

STAFF REPORT
CITY OF LAKE OSWEGO
PLANNING AND BUILDING SERVICES DEPARTMENT

APPLICANT

City of Lake Oswego

FILE NO.

LU 17-0066, Ordinance 2766

LOCATION

Residential Citywide

STAFF

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DATE OF REPORT

December 27, 2017

PLANNING COMMISSION HEARING DATE

January 8, 2018

I. APPLICANT'S REQUEST

The City of Lake Oswego is proposing to amend Chapter 50 (Community Development Code) of the Lake Oswego Code for the purpose of standardizing setbacks for noise-producing accessory structures (i.e., air conditioners, heat pumps, pool motors, etc.) in residential zones. The proposed amendments include three options for setback standardization.

The amendments are more fully described in Section III of this report. The draft text amendments, which would enact these changes, can be found in Attachment 2 to Exhibit A-1 (Ordinance 2766).

II. APPLICABLE REGULATIONS

A. City of Lake Oswego Comprehensive Plan

Community Culture – Civic Engagement, Policies 1 and 2

Land Use Planning – Development (Community Development Code), Policies A-3 and A-1 (b)

Land Use Planning - Land Use Administration, Policy D-1

Inspiring Spaces and Places – Goal 1, Policy 1.a

B. City of Lake Oswego Community Development Code

LOC 50.07.003.3.c.	Published Notice for Legislative Hearing
LOC 50.07.003.16.a	Legislative Decisions Defined
LOC 50.07.003.16.b	Criteria for Legislative Decision
LOC 50.07.003.16.c	Required Notice to DLCD
LOC 50.07.003.16.d.iii	Planning Commission Recommendation Required
LOC 50.07.003.16.e	City Council Review and Decision

III. INTRODUCTION / BACKGROUND INFORMATION

The purpose of the proposed amendments is standardize setbacks for noise-producing accessory structures. In Lake Oswego, the setbacks for accessory structures such as AC units and heat pumps vary widely by zone and overlay, and by date of development. The result is that similar properties can have significantly different setbacks for mechanical units. Additionally, because residential Planned Developments have site-specific setbacks that are not codified in the Development Code, it is difficult for the public to identify setbacks applicable to specific property. This process is part of the City's ongoing effort to make the regulations more business-friendly and resident-friendly while maintaining community standards.

As requested by the Planning Commission at its final work session on this proposal September 25, 2017, three options are presented for the public hearing, as follows:

Option 1: This option standardizes the side and rear setbacks for accessory structures throughout all residential zones, including Planned Developments (PDs).

Many setbacks would not be affected by this standardization. Certain side and rear setbacks would increase or decrease by 2.5-5 feet, which would not be noticeably perceptible on abutting properties. Additionally, decreases in Street Side Yard setbacks would not noticeably affect nearby properties because of the additional separation provided by the right-of-way.

This option is the simplest for administration and for property owners researching setbacks or applying for a mechanical permit.

Option 2: This option uses the standardized setbacks described in Option 1; additionally, it requires new noise-producing mechanical equipment to be rated for no more than 55 dBA.

A decibel is a measure of sound intensity, or acoustic power. Most noise levels are given in dBA, which are decibels adjusted to reflect the ear's

response to different frequencies of sound. Sudden, brief impulse sounds are often given in dB (no adjustment). The following noises are often used to show relative noise levels:

Dishwasher	40-62 dBA
Refrigerator	50-55 dBA
Air conditioner, conversational speech	60 dBA
Vacuum:	70 dBA

In establishing the 55 dBA threshold, staff reviewed 12 noise ordinances that codify maximum residential noise levels (Attachment B). These cities established maximum residential noise levels between 50 dBA and 60 dBA measured at the property line. Two cities, Los Angeles and Sacramento, set noise levels for new mechanical units at 55 dBA but did not identify a maximum noise level at the residential property line. A unit that is rated for 55 dBA will produce noise levels at the property line of less than 55 dBA as noise decreases logarithmically over distance.

Compared to Option 1, this option places an additional burden on the property owner to submit the dBA specifications for each mechanical unit; it will also likely increase the time it takes a property owner to secure the mechanical permit. This option would not require additional training or equipment for measuring dBA levels; code compliance would be assured by verifying setbacks and dBA specifications.

Option 3: This option also uses the standardized setbacks described in Option 1; additionally, it requires mechanical units that are placed between 5 ft. and 9.99 ft. from an interior side property line to be rated at no more than 45 dBA. No dBA specifications would be required for other mechanical units that meet the standardized setbacks. In traditional residential development patterns, the distance between dwellings is smallest along side property lines; for this reason, the lower dBA restriction is proposed where the impacts from new mechanical units could be greatest.

Compared to Option 1, this option places an additional burden on the property owner to submit the dBA specifications for *some* new mechanical units along side yards. This option would not require additional training or equipment for measuring dBA levels; code compliance would be assured by verifying setbacks and dBA specifications.

The text boxes in Attachment 2 further identify the setbacks that would change, as well as the specific measurements, under the standardization proposal.

IV. NOTICE OF APPLICATION

A. Newspaper Notice

On November 16, 2017, public notice of the proposed CDC text amendments and Planning Commission public hearing was published in the *Lake Oswego Review*. A second notice was published in the *Lake Oswego Review* on December 28, 2017, for the continued meeting.

B. ORS 227.186 (Measure 56) Notice

Since the proposed text amendments do not change the base zoning classification or property or limit or prohibit uses previously allowed in the affected zones, notice of the proposal was not required by ORS 227.186 (Measure 56).

C. DLCD Notice

Pursuant to LOC 50.07.016, staff has provided notice of the proposed CDC text amendments to the Oregon Department of Land Conservation and Development (DLCD).

D. Metro Notice

Pursuant to Metro Code 3.07.810 and .820, staff provided notice of the proposed CDC text amendments to Metro not less than 35 days prior to the hearing date.

V. COMPLIANCE WITH APPROVAL CRITERIA

Legislative amendments to the CDC shall comply with the following criteria:

A. Applicable Provisions of the City of Lake Oswego Comprehensive Plan

Staff finds that the following Comprehensive Plan Policies are applicable to this proposal:

Land Use Planning Chapter Policies

Development (Community Development Code)

A.1.b: Maintain land use regulations and standards to: *** (b) promote compatibility between development and existing and desired neighborhood character.

A.3 *Ensure high-quality building and site design through the application of clear and objective design standards for residential development.*

Response: The proposed CDC amendments establish clear and objective standards for the placement of noise-producing accessory structures in residential zones. The setbacks will be standardized throughout all zones, promoting compatibility between development and existing neighborhood character by removing standards that differed by zone or by year of development.

This criteria is met.

Land Use Administration

D-1. *Coordinate the development and amendment of City plans and actions related to land use with other affected agencies, including county, state, Metro, federal agencies and special districts.*

Response: Metro and the DLCD were notified of the proposed text amendment at least 35 days prior to the first Planning Commission hearing, as required by Metro Code and State law.

This criteria is met.

Community Culture Chapter Policies

Civic Engagement Goal (Statewide Planning Goal 1)

1: *Provide citizen involvement opportunities appropriate to the scale of a given planning effort, ****.*

2: *Ensure that information related to land use planning and decision-making is readily accessible to the public and easy to understand.*

Response: The Planning Commission has held two work sessions in 2017 on the accessory structure amendments (July and September) to review and provide feedback on the Code; the work sessions included opportunity for public comment. A notice of public hearing was sent to all Lake Oswego Neighborhood Association chairs, LONAC, the Metropolitan Homebuilders Association, Metro, the Department of Land Conservation and Development (DLCD) and the Clackamas County Assessor. Citizen involvement opportunities have included two Planning Commission work sessions.

These criteria are met.

Inspiring Spaces and Places Chapter Policies

- 1: *Adopt implementation measures and guidelines that ensure:*
- a. *New development in residential areas complements the existing built environment in terms of size, scale, bulk, height, and setbacks.*

Response: The proposal is consistent with this policy, which is similar to Land Use Policy A-1.b and A-3. See response to Land Use - Development, above.

This criteria is met.

B. Lake Oswego Community Development Code Procedural Requirements

LOC 50.07.003.3.c.	Published Notice for Legislative Hearing
LOC 50.07.003.16a	Legislative Decisions Defined
LOC 50.07.003.16b	Criteria for Legislative Decision
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LOC 50.07.003.16.e	City Council Review and Decision

Response: The Community Development Code 50.07.003.16.a defines “legislative decisions” to include amendments to the CDC and to Comprehensive Plan policies. Public hearings by the Planning Commission for recommendations to the City Council for “legislative decisions” are required to have at least 10 days prior published notice, per LOC 50.07.003.16.d.iii and 50.07.003.3.c. Notice is defined as being published in a newspaper of general circulation in the City of Lake Oswego at least ten days in advance of the hearing, and mailed at least ten days in advance to the Commission for Citizen Involvement and to all recognized neighborhood associations. The notice shall include:

- i. The time, date, and place of the public hearing;
- ii. A brief description of the proposed legislative amendment; and
- iii. A phone number for obtaining additional information.

Public hearings will be held before the Planning Commission and City Council. All required notification measures and opportunities for input as specified in the Code were provided during this process, including noticing to all Neighborhood Associations. Public hearings will be held before the Planning Commission and City Council. Therefore, the process followed for these amendments is in compliance with the above cited Comprehensive Plan policies. These criteria are met.

VI. RECOMMENDATION

Staff recommends that the Commission make a recommendation to City Council on the amendment options presented, and to adopt Ordinance 2766 (including the attachments).

EXHIBITS

A. Draft Ordinance

A-1 Ordinance 2766, draft 12/27/17

Attachment 1: *Reserved for City Council Findings (not included)*

Attachment 2: Community Development Code Amendments Draft, 09/18/17

B. Findings, Conclusions and Order [No current exhibits; reserved for hearing use]

C. Minutes [No current exhibits; reserved for hearing use]

D. Staff Reports

D-1 Staff Memo – Planning Commission Work Session, 06/29/17

D-2 Staff Memo – Planning Commission Work Session, 09/25/17

E. Graphics/Plans [No current exhibits; reserved for hearing use]

G. Letters and E-Mails [No current exhibits; reserved for hearing use]

