

**Selected SUMMARY OF PROPOSED AMENDMENTS TO THE
LAKE OSWEGO COMMUNITY DEVELOPMENT CODE
(LOC CHAPTER 50)
Ordinance 2526**

**Article 50.10.003
DEFINITIONS**

Section 50.02.005 Definitions

Following are some of the definitions to be revised:

- **Detached** – Currently, the code specifies a lesser setback for detached structures than for attached structures. The new definition specifies that a minimum of 3 feet between structures is required for them to be considered detached; and clarifies that a breezeway between two structures (e.g., between a dwelling and a detached garage) does not make them attached.
- **Dwelling Unit, Secondary** – Replaces and clarifies the definition for “**Secondary Dwelling Unit**”.
- **Floor Area Ratio (FAR)** - Revises the definition so that floor area is based on lot size rather than “net buildable area,” since the definition of Net buildable Area is being deleted.
- **Height of Building** – Clarifies how this is measured within the Flood Management Area. Consolidates height definitions from other parts of the code. Establishes method for measuring height at window wells.
- **Lot Coverage** - Clarifies how lot coverage is measured. Allows 2-foot projections for certain elements per historical code interpretation.
- **Lot Depth** – Eliminates lot depth requirements in all zones. Lot depth requirements have become increasingly difficult to administer with the development of constrained parcels and oddly shaped lots. Minimum lot size, and front and rear yard setback requirements will result in adequate lot depth. This is reflected in the low density residential zone sections, including R-6.
- **Net Developable Acre** – Consolidated with the definition of “Net Buildable Acre”. The definition excludes land dedicated for street ROW and open space or parks.

**Article 50.05
ZONING DESIGNATIONS, BOUNDARIES AND MAPS**

New Section

Section 50.02.002 Effect of Multiple Zone Designations on Lot

- In some locations, the zoning map applies two zone designations to a parcel (e.g. R-0/EC). This amendment applies the residential density and FAR requirements of the residential zone for residential uses, and all other commercial zone standards are applied regardless whether the use is commercial or residential.

**Article 50.04
RESIDENTIAL - ZONES.**

Section 50.04.001 Minimum Density (High Density Zone)

- Applies minimum density requirements to multi-family development as well as subdivisions. This addition is intended to fill a loophole - from a density standpoint, there is no difference between subdivisions and multi-family units.

**EXHIBIT F-1.1
LU 08-0054**

Section Table 50.04.001-11 Lot Coverage in the R-0 zone and Height from Oswego Lake

- Increases allowed lot coverage in the R-0 multi-family zone from 40% to 55% to make it consistent with the permitted lot coverage for row houses and duplexes in the lower density R-2 zone.
- Building height in the R-W zone was measured from the lake elevation, even on portions of the site that were on land above the lake elevation. This amendment will apply the height limitation when the ground is above the lake elevation, at the ground level rather than the lake elevation.

Table 50.04.001-1 –Residential zones

- Consistent treatment of accessory structures vs. primary structures across zones so that each zone has a primary and accessory structure height limitation and similar exceptions to height (except in WLG where there are no exceptions to building height). Clarifies that height exceptions for Accessory Structures shall not exceed the building height of the primary structure.

**Article 50.04.001-Dimensional Table
Commercial, Mixed Use and Industrial Zones**

Table 50.04.001-17 West Lake Grove Yard Setbacks and Height

- Accessory Structures cannot exceed the height of the primary structure and there are no side and rear setbacks for accessory structures when not abutting residential zones

**Article 50.03.002
INDUSTRIAL ZONES**

Section 50.13.010 Permitted Uses; Industrial Zone and Industrial Park Zone

- Adds Boat Storage, Pet Care (Daily), and Crematoriums to the list of permitted uses.
- Clarifies that offices are allowed as an accessory use to other allowed uses in the Industrial Park zone.

Use Specific Standards 50.03

**Article 50.03.004
ACCESSORY AND TEMPORARY USES**

Section 50.03.004 Accessory Uses

- Clarifies that heat pumps and similar mechanical equipment are required to meet the zone setbacks, except that in residential zones the setback may be reduced to 3 feet for the side and 5 feet for the rear if certain criteria are met.
- Reformats and clarifies the conditions under which setbacks can be reduced to three feet and when they are not allowed to be reduced: lots zoned R-6 and accessory structures used as Secondary Dwelling Units.

Section 50.03.003.3.e Conditional Use Standards for Public, Institutional and Civic Uses, Including Telecommunications Facilities

- Amends the priority of facilities for collocation so that if the additional height is more than 10 feet poles are preferred over existing buildings because it affects building design. Setbacks for ancillary facilities (sheds) allowed the same as if they were accessory to the primary use on site; ie. reduced setbacks.

Article 50.05.Overlay Districts

Downtown Redevelopment Design District

Section 50.05.004.8 Landscaping and Site Design Requirements

- The amount of landscaping required in the downtown district has been found not to be consistent with the downtown Urban Design Objectives and most development projects receive an exception to the standard. This amendment reduces the amount of landscaping required for downtown development to 10-15%, depending on use.

Sensitive Lands Overlay Districts

Section 50.05.010.5 and 6-Standards Applicable to RC and RP Districts

- Allows community connector or local access trails to be placed in RC and RP Districts. Currently the code allows “public transportation facilities” to be located in these Districts but not local and connector trails on the City’s Trails and Pathway Master Plan. Allowed as long as they are no greater than 12 ft. wide.

Greenway Management Overlay District

Section 50.05.009.2 Development Review

- Approval criteria are revised and clarified.
- Lists the objectives as criteria that are to be met. The language is clarified so that an applicant is not required to “enhance” the greenway but rather the applicant’s burden for Greenway development is to “do no harm”.
- Eliminates the “public safety and protection of public and private property” and “necessary public access” references because, although those may be considerations and objectives the City might like to see in a development application, they are not considered criteria of approval.
- Amends the requirements that the applicant provide recreation on the lot in order to meet the approval criteria, but if it is provided, then it must be done so to minimize impact on the land and adjacent properties.

Section 50.05.009.3 Permitted Uses

- Eliminates reference to signs. Signs are not a “development activity” in the Greenway and the placement of a sign is not a “use” in any zone.
- Simplifies review of park and recreational facilities.
- Provides consistent terminology with other code sections.
- Eliminates emergency procedures, maintenance and repair activities, and landscaping as permitted uses since these are not “uses” of the property.

Article-LOC 50.07-Land Divisions

PLANNED DEVELOPMENT OVERLAY

Section 50.07.007.4 Procedure

- Clarifies that the Planning Commission is not the reviewing authority for PDs.
- Makes the process for modification of zone requirements within PDs more understandable. Clarifies that if there were any modifications of any of the zone requirements for any of the lots in the PD, then further modification of the zone requirements would require either a PD modification (applying the original approval criteria) or a Residential Infill Design (RID) exception.
- Clarifies that the maximum height *and* methodology for determining height that was applied at the time of the original PD Overlay approval, governs height within the PD.

Section 50.07.007.4 Authorization

- Authorizes the PD process to apply the underlying zone standards
- Specifies the standards that cannot be adjusted through the PD process, including special setback requirements, height of building, permitted and conditional uses, open space, and density requirements.
- Clarifies that the street right-of-way (square feet), total is deducted from the project area, in determining the lot coverage for a PD.
- Clarifies that the maximum floor area can be reallocated among lots but the total cannot exceed the sum of the allowed floor areas for each respective lot within the whole PD.
- Provides minor changes in wording for consistency; eliminates the term cluster development; uses the general term park land for open space.
- Clarifies the requirement that “lot size for lots on the perimeter of a PD be no smaller than 75% of the lot size in the adjacent zones” means adjacent *city* zones of R-7.5, R-10 and R-15.

Section 50.07.007 FLAG LOTS

Section 50.07.007.2.d Lot Configuration Requirements

- Consistent with other proposed code changes related to lot depth, the proposal eliminates the reference to how lot depth is measured for flag lots: No width or depth dimension of a flag lot shall be less than the standard *width* dimension listed in the respective zone.

Section 50.07.007.2.f Screening, Buffering and Landscape Installation

- Corrects the erroneous use of the term “adjacent” when “abutting” owner was intended.
- Eliminates the necessity for a fence along the rear lot line where the “abutting property” consists of a railroad right of way.
- Enhanced tree mitigation is required when trees are removed for flag lot development, at the time of lot creation as well as at the time a new dwelling is constructed, but not thereafter.

Article 50.04.003 EXCEPTIONS TO SITE DEVELOPMENT STANDARDS AND SPECIAL DETERMINATIONS

Section 50.04.003.5 One Year Exception to Height / Setback / Lot Coverage Requirements for New Subdivision Lots

- Eliminates this section. Makes new subdivision development subject to any changes in the code related to height, setbacks, and lot coverage. Does not affect PDs.

Section 50.04.002 Special Street Setback

- Clarifies the purpose of the special street setback.
- Moves the *procedure* for establishing the Special Street Setback Reference Line to the Streets and Sidewalks Code, LOC 42.03.135 (new section).
- Updates the special street setback table for the following streets: Boones Ferry Road, Carman Drive, Knaus Road, Lower Drive, Madrona Street, Stafford Road, Upper Drive, Waluga Drive, and West Sunset Drive.

Section 50.04.003.8.a -General Exceptions for Building Projections and Decks and Walkways and Pathways to Setbacks

- Changes the title because the section is expanding in scope to include items other than building projections and decks.
- Creates list of features that can project into a required yard along with certain parameters. Adds bay windows located on the ground floor and flower boxes to the list of projections. Allows a one-foot projection for decorative metal balconies.
- Allows elevated bridges that are necessary to span across a slope, from the street to the garage, to be allowed within setbacks.
- Allows trams and staircases to access Oswego Lake and Willamette River within setbacks. This would result in a number of non-conforming trams and staircases being legalized.
- Exempts public utility equipment (e.g. telephone vaults) from setback requirements provided service provider can show that no other location is possible.

Article 50.03.003 Use Specific Standards

Section 50.03.003.1.f Specific Standards for Secondary Dwelling Unit (SDU)

- Eliminates standards that limit occupancy of an SDU to two persons and the unit size to the number of people. (It is difficult to ascertain the number of persons residing in any type of residence).
- Eliminates standards limiting the SDU to only one bedroom and instead relies on the total square footage limitation of 800 sq. ft.
- Clarifies that FAR is addressed through the zone requirements.
- Clarifies that an SDU must conform to other code requirements.

Geologic Hazards and Drainage

Article 50.06 Drainage Standard for ~~Ministerial~~ and Minor Development Other Than Partitions, Subdivisions, And Certain Structures

Section 50.06.003.3.a.i Applicability

- Eliminates application of the drainage standard for *ministerial* review, such as building permit reviews. Under the State Building Code and LOC 45, when a new structure is built, water flow from the roof must be collected into gutters, and then discharged to an “approved location” (drywell, storm water system, natural drainage course, etc.) Ultimately, the City came to the conclusion that as to ministerial developments, the drainage standard is not being applied, that there are negligible benefits to addressing non-structural alterations of the site above and beyond the private remedies available to property owners, and that if the City wished to undertake drainage review for ministerial permits, this would add a significant unnecessary cost to homeowners (in terms of hydrology reports), and City (in terms of notice and review of homeowners reports).

Section 50.06.006.3.a.ii Standards for Approval

- New language requires that the drainage project not harm natural resources (tree groves, stream corridors, and wetlands).

**Drainage Standard for Major Developments, Partitions, Subdivisions,
and Certain Structures**

Section 50.06.006.3.b.i Applicability

- Clarifies that the drainage standard applies to partitions involving the creation of a public or private street; subdivisions.

Section 50.06.006.3.b.ii Standards for Approval

- Requires that the drainage project not harm natural resources (tree groves, stream corridors, and wetlands).

Article 50.06.006 Weak Foundation Soils

Section 50.06.006.1.a Applicability

- Requires a soils analysis when a site is initially developed,(when a soils report is prepared) and then later, when a subsequent ministerial building permit is applied for, the building staff requires the structure to be built in accordance with the original soils report. If there is no soils report for the area on file, the Building Official has authority under the Building Code to require a soils report. This follows current practice.

Section 50.06.006.1.d Standards for Approval

- Clarifies that weak soils are not a cause for density reduction but may require structural changes or relocation of structures.

Section 50.06.006.2.e Standards for Construction

- Construction standards are moved up from the “Procedures” section below.
- Outlines when a soils report is needed.

Section 50.07.004.10 Procedures

- Allows a lower level of engineering analysis when the project is minor in nature and, based upon the soils, the risk of damage to the structure from weak foundation soils is minimal.
- Clarifies the role of the Building Official.

Article 50.06 Development Standards

Building Design

Section 50.06.001.5.b Design Standards for Commercial, Industrial and Multi-Family and Minor Development in the R-DD zone

- Removes standard that requires every attempt to be made for locating buildings to provide access to desirable views.

Hillside Protection Section 50.06.006.2.a Applicability

- Clarifies applicability. Applies to areas identified as “Slide Area,” “Slide Hazard,” or parcels that have undisturbed slopes in excess of 12%.
- Revises and clarifies the applicability of the standard for ministerial and minor development. Clarifies that once a land division is approved, then subsequent building permits are assumed to be in compliance with the standard based on the showing in the original review.

Section 50.06.006.2.d Approval Standards

- Clarifies how development must minimize cut and fill.
- Allows retaining walls to be placed at the property line for construction purposes.
- Reorganizes construction and approval standards.

Section 50.06.006.2.e Construction Standards

- Reorganizes construction and approval standards.

Article 50.06.002 PARKING

Section 50.06.002.1 Applicability

- Clarifies that the article does not apply to the Downtown Redevelopment Design District.

Section 50.06.002.2.a Standards of Approval

- Requires the parking reduction factors to be applied when calculating the maximum (125%) amount of parking allowed. This reduces the number of parking spaces required.
- Clarifies the method of determining the required parking spaces, as well as clarifying what “employees” means for parking calculations.
- Clarifies how the maximum number of parking spaces is calculated.
- Clarifies the procedure for a “most similar use” analysis when conducting a parking study. At present, there are no guidelines.
- Requires that the parking study be done by a registered traffic engineer.
- Clarifies that parking may occur in a required yard setback or special street setback when the zone specifies a setback for parking and a setback for structures.
- Clarifies requirements for remote parking lots. States that both the primary lot and the remote lot must be within the commercial, industrial and campus institutional zones for the section to apply.
- Clarifies that the remote lot can be either owned by the applicant or under an exclusive easement. Clarifies what is meant by exclusivity.
- Revises shared parking provisions. Clarifies that the focus in a combined parking study is not the times of peak use but whether there are actual parking spaces available when the peaks overlap due to another business freeing up the needed parking for that time period.
- Minimizes the need for new parking studies when there is a change of use that is not *likely* to result in greater parking generated by a new business. This flexibility is not extended to restaurants and commercial amusement businesses, i.e., theater, sports club, video arcades, health clubs, because of their relatively high parking requirements.
- Provides general code clarification and reorganization.
- Requires multi-family residential developments (4 units or more), commercial, public facilities and institutional uses, except seasonal uses, such as fireworks stands and Christmas tree sales; drive-in theaters; and self-storage facilities, to meet the same covered bicycle parking requirement as industrial users. This conforms with past practice.

Table 50.06.002-1 Minimum Off-Street Parking Space Requirements

- Reclassifies group lesson instruction uses from “Places of Public Assembly” to “Commercial” because they bear little relationship to churches, elementary or high schools, and the like. Such studios are typically smaller scale and one for a commercial purpose.
- Clarifies requirements for uses not specifically mentioned.

Table 50.06.002-2 Parking Requirement Modifiers

- Revises and clarifies the parking modifiers used to reduce the number of parking spaces (access to transit, downtown development, pedestrian and bicycle access).
- Adds Public Use (Public Facilities) to the type of uses that qualify for development site size parking reduction since the parking effect of a public facility would be similar to commercial or industrial uses.
- The reduction for transit shelter within 500 feet of building is increased from 5% to 10%.
- The requirement for “safe, adequate and usable” access to 100 units within 1000 feet is eliminated because (1) it conforms with current practice, (2) people walk, regardless of determining “safe, adequate and usable”; and (3) this creates a discretionary review, eliminating the ability to approve change of use ministerially.
- The reductions available within the Downtown Redevelopment Design District have been clarified and attention to the special parking provisions has been highlighted.

Article 50.06.005 Park and Open Space Contribution

Appendix 50.06.005.4 Park and Open Space-Standards for Construction

- The definition of Open Space is: “Parks and Natural Areas”. “Natural Area” currently states that the area is to remain in natural condition. Maintenance standards are added to define in greater detail what are permitted as maintenance actions.

Article 50.08

VARIANCES

LOC 50.08.002.3 Classification of Variances

- Clarifies that the front, rear, side, street side yard setbacks and the Oswego Lake setback are the yard setback requirements that are eligible for minor variances, and by such a listing expressly excludes other types of reserved areas being considered for minor variance requests, i.e., sensitive lands protected riparian areas, special street setback, etc.
- Allows a Class 1 variance for zero lot line dwellings, similar to attached single family dwellings.
- Limits the availability of street frontage variance to subdivision lots, and then only during the lot creation process. Prevents developers of flag lots from seeking a variance to frontage requirements in order to avoid having the project being classified as a flag lot development.

Article 50.07.003 Summary of Procedures

TYPES OF DEVELOPMENT AND REVIEW CRITERIA FOR EACH TYPE OF DEVELOPMENT

Section 50.07.003.13 Ministerial Development Classification

- References to weak foundation soils and landslide areas are eliminated so that building permits in these areas may be authorized through a ministerial process. This is consistent with proposed changes to LOC Articles 50.07.004.10 and 50.07.004.3.

50.07.003.13.d.ii Review Criteria for Ministerial Developments

- References to weak foundation soils and landslide areas are modified so that building permits in these areas may be authorized through a ministerial process. This is consistent with proposed changes to Articles 50.07.004.10 and 50.07.004.3.