing this requirement for corner lots. Suggested language follows, if this option is desirable.

Section 50.07.045

2. Garages. In addition to compliance with subsection 1 of this section, a garage shall comply with the following requirements.

a. Garages shall be accessed from an alley, if available. **If a property is located on a corner lot, garages may also be accessed from the street that abuts the side of the primary dwelling when the following criteria are met:**

i. The garage is located between the primary structure and the alley,

ii. The garage is set back a minimum of 15 feet from the side street property line, and

iii. The garage is set back a minimum of two feet from the side elevation of the primary dwelling.

b. For interior lots, garages shall be located so that the side of the garages facing the street is set back a minimum of 15 feet behind the front building line of the house (excluding a porch). (See Appendix 50.07-B).

c. Detached garages may be set back a minimum of 5 feet from alleys.

Other Zones:

BACKGROUND: The Task Force struggled with this concept and ended up with the recommendation to “limit garage opening size possibly based on lot width; and/or require garage setback from house elevation.”

New Section, R-7.5, R-10 and R-15:

50.08.050 Garage Appearance and Location:

1. Lots less than 65 feet in width:

a. The following standards apply, except when a garage is located behind the primary structure dwelling or garage is side-loading, as shown in Appendix .For garages located at the rear of the primary structure or for side loading garages, the area of the garage, up to 200 square feet, shall be exempt from lot coverage calculations.

b. For garages other than those described in 1)a) above, the garage shall
OPTION 1. i. be set back a minimum of 5' from the front elevation of the primary structure dwelling, (OR

OPTION 2. i. be set back from the main volume of the primary structure dwelling by a minimum of 5',
and

ii. accommodate no more than a two-stall garage (maximum opening width)

New Definition **Garage, Side-loading.** A garage that meets the definition of a Private Garage but is located such that the garage doors face a minimum of 90 degrees away from the street (see appendix). [Insert illustration].

2. For lots 65 feet in width or wider:

a. The following standards apply, except when a garage is located behind the primary structure dwelling or garage is side-loading, as shown in Appendix . For garages located at the rear of the primary structure or side loading garages at the front or side of a primary structure, the area of the garage, up to 200 square feet, shall not be counted toward lot coverage calculations.

b. For garages other than those described in 2)a) above, the garage shall:
OPTION 1. i. be set back a minimum of 5' from the front elevation of the primary structure dwelling (OR
OPTION 2. i. be set back from the main volume of the primary structure dwelling by a minimum of 5',
and
ii. occupy a maximum of 50% of the façade of the primary structure dwelling.

[Cross Reference to a new Section like 50.07.040 which discusses lot coverage and FAR exemptions for accessory structures]

3. Exceptions. Garage appearance and location standards shall not apply in the following circumstances;

- a. Where the average slope of a parcel exceeds 20%,
- b. Where the width of a parcel is less than 50 feet,
- c. Where the garage is proposed to be set back at least 60' from the front lot line, or
- d. Where the width of the lot at the front building line is less than 30 feet .

Section 3, above is proposed to be added to acknowledge specific circumstances in which lot characteristics may make compliance with garage standards difficult (e.g., extremely sloped lots, narrow parcel width, pie-shaped lots such as those found on cul-de-sacs), or in which the garage is set back a large distance from the front property line, minimizing its appearance from the street.

Massing to Neighbors

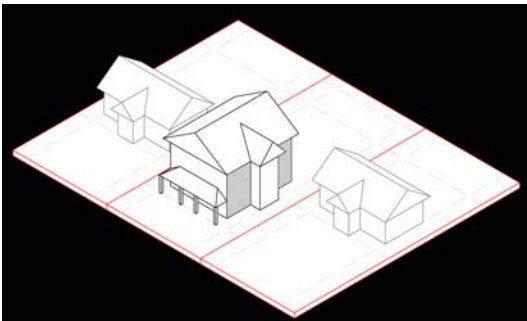
Objective: Break up large planes of a side elevation into smaller segments to provide visual relief by limiting the area of unbroken mass or screening out-of-scale side yard elevations from view.

FAN:

Section 50.07.040 **Single Family Dwelling Design.**

1. Roof Design...
2. Front Porch Required...
3. Front Setback Plane.
 - a. ...
 - b. ...

4. Maximum Side Yard Plane Setback Elevation. **The side elevation of a structure must be divided into smaller areas or planes to minimize the appearance of bulk when viewed from neighboring properties or a side street. When the side elevation of a primary structure is more than 500 square feet in area, the elevation must be divided into distinct planes of 500 square feet or less. For the purpose of this standard, areas of side-yard wall planes that are entirely separated from other wall planes are those that result in a change in plate height or other change in plane such as a recessed or projecting section of the structure, that projects or recedes at least two feet from the from the adjacent plane, for a length of at least 6 feet.**



(Maximum 500 square feet would also apply to R-5)

Other Zones (R-7.5, R-10, R-15)- New Section

50.08.045. **Massing of Single Family Dwellings Design:**

1. Front Setback Plane...
 - a. The front profile of ...
 - b. Exceptions to the front setback plane...
2. Side Yard Setback Elevation. **The side elevation of a structure must be divided into smaller areas or planes to minimize the appearance of bulk to properties abutting the side elevations of a primary structure. When the side elevation of a primary structure is more than 750 square feet in area, the elevation must be divided into distinct planes of 750**

square feet or less. For the purpose of this standard, areas of side-yard wall planes that are entirely separated from other wall planes are those that result in a change in plate height or other change in plane such as a recessed or projecting section of the structure, that projects or recedes at least two feet from the from the adjacent plane, for a length of at least 6 feet.

Alternative Option: Landscaping or fencing?

Accessory Structures (includes detached garages, utility sheds, accessory dwellings)

Objective: Allow for greater flexibility in constructing and siting accessory buildings.

First Addition:

Section 50.07.045 Accessory Structures.

1. In General:

a. Floor Area: ~~An single-accessory building structure ≤18' feet in height shall not exceed the greater of 6800 sq. ft. in-ground-floor area or the square footage of the ground floor area of the primary structure, whichever is less. An accessory building structure>18' feet or greater in height shall not exceed 600 square feet or the square footage of the ground floor area of the primary structure, whichever is less.~~

b. Height: The maximum height of an accessory structure shall be 24 feet, except that no accessory structure shall be taller than the primary- ~~dwelling structure.~~

c. Setbacks: The side and rear setbacks for ~~an~~ single-story accessory ~~structure no more than 15 feet tall~~ ≤18' in height, shall be a minimum of 5 feet. ~~Faller~~ Taller accessory structures shall meet the side yard setbacks of the primary structure; the rear yard setback of an accessory structure greater than 18' in height, shall be a minimum of 10' ~~meet the setback requirements of the primary structure.~~ Accessory structures on abutting lots may not be built with common party walls.

i. Exception: When a lot is greater than 2.5 times the minimum required lot size in the zone in which it is located, an accessory structure may be larger than the area outlined in a., above, subject to the maximum lot coverage, FAR and setbacks required in the zone.

d. Roof: Roof pitch on an accessory structure shall either match the pitch of the primary structure or be a minimum pitch of 6:12.

Strategy – Other Zones – New Section.

LOC 50.08.050 Accessory Structures

a. Floor Area: An accessory structure ≤18 feet in height shall not exceed the greater of 800 sq. ft. in area, or the square footage of the ground floor area of the primary structure, whichever is less. An accessory structure greater than 18 feet in height shall not

exceed the greater of 600 square feet or the ground floor area of the primary structure, whichever is less.

i. Exception: When a lot is greater than 2.5 times the minimum required lot size in the zone in which it is located, an accessory structure may be larger than the area outlined in a., above, subject to the maximum lot coverage, FAR and setbacks required in the zone.

b. Height: The maximum height of an accessory structure shall be 24 feet, except that no accessory structure shall be taller than the primary structure dwelling.

c. Setbacks: The side and rear yard setbacks for an accessory structure ≤18 feet in height shall be a minimum of 10'. The side and rear yard setbacks for an accessory structure 18 feet in height or greater shall be a minimum of 15'. Accessory structures on abutting lots may not be built with common party walls.

i. Exception: When a lot is greater than 2.5 times the minimum required lot size in the zone in which it is located, an accessory structure may be larger than the area outlined in a., above, subject to the maximum lot coverage, FAR and setbacks required in the zone.

The above exceptions were added based on commentary received at the Open House related to the need for more generous accessory structures when lots were significantly larger than the minimum required lot size.

Alternative Process to Clear and Objective Standards

Objective: Provide an alternative process for property owners to use to achieve a design that may not be allowed by the clear and objective standards but meets the objectives of the clear and objective standards and is compatible with the surrounding neighborhood. This section has been revised extensively since the November 25, 2002 Planning Commission meeting. The criteria have been restructured and completed and the process has been formulated.

Article 50.72 **Residential Infill Design Review Standards.**

Section 50.72.005 Purpose.

The purpose of this Article is to:

1. Provide an alternative process for the review of building permits for construction of single family detached structures and alterations of single family detached structures where the clear and objective development standards of the code conflict with or prevent development that may otherwise be compatible with the character of the neighborhood and surrounding residential development.

2. Ensure that new development is consistent with the character of development envisioned for neighborhoods in Lake Oswego;

3. Ensure that new development is compatible with existing, surrounding residential development;

Section 50.72.015 Applicability.

This standard is applicable to Minor developments listed in Section 50.79.020 (n) where an applicant has requested approval of an alternative design that does not meet the clear and objective development standards of the code but may otherwise be compatible with the character of the neighborhood and surrounding residential development.

Section 50.72.020 Authorization and Criteria

1. In considering an application for residential infill design review, the City Manager shall apply the building height, lot coverage, floor area ratio, setback, front setback plane, side yard setback elevation requirements, garage appearance and location and accessory structure requirements of the underlying zone.

2. The City Manager may grant exceptions to the applicable requirements listed in 1) above if the applicant demonstrates that the proposed single family design results in development that is equal to or better than development that would meet the clear and objective standards listed in 1) above, for the applicable zone. In making this determination, the City Manager shall consider the following:

a. House Size.

(i.) Intent. Compatible infill is ensured through a mix of standards addressing lot dimensions and maximum allowable floor areas. These standards are intended to reflect the size of building(s) that can be reasonably located and shaped to suit the scale and character of a neighborhood. The Code establishes that maximum allowable floor area and its location on a lot through the following standards:

- Floor area ratio
- Lot coverage
- Setbacks
- Building height
- Accessory structures

(ii.)Criteria. The City Manager may permit a house design to exceed or vary from the standards listed in a.(i) above when a more compatible, positive relationship between the size of a proposed house and the scale and character of a neighborhood can be demonstrated in other ways. The City Manager will evaluate that relationship by considering the degree to which a proposed design offers features that diminish the perceived scale and improve the perceived character of greater size. That review will include consideration of:

1. distance and visibility from street and adjoining properties;
2. topography;
3. building number (more smaller versus one larger, for example);
4. building form(s), massing and orientation; and
5. landscaping.

b. Relationship to the Street.

(i.) Intent. Compatible infill is development that makes a positive contribution to the scale and character of a neighborhood's streetscape. While this scale and character will vary from neighborhood to neighborhood and from street to street, a positive contribution is typically one that enhances the safety and experience of a pedestrian using the street. The Code establishes the relationship of a building's location and form relative to the street through the following standards:

- Front setback
- Front setback plane
- Garage door openings

(ii.)Criteria. The City Manager may permit a house design to exceed or vary from the standards listed in b.(i.) above when a more compatible, positive relationship between a proposed design and the scale and character of the street can be demonstrated in other ways. The City Manager will evaluate that relationship by considering the degree to which a proposed design offers features that enhance the perceived scale and character of the street from a pedestrian's perspective. That review will include consideration of:

1. distance and visibility from street;
2. prevailing patterns of front yard setback, building alignment and spacing (rhythm);
3. topography;
4. preservation of existing trees and features of perceived value to the street;
5. perceived building form, proportion, massing and orientation relative to the street;
6. porch and/or entry location and treatment relative to the street;
7. garage distance and visibility from the street;
8. perceived size and scale of garage doors from the street;
9. perceived area and scale of driveways and parking areas from the street;
10. fencing or screens; and
11. landscaping.

c. Relationship to the Neighbors.

(i.) Intent. Compatible infill does not diminish the scale, character or privacy of neighboring houses. While the scale, character and privacy of one building relative to another will vary from street to street, and from lot to lot, a positive contribution is typically one that adjusts the location and perceived scale, character and views from or to a new house to avoid visual conflict with neighbors. The Code establishes the relationship of a building's location and form relative to its neighbors through the following standards:

- Side setback
- Side wall elevation

(ii.)Criteria. The City Manager may permit a house design to exceed or vary from the standards listed in c. (i.) above when a more compatible, positive relationship between a house and the scale, character and privacy of its neighbors can be demonstrated in other ways. The City Manager will evaluate that relationship by considering the degree to which a proposed design offers features that

enhance perceived scale, character and privacy relative to adjoining properties. That review will include consideration of:

1. distance and visibility from adjoining properties;
2. preservation of existing trees and features of perceived value to adjoining properties;
3. topography;
4. perceived building height, form, proportion, massing and orientation relative to adjoining properties;
5. treatment of elevations exposed to adjoining properties;
6. perceived sight lines to and from windows, decks and outdoor living spaces;
7. fencing or screening; and
8. landscaping.

3. When applying the criteria for compatibility of house size, relationship to the street, and relationship to neighbors as set forth in section 2 above, the City Manager shall consider the pattern and character of development of all lots within 200 feet of the subject site. The City Manager shall also consider any neighborhood design objectives or guidelines for residential development that have been adopted by the local neighborhood association.

Article 50.79

Types of Development and Review Criteria for Each Type of Development

Section 50.79.010 Ministerial Development Classification

2. Ministerial developments include

a. Exterior modification of single family detached dwellings, duplexes or zero lot line dwellings or modification of an accessory dwelling in the DD zone **except for modifications that are processed through the Residential Infill Design Review process (LOC 50.72).**

b. Construction or exterior modification of a detached single family dwelling, duplex, zero lot line dwelling or a structure accessory to such structures which:
i. Is not processed through the Residential Infill Design Review process (LOC 50.72).

Section 50.79.020 Minor Development Classification

2. Minor Development includes:

n. Single family attached dwellings when processed through the Residential Infill Design Review process (LOC 50.72).

Article 50.81

Review of Minor Development Applications

Section 50.81.010 Notice of Minor Development Application

1. Except as set forth in Section 3 below, prior to making a final decision on a minor development permit application, the City Manager shall provide written notice

3. For development processed through the Residential Infill Design Review process (LOC 50.72), the City Manager shall provide written notice of a preliminary decision to owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. In addition to the notice requirements of Section 50.81.010 (2.), the notice of the preliminary decision shall include items numbered 1. through 4. in Section 50.81.020 and shall state that if no written comments are received within the 14-day comment period, the decision will become final. The notice shall also describe the appeal process following finalization of the decision. Notice shall also be sent to parties identified in sections (1.)(a.) and (1.)(b.) of LOC 50.81.010.

Section 50.81.015 Final Decision

Renumber the existing section as (1.) and add a new section as set forth below:

2. For development processed through the Residential Infill Design Review Process (LOC 50.72), The City Manager’s preliminary decision will become final if no written comments are received within the 14-day comment period. In such cases, no additional notice of a final decision will be required. If written comments are received within the 14-day comment period, the City Manager shall then make a Final Decision and provide notice in accordance with Sections 50.81.015 and 50.81.020.

~~Article 50.80~~

~~Review of Ministerial Development Applications.~~

~~Article 50.79~~

~~Types of Development and Review Criteria For Each Type of Development.~~

~~Section 50.79.020 — Minor Development Classification—~~

~~2. Minor Development includes:~~

~~n. Construction of a single family building permit for which the property owner has chosen to process the building permit as a Minor Development through LOC 50.72, Single Family Design Review Standards.~~

~~Section 50.080.005 — Review by City Manager.~~

~~Ministerial Development applications shall be reviewed and approved by the City Manager pursuant to LOC 50.79.015, with the exception of single family building permits for which the property owner(s) has chosen to process the building permit as a Minor Development, rather than meeting the clear and objective standards for the applicable zone. Single Family building permits reviewed using this higher level of review, shall be subject to LOC 50.81, Review of Minor Development Applications.~~

~~Article 50.79~~

Types of Development and Review Criteria For Each Type of Development.

Section 50.79.010 — Ministerial Development Classification.

1. A ministerial development is a development which requires a permit from the City where the decision:
 - a. Is made pursuant to land use standards which do not require interpretation or the exercise of policy or legal judgment;
 - b. Approves or denies a building permit issued under clear and objective land use standards; or
 - c. Determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations.
2. Ministerial developments include:
 - a. Exterior modification of single family detached dwellings, duplexes or zero lot line dwellings or modification of an accessory structure in the DD zone.
 - b. Construction or exterior modification of a detached single family dwelling, duplex, zero lot line dwelling or a structure accessory to such structures, which:
 - i. Is not located within a delineated RP....
 -
 - viii. Is located within an R-5, R-7.5, R-6, R-10 or R-15 zone and the property owner has chosen to process the permit as a Minor Development using subjective criteria, rather than as a Ministerial Development using the clear and objective standards provided in the applicable zone.

Article 50.72

Single Family Design Review Standards.

Section 50.72.005 — Purpose.

The purpose of this Article is to

1. Provide an alternative process to review building permits for construction of single family detached structures and alterations of single family detached structures to ensure compatibility with existing single family development, and to

2. Provide for compatibility of development on new single family lots created within an area of previously developed parcels.

Section 50.72.015 — Applicability.

This standard is applicable to Ministerial developments listed in Section 50.79.010(2)(b) (viii.).

Section 50.72.020 — Authorization.

1. In considering an application for single family design review, the reviewing authority shall apply the height, lot coverage, floor area ratio, setback, front setback plane, side yard setback elevation requirements, garage appearance and location and accessory structure requirements of the underlying zone.

2. The reviewing authority may grant exceptions to the applicable requirements listed in 1) above, if the applicant demonstrates that the proposed single family design results in development that is (equal to or)? better than development that would meet the clear and objective standards listed in 1) above, for the applicable zone. In making this determination, the reviewing authority shall consider the following:

a). The development makes a positive contribution to the streetscape. New construction should be situated on a lot to enhance or repair a prevailing and desired pattern of development regarding structures' relationship to the street. In general, this criteria suggests that new construction be allowed greater flexibility when a desired prevailing pattern would be interrupted by the clear and objective dimensions. (Illustration of a plan diagram of a street highlighting a pattern of front setbacks or other elements that vary from that permitted by the clear and objective standard.) The following elements will be considered:

- 1) Front setback
- 2) Side setback
- 3) Entries and porches
- 4) Driveways and garages
- 5) Landscaping

b). Building size is compatible with surrounding development and neighborhood character. The size and scale of new construction should enhance the prevailing and desired pattern of development of dwellings, including two houses on either side of the subject parcel and across the street, as well as considering the character of the neighborhood as defined by photographs submitted by the Neighborhood Association. Flexibility should be allowed when a desired and prevailing pattern would be interrupted by the required clear and objective dimensions. The following elements will be considered:

- 1) Massing
- 2) Height
- 3) Front setback plane
- 4) Scale
- 5) Lot coverage
- 6) Floor area ratio

c). Building form is compatible with surrounding development and neighborhood character. The following elements will be considered:

- 1) Shape
- 2) Surfaces/Planes

d). The development includes design features that offer a sense of privacy, relative to adjoining properties. The following elements will be considered:

- 1) Height and topography
- 2) Window location
- 3) Fencing
- 4) Landscaping

Section : 50.72.025 Authorization

Ministerial (clear & objective), Non-Discretionary Review.

The purpose of these changes is to provide additional flexibility to property owners with large lots, through the use of clear and objective standards. The Infill Task Force concluded that this is a way to provide flexibility with height, setback plane, and front yard setbacks when dwellings can be placed further from property lines so that bulk is visually minimized. Because standards are clear and objective, no special process is required—Staff can conduct the review “over the counter.” The list of changes could be expanded or reduce over time, depending on what aspects of development the community feels are important to provide flexibility. This section should be cross-referenced to each zone.

Article 50.22 Exceptions to Site Development Standards: Lot Dimension, Lot Area, Setback, Building Height, Maximum Side Yard Plane, Front Yard Plane, Garage Location, Minimum Roof Pitch; Lot Coverage, Floor Area Ratio and Special Determinations: Yards of Corner Lots.

Section 50.22.105 General Exceptions to Single-Family Dwelling Standards:

1. Maximum Side Yard Plane. The maximum side yard plane, where specified in a zone, may be increased by 10% on a side for every additional five feet of side yard setback provided beyond the minimum required by the zone, on the side property line.

Staff has discussed 10-25% for this exception. Planning Commission may want to discuss what it views as a reasonable percentage.

2. Single Family Dwelling Height. Building height may be increased by one foot for every five additional feet in setback on all sides, beyond the minimum code standards for the zone.

3. Minimum Roof Pitch. When a minimum roof pitch, either in conjunction with a front setback plane or in general, is specified in a residential zone, it may be reduced by 1:12 for every additional five feet of front yard setback provided beyond the minimum required by the zone.

4. Garage Appearance and Location. When garage appearance and location standards are specified in a residential zone, standards shall not apply in the following circumstances;

- a. Where the average slope of a parcel exceeds 20%,**
- b. Where the width of a parcel is less than 50 feet,**
- c. Where the garage is proposed to be set back at least 60’ from the front lot line, or**
- d. Where the width of the lot at the front building line is less than 30 feet .**

5. Lot Coverage: Up to 200 [400’ – alternative] square feet of the ground floor area of a detached garage may be exempt from lot coverage calculations, provided an approved method of storm drainage is available for the site. Habitable areas of detached accessory

structures that would normally be counted as floor area, may be exempt from floor area calculations up to a maximum of 200 [400' – alternative] square feet.

Should (5) be located here or in accessory structure section?

What criteria will be used:

1. ~~Building height can be increased by one foot for every five foot increase in setback beyond the typical Code standard for the zone. For instance, a four foot increase in height will be allowed for the front portion of the house, if the front setback has been increased by 20 feet. A two foot increase in height will be allowed for the side portion of the house, if that side setback has been increased by 10 feet. In order to increase the height at the middle of the house, all setbacks must be increased correspondingly.~~

2. ~~Side yard plane requirements shall be reduced by 25% for every additional five feet of side yard setback.~~

3. ~~Minimum roof pitch, when specified in the Code, shall be reduced by 1:12 for every additional five feet of front yard setback.~~

4. ~~Garages located at the rear of the primary dwelling unit on the property shall be subject to the following standards:~~

~~Lot Coverage—fifty percent of the area of the garage shall be included within lot coverage calculation, provided that there is an approved method of storm drainage available for the site.~~

~~FAR—fifty percent of the area of the garage shall be included within the floor area ratio calculation, if applicable.~~

~~Rear setbacks—reduced to three feet, provided that access is taken from an alley; five feet if access is taken from a side yard street; otherwise, ten feet. (Note that garages and other accessory buildings that do not exceed ten feet in height deserve a different standard than taller accessory buildings.)~~

~~Side setbacks—reduced to 3 feet (or a percentage of the normal standard.)~~

Read for the first time by title only and enacted at the regular meeting of the City Council of the City of Lake Oswego held on the _____ day of _____, 2003.

AYES:

NOES:

ABSTAIN:

EXCUSED:

Judie Hammerstad, Mayor

Dated: _____

ATTEST:

Robyn Christie, City Recorder

APPROVED AS TO FORM:

David D. Powell
City Attorney