

ORDINANCE NO. 2579

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE OSWEGO REORGANIZING THE COMMUNITY DEVELOPMENT CODE (LOC CHAPTER 50); CONSOLIDATING THE COMMUNITY DEVELOPMENT CODE WITH CODE PROVISIONS RELATING TO SOLAR ACCESS (CHAPTER 57), HISTORIC PRESERVATION (CHAPTER 58) AND FENCES (ARTICLE 45.15); AMENDING THE ZONING MAP AND COMPREHENSIVE PLAN MAP TO REFLECT CHANGED ZONE NAMES; AND ADOPTING FINDINGS LU 11-0036-XXXX

WHEREAS, the Community Development Code has been amended and expanded numerous times over the years and is complex in terms of content, format, and organization, making it difficult for the user to navigate and understand, and can be improved by reformatting, reorganizing, and making minor text amendments for clarity; and

WHEREAS, the Solar Access and Historic Preservation chapters and the Fence Article are part of the overall development review process by the City, but are contained in separate chapters from the Community Development Code, and incorporating these chapters into the Community Development Code would result in a more consolidated set of development regulations; and

WHEREAS, the reorganization, reformatting, and consolidation of the Community Development Code, Solar Access and Historic Preservation chapters, and the Fence Article are not intended to result in any substantive changes to the existing content of these codes; and

WHEREAS, some zone names are being changed in the text of the Community Development Code, necessitating corresponding changes for zone names on the zoning map and comprehensive plan map; and

WHEREAS, notice of the public hearing for consideration of this Ordinance was duly given in the manner required by law; and

WHEREAS, the Planning Commission has recommended that LU 11-0036-xxxx be approved by the City Council; and

WHEREAS, a public hearing on LU 11-0036-xxxx was held before the City Council of the City of Lake Oswego on XXXXXX XX, 2012.

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions (LU 11-0036-xxxx) attached as Exhibit "A".

**EXHIBIT A-1
LU 11-0036**

Section 2. LOC 12.51.035(3) is hereby amended as follows (new text shown in **bold, double-underlined type**; deleted text shown in ~~strikethrough type~~):

12.51.035 Historic Resources Advisory Board.

* * *

3. Duties. The Historic Resources Advisory Board shall:

- a. Carry out the purpose section and duties described in LOC Chapter 58 ~~58~~ **50.06.009 and 50.07.004.5** (Historic Preservation) and otherwise assist the City Council on historic preservation matters.
- b. Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places.
- c. Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs.
- d. Advise interest groups, agencies, boards, and citizens on matters relating to historic preservation within the city.
- e. Conduct historic inventories on a periodic basis and ensure that information on inventoried historic properties is updated and maintained.
- f. Research and recommend property owner incentives to City Council to assist in continued preservation of historic resources.

Section 3. LOC 12.52.010 is hereby amended to read as follows (new text shown in **bold, double-underlined type**; deleted text shown in ~~strikethrough type~~):

12.52.010 Specific Recordable Instruments.

The following instruments maybe recorded in the appropriate county records:

1. Local Improvement Districts.

- a. Petition for Formation of local improvement or assessment district. (See LOC 40.02.020 (3)).

- b. Waiver of Right to notice, hearing, remonstrance or assessment for a local improvement district (LID), public improvement, facility or service. (See LOC 40.020.050.)
 - c. Notice of Pendency of Formation of a local improvement district or assessment. (See LOC 40.02.040 and 40.02.060 (1)).
 - d. Reapportionment of Special Assessment for LID's or public improvements. (See LOC 40.02.160.)
 - e. Continuing Request for Public Improvements or Services approved for recording by City Manager or designee. (See LOC 40.02.020 (3)).
2. Development Review. Development restrictions relating to a major development, minor development, or ministerial development, including but not limited to land divisions, variances, conditional use permits, and the Conditions of Approval imposed on the subject real property when approved for recording by the City Manager or designee. (See ~~LOC 50.79.040~~ 50.07.003.5.)
3. Agreements to Pay Charges.
- a. System development charges. (See LOC 39.06.101). (May be recorded or may be posted in the Municipal Lien Docket.)
 - b. Any impact fees or taxes imposed on real property pursuant to Lake Oswego Code.
 - c. Agreement for Public Improvements, to construct or maintain public improvements required by the City Manager, City hearing body, or City Engineer. (See LOC ~~50.87.020~~ 50.07.003.9.)
 - d. Zone Connection Charge to reimburse a person for the costs of financing a sewer, street, surface water management or water improvement. (See LOC 40.04.050.)
4. Real Property Conveyance Acceptance. Acceptance of Transfer or Acceptance of Dedications of road right-of-way or other public interest in real property approved for recording by the City Manager.

5. Property Line Adjustment. Property Lot Line Adjustment Approval, or agreement pursuant to Approval. (See LOC 12.52.010 (2), ~~50.79.010, 50.79.020 and 50.79.030~~ **50.07.003.12, 50.07.003.14, and 50.07.003.15.**)
6. Change of Street Name. Change of Street Name approved for recording by City Engineer. (See LOC 43.02.090.)
7. Building Department Notices. Notice of Final Inspection, Notice of Occupancy Approval, Notice of Failure to Obtain Final Inspection, and Notice of Failure to Obtain Occupancy Approval if approved for recording by Building Official.
8. Declaration of Nuisance and Related Documents. Notice that a property is subject to a pending Declaration of Nuisance or has been determined to be a Nuisance or a Nuisance Lien amount has been approved for recording by City Manager or designee. (See LOC 34.08.405, 34.08.411 and 34.08.421.)
9. Permit of Entry. A permit or license of entry authorizing City, its employees, agents or contractors to enter onto private property.
10. Seizure or Forfeiture of Property. Notice of Intent to Seize or Intent to Forfeit Property, Certificate of Forfeiture or Sale approved for recording by City Manager or designee.
11. Verification of Official Act. Resolution and Order, Minute Order or other comparable order evidencing an official act of City board or commission approved for recording by the City Recorder or designee.
12. Agreement to Construct Public Improvements. Agreement to Construct Public Improvements if approved by the City Manager or designee for recording.
13. Agreement to Hold Harmless or Indemnification. Agreement to Hold Harmless, to indemnify, or defend City of Lake Oswego, its officers, employee, agents or contractors approved by the City Manager or designee for recording.
14. Land Use Required Documents. Any document required or directed to be recorded pursuant to or in furtherance of a land use, development approval or building permit issuance and approved for recording by the Planning Director, Building Official, City Manager, or any designee thereof. Examples include:

Restrictive Covenant, Non-Access Strip, Waiver, Joint-use Agreement, Access Restriction, Maintenance Agreements, Development or Use Restriction.

15. Road Agreement. Road or Right-of-Way Maintenance Agreement approved for recording by the City Manager, City Engineer, or any designee thereof.

16. Encroachment Agreement. Encroachment Agreement approved for recording City Manager or designee. (See LOC 42.18.1010.)

17. Tree Permits.

a. Tree Removal or Tree Preservation Permits approved for recording by the Planning Director or designee. (See LOC 55.02.084, 55.02.094, 55.02.130 and 55.02.135.)

b. Tree Heritage Designation evidenced in a covenant and authorized for recording by Planning Director or designee. (See LOC 55.06.030.)

18. Historic Preservation. Historic Landmark or Historic District Designation, or Removal of Designation. (See LOC ~~Article 58.02~~ 50.06.009 and 50.07.004.)

19. Annexation. Annexation Documents executed by property owner or by City officer or employee in furtherance of current or future annexation, including but not limited to consent to annexation and waiver of time limitations for consent to annexation (See ORS 222.173). (Note: Annexation contracts are authorized for recording under ORS 222.115).

Section 4. LOC 15.06.610(5) is hereby amended to read as follows (new text shown in bold, double-underlined type; deleted text shown in ~~strikethrough~~ type):

15.06.610 Oregon Fire Code Adopted.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion the Oregon Fire Code (as enacted on October 1, 2004, or as thereafter amended by the Department of Oregon State Police, Office of State Fire Marshal). Such a code is enacted and adopted in whole by this reference as though set forth at length except such portions as are hereinafter deleted, modified or amended by this section.

* * *

5. Section 603.1 is amended to add, as additional subsections, the following:

A. Subsection 603.1.8. Storage may be permitted in residential zones subject to the following requirements:

B. Subsection 603.1.8.1. Screening. Above ground tanks are to be surrounded by fences, walls, or plant materials that are sufficient to fully screen their appearance from neighboring properties. If plant materials are used to provide the screening, they shall meet the requirements of Section ~~50.47.015~~ **50.06.004.1** of the Community Development Code.

C. Subsection 603.1.8.2. Setbacks. All structures supporting tanks shall be located a minimum of five (5) feet from any property line. For tanks larger than 275 gallons, the minimum setback shall be increased to ten feet. Additional setbacks shall be as specified in the Oregon Fire Code.

D. Subsection 603.1.8.3. Tank Requirements. All above ground tanks shall display a sticker indicating acceptance by Underwriters Laboratories or a comparable organization (e.g., ASME or Factory Mutual). Tanks shall be double-walled or shall otherwise provide containment for leaks. Tanks must be manufactured, installed, and maintained in compliance with the manufacturer's instructions, NFPA Standard 31 (Installation of Oil Burning Equipment), and be approved by the Fire Chief.

E. Subsection 603.1.8.4. Clean-up. The property owner shall bear the responsibility for the prompt and thorough clean-up and proper disposal of any fuel oil that is spilled on or around any tank, whether the tank is located under ground or above ground.

F. Subsection 603.1.8.5. Closed system. Above ground tanks shall be closed systems, fueling only oil-fired appliances. All other distributions of fuel from such tanks shall be unlawful.

Section 5. LOC 40.06.010 is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikethrough~~ type):

40.06.010 Definitions.

City. The City of Lake Oswego.

City Engineer or Engineer. The person appointed by the City Manager to perform the duties of City Engineer pursuant to LOC Article 40.06.

City Manager. The person appointed by the City Council as the City Manager pursuant to the Lake Oswego Charter, or the City Manager's designee.

Gravity Sanitary Sewer. A pipe located within a public right-of-way and/or public utility easement that is designed to convey sewage by gravity.

Line charge. A uniform charge established to recover the cost of extending the sanitary sewer system to serve properties within the USB.

Parcel of Land or Parcel. A lot as defined in LOC ~~50.02.005~~ **50.10.003.2.**

Person. Any person or legal entity.

Pressure Sanitary Sewer. A pipe and related pumping facilities located within a public right-of-way and/or public utility easement that is designed to convey sewage by pressure.

Property Owner. The owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the Office of the County Assessor.

Septic Tank Effluent Pump/Gravity (STEP/G) Sanitary Sewer. A small diameter pipe located within a public right-of-way and/or public utility easement that is designed to convey sewage by pressure or gravity.

Urban Service Boundary (USB). The area consisting of the incorporated city limits of the City of Lake Oswego and the area outside of the corporate limits but within the area identified pursuant to the Lake Oswego Comprehensive Plan as territory for future annexation and service by the City of Lake Oswego.

Section 6. LOC 42.03.085(3) is hereby amended to read as follows (new text shown in bold, double-underlined type; deleted text shown in ~~striketrough~~ type):

42.03.085 Cul-de-Sacs and Dead End Streets.

* * *

3. A cul-de-sac or dead end street shall be no longer than 200 feet in length and

shall serve no more than 25 dwellings, except where extreme topography, the presence of Sensitive Lands as described in LOC ~~Article 50.16~~ 50.05.010 and 50.07.004.10, floodplains as described in LOC ~~50.02.005~~ 50.10.003.2, freeways, existing development patterns on abutting property or arterial access restrictions, preclude the logical connection of streets. A cul-de-sac shall provide a turnaround without the use of a driveway.

* * *

Section 7. LOC 42.03.110 is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikethrough~~ type):

42.03.110 Provision for widening streets.

Whenever existing streets adjacent to or within a tract are of inadequate width, the provision of additional right-of-way may be required as a condition of development permit approval pursuant to LOC ~~50.79.040 (1)(c)~~ 50.07.003.5.a.iii.

Section 8. LOC 42.12.610 is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikethrough~~ type):

42.12.610 Permit - Required.

1. It shall be unlawful for any person, without first obtaining a permit therefore to:
 - a. Dig up, break into, excavate, disturb, dig under, or undermine any street for the purpose of laying or working upon any water pipe, water main, sewer, branch sewer, or pipe of any kind;
 - b. Make connection with, obstruct, or interfere with any public sewer or drain pipe;
 - c. Cut or break into any brick, clay, terra cotta, cement pipe or other sewer;
 - d. Connect with any sewer, except at the branches duly provided in such sewer for connection therewith;
 - e. Excavate or dig up a street for the purpose of laying down, installing or constructing underground conduits for electric wires or steam, or for making any connection therewith;

f. Connect the blowoff or exhaust pipe of any boiler or steam engine with any sewer or branch thereof;

g. Do any other excavation work in a roadway.

In case of leakage or breakage in any pipe, main, sewer, or conduit, requiring immediate action, any person otherwise authorized to do so may commence the repairs on such pipe, main sewer, or conduit without first obtaining the permit; but he shall, as soon as practicable, file the application and deposit hereinafter provided and obtain the necessary permit.

2. The permit required by this section is a minor development permit and is obtained pursuant to the procedures set forth in LOC ~~Article 50.81~~ **50.07.003.3 and 50.07.003.14**. The standards for approval set forth in LOC ~~Section 50.79.025~~ **50.07.003.14.d.ii** apply in addition to those set forth in this chapter.

Section 9. LOC 42.19.010 is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikethrough~~ type):

42.19.010 Definitions.

1. **Adjacent sidewalk area.** That portion of the public sidewalk between the curb line, or the lateral line of a roadway, and the property line of the food or beverage sales business, delineated by extending the side building lines of the premises until they intersect with the curb or the lateral line of the roadway.

2. **Commercial zone.** Property that is designated Neighborhood Commercial, General Commercial, Highway Commercial, East End General Commercial, Mixed Commerce, Office Commercial/Neighborhood Commercial, Campus Research and Development, Campus Institutional or Office Campus on the Lake Oswego Zoning Map pursuant to LOC ~~50.05.010~~ **50.01.004.2**.

3. **Operate a sidewalk cafe.** Serving food or beverages from a food or beverage sales business to patrons seated at tables located within the adjacent sidewalk area.

Section 10. LOC 45.12.530 is hereby amended to read as follows (new text shown in bold, double-underlined type; deleted text shown in ~~strikethrough~~ type):

45.12.530 Building Permit Required.

Pursuant to the State Structural Specialty Code, enforced pursuant to LOC 45.09.005, a building permit is required for all buildings moved to a location within the City. The building permit required is a minor development pursuant to LOC ~~50.79~~ **50.07.003.14** and is in addition to, not in lieu of, the moving permit required by LOC 45.12.510. In addition to all requirements set forth in the building regulations, the following must also be met to the satisfaction of the City Manager before a development permit may be issued:

1. The building to be moved shall be located and used in a manner consistent with all zoning and land use ordinances of the City, together with any other applicable ordinances, laws or governmental regulations.
2. The building shall be sufficiently similar to other buildings in the immediate vicinity in size, age, architectural style and structural conditions so as to be compatible with other buildings in the area and so as not to cause property in the area to decrease in value.
3. Denial of a development permit application for failure to comply with subparagraphs (1) and (2) of this section may be appealed to the Development Review Commission, as provided for minor development, under LOC ~~50.82~~ **50.07.003.3.f, 50.07.003.7 and 50.07.003.15.b**. In any event, the City Manager may refer the application to the Development Review Commission for a determination of compliance with subparagraphs (1) and (2).

Section 11. The general description and the definitions of “Architectural Detail,” “Commercial Zones” and “Residential Zones” in LOC 47.03.015 are hereby amended to read as follows (new text shown in bold, double-underlined type; deleted text shown in ~~strikethrough~~ type):

47.03.015 Definitions.

For the purpose of this chapter certain terms and words are defined as follows: the words "used for" include "designed for" and vice-versa; words used in the present tense include the future, the singular tense include the plural and vice-versa; the word "shall" is always mandatory; the word "may" is discretionary; the masculine gender includes the feminine gender, except as otherwise

provided. The definitions in LOC ~~50.02.005~~ **50.10.003.2**, apply to this chapter to the extent that they do not conflict. The following terms shall mean:

* * *

Architectural Detail. Elements of building design commonly used in Lake Oswego building styles, including the Arts and Crafts, English Tudor and the Oregon Rustic Styles. (See photos and descriptions in Lake Oswego Community Development Code, LOC ~~Article 50.65~~ **50.05.004** (Downtown Redevelopment District Design District Standards), Appendix ~~50.65-A~~ **A-Lake Oswego Style**).

* * *

Commercial Zones. Commercial Zones shall mean the CR&D, EC, GC, HC, MC, NC, **WLG RMUOC/R-2.5**, OC, **WLG OCOC/NC** and **WLG RLWR-2.5/W** zones as described and established in the Lake Oswego Community Development Code.

* * *

Residential Zones. Residential Zones shall mean the R-0, R-2, **WLG** R-2.5, R-3, R-5, R-6, R-7.5, R-10, R-15, **R-DD** and **R-WR** zones as described and established by the Lake Oswego Community Development Code.

* * *

Section 12. The section listing in LOC 47.10 is hereby amended to read as follows (new text shown in bold, double-underlined type; deleted text shown in ~~strikethrough type~~):

**Article 47.10
Permit Requirements.**

Sections:

- 47.10.400 Signs Requiring Permit.
- 47.10.405 Permanent Signage Requiring Permit Allowed in Residential Zones (R-0, R-2, **WLG** R-2.5, R-3, R-5, R-6, R-7.5, R-10, R-15, **R-DD** and **R-WR**).
- 47.10.410 Permanent Signage Requiring Permit Allowed in Commercial Zones (GC, NC, **WLG RMUOC/R-2.5**, **WLG** OC/NC, and **WLG RLWR-2.5/W**).
- 47.10.412 Permanent Signage Requiring Permit Allowed in the EC Zone
- 47.10.415 Permanent Signage Requiring Permit Allowed in Commercial Zones (MC, HC, CR & D and OC).

- 47.10.420 Permanent Signage Requiring Permit Allowed in Industrial Zones I and IP.
47.10.425 Institutional, Public Facilities or Open Space Land Uses Listed As Conditional Nonconforming Uses.

Section 13. LOC 47.10.405 is hereby amended to read as follows (new text shown in bold, double-underlined type; deleted text shown in ~~strikethrough~~ type):

47.10.405 Permanent Signage Requiring Permit Allowed in Residential Zones (R-0, R-2, WLG R-2.5, R-3, R-5, R-6, R-7.5, R-10, R-15, R-DD and R-WR).

In addition to the temporary and permanent signage allowed without permit in the residential zones the following signage is allowed subject to permit and fee.

Section 14. LOC 47.10.410 is hereby amended to read as follows (new text shown in bold, double-underlined type; deleted text shown in ~~strikethrough~~ type):

47.10.410 Permanent Signage Requiring Permit Allowed in Commercial Zones (GC, NC, WLG RMUOC/R-2.5, WLG OC/NC, and WLG RLWR-2.5/W).

In addition to the temporary and permanent signage allowed without permit in the following commercial zones: GC, NC, WLG RMUOC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W, the following signage is allowed subject to permit and fee.

1. Free Standing Signs.
 - a. Allowable Area: Maximum 32 square feet.
 - b. Number: One sign shall be allowed for the primary frontage. Another sign shall be allowed on any secondary frontage that is 300 feet or more in length.
 - c. Height: Maximum 18 feet for pole signs and 8 feet for monument signs.
 - d. Sign Types: Monument signs shall be allowed. Pole signs shall only be allowed when necessary to provide vision clearance at driveways or intersections and when there is no alternative, visible on-building or monument sign location. No pole signs shall be allowed in the WLG RMUOC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W zones.
 - e. Exceptions in GC Zone: The City Manager may grant exceptions to the size and height limitations for monument signs under subsections 1(a) and 1(c) of this section, as well as exceptions to the design standards of LOC 47.06.200 (4), as necessary to

allow an existing pole sign in the GC Zone, that was non-conforming prior to May 21, 2004, to be converted to a monument sign on the same premises, provided that:

- i. the existing sign is widely recognized in the community as a unique symbolic icon identified with a particular era;
- ii. the sign has been continuously displayed, unchanged, for at least 20 years prior to the conversion;
- iii. the area of the sign does not exceed 50 square feet;
- iv. the conversion results in no change to the face of the sign; and
- v. the height of the monument sign, including the base, does not exceed 10 feet.

Following conversion to a monument sign, any exceptions allowed under this subsection (1)(e) shall apply until there is any alteration or change of the sign, including any change of copy, or until any change of use of the premises, at which time the sign shall be made to comply with all requirements of this Chapter.

2. Sign Attached To Buildings.

- a. Allowable Area: The 32 square foot maximum allowed for freestanding signs may be transferred to allow signs attached to buildings as an alternative. Except in the WLG RMU/OC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W zones, an additional sign or signs shall be allowed within a two foot high horizontal sign band. The sign band length signs may be 75 percent of the building or business frontage whichever is less.
- b. Number: One 32 square foot sign shall be allowed on each street frontage. The maximum number of signs within the sign band on each street frontage shall equal the number of frontage businesses located on the ground floor.
- c. Height: The maximum 32 square foot sign shall not be placed higher than 18 feet on any structure. The sign band shall not exceed two feet in height and shall extend along one or more sides of a structure located between the windows and the parapet on a one story building with a flat roof and at or below the fascia on a one story building with a pitched roof. On a multi-story building it shall be located above the windows and below the second story line (retail cornice height).
- d. Sign Types: Wall signs and sign bands are allowed.

3. Additional Signs Allowed.

a. Awning or canopy signs meeting the same size and number restrictions as sign bands may be substituted for the sign band signs allowed by LOC 47.10.410 (2). The awning or canopy may extend over the right-of way, but shall come no closer than two feet from areas subject to vehicular travel. No such signs shall be allowed in the WLG RMUOC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W zones.

b. Multi-building complexes shall be allowed an additional monument sign of 32 square feet. This sign shall be located at the primary entrance to the complex and shall not extend more than ten feet in height. No such signs shall be allowed in the WLG RMUOC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W zones.

c. Any business which is required by law to post specific signs, such as service stations, shall be allowed up to an additional 22 square feet of signage to communicate the mandated message. The sign may be installed with the primary sign or installed as a separate 5-1/2 foot tall monument sign. No such signs shall be allowed in the WLG RMUOC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W zones.

d. A theater or movie house with more than one auditorium shall be allowed an additional 48 square feet of signage. No such signs shall be allowed in the WLG RMUOC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W zones.

e. Second story businesses shall be allowed an eight square foot sign erected at the second story level. No tenant signage shall be allowed above the second story. No such signs shall be allowed in the WLG RMUOC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W zones.

f. Blade signs which hang from canopies or awnings over the right-of-way perpendicular to the direction of pedestrian movement shall be allowed, but shall come no closer than 2 feet from areas subject to vehicular travel. The signs shall be consistently 8 inches in height and shall not exceed 6 feet in length. The bottom of the sign shall have 8-1/2 feet of clearance to the walkway or ground below. One sign shall be allowed for each ground floor tenant. No frontage is required. A blade sign shall be allowed in the WLG RMUOC/R-2.5, WLG OC/NC and WLG RLWR-2.5/W zones only as an alternative to a monument or wall sign.

g. A single overhanging sign may be substituted for the 32 square foot maximum sign. The overhanging sign shall be allowed to overhang the right-of-way provided it is

attached to the building, comes no closer than 2 feet from areas subject to vehicular travel, maintains 8-1/2 feet of clearance to the walkway or ground below and does not extend more than 14 feet above that sidewalk or ground surface. No such signs shall be allowed in the ~~WLG RMUOC/R 2.5~~, ~~WLG OC/NC~~ and ~~WLG RLWR 2.5/W~~ zones.

* * *

Section 15. LOC 47.12.500(1) is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikerthrough~~ type):

47.12.500 Variances.

1. All sign variances shall follow the same procedure as a ~~Class 1 (minor)~~ variance to the Community Development Code and shall be regulated pursuant to the following procedural provisions:

a. LOC Article ~~50.81~~ **50.07.003.3.a, 50.07.003.14.d.i, and 50.07.003.14.d.iii.**

b. LOC Article ~~50.82~~ **50.07.003.3.f, 50.07.003.7 and 50.07.003.15.b** (except that the statement required by LOC ~~50.82,020 (3)(e)~~ **50.07.003.3.f.iv(5)** shall not be given).

c. LOC Article ~~50.83~~ **50.07.003.4**, except that:

i. In lieu of LOC ~~50.83.005 (5)~~ **50.07.003.4.a.v**, a statement shall be given that the evidence and testimony must be directed to the applicable criteria described by the staff or to other criteria in the Sign Code which the person believes to apply to the decision.

ii. In lieu of LOC ~~50.83.005 (13)~~ **50.07.003.4.a.xiii**, following testimony and argument, the hearing body's deliberations may include questions to or testimony by City staff regarding the criteria, evidence and testimony in the record. The hearing body may also direct questions to any person present. If any person other than City staff is questioned or allowed to make comments during deliberation, the Chair shall allow any other person to respond to such comments.

iii. In regards to LOC ~~50.83.030 (2)~~ **50.07.003.4.f.ii**, the 120-day Rule is not applicable.

d. LOC Article ~~50.84~~ **50.07.003.7**, except that:

i. In regards to LOC ~~50.84.065 (1)~~ 50.07.003.7.n.i, the 120-day Rule is not applicable.

ii. The statement required by LOC ~~50.84.075 (5)~~ 50.07.003.7.p.v shall not be given.

* * *

Section 16. LOC 47.10.400(4) is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikethrough~~ type):

47.10.400 Signs Requiring Permit.

* * *

4. An application for a sign permit shall include, in addition to such information as may be specified by the City Manager:

a. A completed Sign Permit Application form and fee

b. A Site Plan and/or Building Elevation Plans drawn to scale and dimension showing (as applicable):

Existing Structures

Driveways

Street and Right-of-Way

Existing Signs

Proposed Sign

Vision Clearance (LOC ~~50.21.005~~ 50.06.011)

All Incidental Signs

c. A proposed sign plan drawn to scale and dimension showing (as applicable):

Height

Width

Square Footage

Thickness

Size and style of letters

Color

Type of illumination

Materials

Section 17. LOC 47.10.412(7) is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikethrough~~ type):

47.10.412 Permanent Signage Requiring Permit Allowed in the EC Zone

In addition to the permanent, temporary and exempt signs allowed pursuant to LOC 47.06.205, 47.08.300 and 47.08.305 the following signage is allowed in the EC zone subject to permit and fee.

* * *

7. Exception to the Requirements of this Section.

a. The reviewing authority may allow exceptions to this section without the need to obtain a formal variance in one or more of the following circumstances:

(1) The applicant demonstrates that the physical characteristics of the site or existing structure make compliance impractical.

b. A request for exception under this provision may be processed as part of the underlying application or separately as a major development pursuant to LOC Chapter ~~50.79.030~~ **50.07.003.15**.

Section 18. LOC 55.02.035(1) is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikethrough~~ type):

55.02.035 Tree Removal in Conjunction with Major or Minor Development Permit.

1. If a Major or Minor Development Permit applied for pursuant to LOC ~~Article 50.79~~ **50.07.003.15 or 50.17.003.14, respectively**, would require or result in tree removal and/or a tree cutting permit as defined in this Chapter, compliance with LOC 55.02.080 shall be a criterion of approval of such development permit. Tree removals in conjunction with a Major or Minor Development Permit shall be considered in conjunction with such permit and shall be subject to the application, notice, hearing and appeal procedures applicable to the proposed Major or Minor Development pursuant to LOC ~~Articles 50.82 and 50.84~~ **50.07.003.3.f, 50.07.003.7.a, 50.07.003.15.b, and 50.07.003.7**. The required Notice for Major or Minor Developments that would require or result in tree removals shall include a site plan indicating the location of any trees proposed for removal on the subject site. The proposed trees shall also be flagged with yellow

flagging tape on site. Such flagging shall be maintained until a final decision on the proposal is rendered. The remaining, notice, hearing and appeal procedures in LOC Chapter 55 shall not apply to tree removals considered in conjunction with a Major or Minor Development request. Subsequent tree removals that have not been reviewed through either Major or Minor Development procedures shall be reviewed as provided in this Chapter.

* * *

Section 19. LOC 55.02.042(1) and (3) are hereby amended to read as follows (new text shown in **bold, double-underlined type**; deleted text shown in ~~strikethrough type~~):

55.02.042 Permit Classifications and Review Procedures.

A person who desires to remove a tree shall first apply for and receive one of the following tree cutting permits before tree removal occurs:

1. Type 1 Permit is required for:
 - a. A property that is located in a residential zone and is occupied by a single family dwelling;
 - b. Removal of up to two trees, 10 inch caliper or less per tree at DBH within a calendar year; and
 - c. A tree that is not:
 - i. Protected by a condition of approval of a development permit pursuant to the Lake Oswego Community Development Code;
 - ii. Located within an area or parcel that has been placed on the Historic Landmark Designation List pursuant to LOC ~~Chapter 58~~ 50.06.009;
 - iii. A Heritage Tree per LOC Article 55.06;
 - iv. Located within an RC or RP sensitive land overlay district;
 - v. Located within the Willamette River Greenway (WRG) overlay district;
 - vi. Located within the 25 foot Oswego Lake Special Setback;

vii. Located on property owned by the City of Lake Oswego or dedicated to the public, including parks, open space and public rights-of-way.

Type I permits shall be issued without further review upon application and demonstration by the applicant that the request qualifies as a Type I permit pursuant to this subsection.

* * *

3. Dead Tree Removal Permit:

a. The City shall issue a tree cutting permit for a dead tree, except as provided by subsection (3)(b) of this section, if the applicant demonstrates that a tree is dead and warrants removal.

b. In order to provide for wildlife habitat and natural processes, the City Manager may require the retention of a dead tree. Dead trees shall not be removed if located in wetlands, RC Protection Areas (LOC ~~50.16.055~~ **50.05.010.5.b**), stream corridors, parks or open space areas required to be preserved as a condition of development approval, unless the tree presents a potential hazard to persons or property.

* * *

Section 20. LOC 55.02.130(4) is hereby amended to read as follows (new text shown in bold, double-underlined type; deleted text shown in ~~striketrough~~ type):

55.02.130 Penalties.

* * *

4. Restoration.

a. A person who removes a tree without first obtaining a Type II, dead tree, or hazard tree cutting permit from the City pursuant to this Chapter, removes a tree in violation of an approved Type II, dead tree, or hazard tree cutting permit, or violates a condition of such a permit shall pay into the City's Tree Fund a standard fee per caliper inch for the total number of caliper inches of the tree removed in violation of this Chapter in an amount as established by resolution of the City Council.

b. The City may require the person to pay into the City's Tree Fund an increased fee per caliper inch for the total number of caliper inches of the tree removed in violation of this Chapter in an amount as established by resolution of the City Council or the value of the tree as determined by an arborist in accordance with the methods set forth in the "Guide for Plant Appraisal" an official publication of the International Society of Arboriculture, whichever is greater, if any of the following apply:

i. The person has committed a previous violation of a provision of this Chapter, or

ii. Tree protection measures as required by LOC Article 55.08 were not installed or maintained, or

iii. The tree removed was any of the following:

(A) 36 caliper inches in diameter or greater,

(B) a heritage tree, per LOC Article 55.06,

(C) expressly protected or required to be preserved as a condition of approval of a development permit pursuant to the Lake Oswego Community Development Code,

(D) located within the Willamette River Greenway per LOC Article ~~50.15~~ **50.05.009**,

(E) part of a Resource Conservation (RC) or Resource Protection (RP) area, per LOC Article ~~50.16~~ **50.05.010**,

(F) located on public right of way, City owned or dedicated property, a public or private open space area or conservation easement.

Section 21. LOC 34.06.164 is hereby amended to read as follows (new text shown in **bold, double-underlined** type; deleted text shown in ~~strikerough~~ type):

34.06.164 Violations of the Historic Preservation Chapter.

Violations of the Historic Preservation Chapter ~~Chapter~~ **provisions** of the Lake Oswego Code (LOC ~~Chapter 58~~ **50.06.009 and 50.07.004.5**), except a violation of the demolition provisions of LOC ~~58.02.125~~ **50.06.009.6 and 50.07.004.5.b**, as now

or hereafter constituted, are hereby declared civil violations and such violations may, in addition to or in lieu of other remedies or enforcement measures provided by State law or City Code, be enforced under the provisions of this chapter. Whenever the City Manager becomes aware of violations of the provisions of the above chapter, the City Manager may cause enforcement measures to be initiated as prescribed herein.

Section 22. Reorganization of Chapter 50; Incorporation of Chapters 57 and 58, and Article 45.15, into Chapter 50; Table of Contents.

1. The Lake Oswego Code is hereby amended by repealing Articles 50.01-50.91 of LOC Chapter 50 (Community Development Code) and its Tables and Appendices, Chapter 57 (Solar Access), Chapter 58 (Historic Preservation), and Article 45.15 (Fences) and adding new Articles, Tables, and Appendices for Chapter 50 (Community Development Code) as stated in Exhibit "B".
2. The general table of contents for the newly adopted Articles of Chapter 50 and detailed tables of contents before each article or section of Chapter 50 contained within Exhibit "B" are intended to be of assistance to the reader of Exhibit B. The tables of contents contained within Exhibit B are not adopted as part of Chapter 50 (Community Development Code). The City Attorney and City Recorder may add tables of contents to the codification of Chapter 50, and may edit the tables of contents, from time to time.

Section 23. Amendment of Zoning Map and Comprehensive Plan Map Due to Change of Zone Names.

The map designations of the following zones, as amended in Exhibit B (Section 50.01.004), are amended on the Zoning Map and Comprehensive Plan Map:

Zone District Category	Former Map Designation	Revised Map Designation
Design District (Old Town)	DD	R-DD
Waterfront Cabanas	WR	R-W
WLG Live/Work Zone	WLG R-2.5/W	WLG RLW
WLG Office Commercial / Town Home Residential	WLG OC/R-2.5	WLG RMU
WLG Town Home Residential	R-2.5	WLG R-2.5
WLG Office Commercial / Neighborhood Commercial	WLG OC/NC	WLG OC

Section 24. Revision of Code References. The City Recorder is authorized to revise all references in

the Lake Oswego Code to repealed Articles and Sections of Chapters 50 (Community Development Code), Chapters 57 (Solar Access), and 58 (Historic Preservation), and Article 45.15 (Fences) to reference appropriate Sections in the newly adopted Articles and Sections of Chapter 50 (Community Development Code) enacted by this Ordinance.

Section 25. Transition to New Code. All obligations now existing pursuant to LOC Chapters 50, 57, and 58, and Article 54.15, including without limitation:

- a. Fees and charges,
- b. Conditions of approval,
- c. Covenants, conditions, and restrictions, and
- d. Development restrictions,

or otherwise arising as a result of an act, omission or action, or development permit, shall survive the repeal of the Articles of LOC Chapters 50, the repeal of Chapters 57, and 58, and the repeal of Article 54.15, and shall continue under the applicable provisions of the newly adopted Articles of LOC Chapter 50.

Section 26. Code Reorganization Variance. The City Manager may, upon application, grant a Code Reorganization Variance to any substantive provision of Chapter 50 if the applicant demonstrates that a use, setback, exception, adjustment, or other development right is not permitted under the newly adopted Articles of Chapter 50, but would have been permitted under the provisions of Chapters 50, 57, 58, and Article 45.15 repealed by this Ordinance, unless the use, setback, exception, adjustment, or other development right was amended or modified after the effective date of this Ordinance. The procedure for application, notice, hearing, decision, and appeal of the Code Reorganization Variance shall be the same as a Class 2 Variance, except that no Pre-application Conference shall be required.

Section 27. Sunset Provision; Codification of Code Reorganization Variance.

1. Section 26 shall expire for all applications filed after [three years from the effective date of this Ordinance].
2. The City Recorder may include Section 26 of this Ordinance within the Lake Oswego Code in such section or sections as the City Recorder determines appropriate. If included within the Lake Oswego Code:
 - a. The expiration date of Section 26 shall be added to the codified section; and
 - b. The City Recorder shall remove the codification from the Lake Oswego Code upon the expiration date of Section 26.

Section 28. Correction of Errors in Clear and Objective Standards. The City Recorder shall correct errors or omissions to the listing of a use or to a stated numerical standard, and correct punctuation that substantively alters the meaning of a requirement or standard, when necessary

to conform to the use, numerical standard, or meaning of a requirement or standard as existed under the provisions of Chapters 50, 57, 58, and Article 45.15 repealed by this Ordinance.

Section 29. Severability. The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Enacted at the regular meeting of the City Council of the City of Lake Oswego held on the _____ day of _____, 2012.

AYES:

NOES:

ABSTAIN:

EXCUSED:

Jack D. Hoffman, Mayor

Dated: _____

ATTEST:

Robyn Christie, City Recorder

APPROVED AS TO FORM:

David D. Powell, City Attorney

