

**SUMMARY OF PROPOSED AMENDMENTS TO THE
LAKE OSWEGO COMMUNITY DEVELOPMENT CODE
(LOC CHAPTER 50)
(HOUSEKEEPING WITH POLICY IMPLICATIONS)
Ordinance 2526**

Note: The Lake Oswego Planning Commission separated this set of amendments from the other housekeeping code amendments (Ord. 2525) because they felt these amendments had more policy related implications and deserved a higher level of review.

**Article 50.02
DEFINITIONS**

Section 50.02.005 Definitions

The following definitions are modified or revised:

- **Boat House** – Expands the description to include the incidental uses (shower, cooking facilities) that are allowed with the primary boat storage function of a boat house.
- **Density Transfer Acre/Acreage** – Clarifies that the area to be dedicated for parks or open space can be counted to compute the allowed density for a development site.
- **Floor Area** - Clarifies that “floor area” is all square footage measured from the outside of the exterior walls, inward, except for certain listed portions of buildings (vent shafts, court yards, etc.).
- **Floor Area Ratio (FAR)** - Revises the definition to base FAR on lot size rather than “net buildable area.” Net buildable area excludes floodplain and slope areas which are potentially buildable.
- **Guest House** – Increases the size of a guest house from 400 sq. ft. to 800 sq. ft. Expands the definition.
- **Height of Building** – Clarifies application 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.
- **Net Developable Acre** – Consolidated with the definition of “Net Buildable Acre”. The definition excludes land dedicated for street ROW and open space or parks.

The following definitions are added:

- **Detached**: - Defines detached as having a three foot separation between structures.
- **Dwelling Unit, Secondary** – Replaces and clarifies the definition for “**Secondary Dwelling Unit**”.

The following definitions are deleted:

- **Lot Depth** – Eliminates the definition for lot depth. Lot depth requirements have become increasingly difficult to administer with the development of constrained parcels and oddly shaped lots. Front and rear yard requirements will require adequate lot depth.
- **Net Buildable Acre** – The definition is consolidated into Net Developable Acre.

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

New Section

Section 50.05.012 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

EXHIBIT F-1

residential uses, and all other commercial zone standards are applied regardless whether the use is commercial or residential.

Article 50.06
RESIDENTIAL - MEDIUM AND HIGH DENSITY
R-0, R-2, R-3, R-5 AND WR ZONES.

Section 50.06.025 Minimum Density (High Density Zone)

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

Section 50.06.040 Lot Coverage

- Increases allowed lot coverage in the R-0 multi-family zone to 55% from 40% to make it consistent with the permitted lot coverage for row houses and duplexes in the lower density R-2 zone.

Section 50.06.060 Structure Design

- Clarifies how the front setback plane applies in the R-5 zone.

Article 50.07
RESIDENTIAL - FIRST ADDITION DISTRICT (R-6) ZONE

Section 50.07.020 Lot Size, Lot Dimensions, Density Transfer

- Eliminates the 100' lot depth requirement. The change provides needed flexibility for irregular shaped parcels. The combination of front yard and rear yard requirements will provide adequate depth.

Article 50.08
RESIDENTIAL - LOW DENSITY R-7.5, R-10, AND R-15 ZONES

Section 50.08.025 Lot Size, Lot Dimensions, Density Transfer

- Eliminates the 100' lot depth requirement. The change provides needed flexibility for irregular shaped parcels. The combination of front yard and rear yard requirements will provide adequate depth.

Article 50.13
INDUSTRIAL ZONES

Section 50.13.010 Permitted Uses; Industrial Zone

- Adds Boat Storage, Pet Care (Daily), and Crematoriums to the list of permitted uses.

Section 50.13.020 Permitted Uses, Industrial Park Zone

- Adds Warehousing, 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.

Article 50.14
ACCESSORY AND TEMPORARY USES

Section 50.14.005 Accessory Uses

- This amendment clarifies that heat pumps and similar mechanical equipment are required to meet the zone setbacks, except that under certain conditions the setback may be reduced.
- Allows guesthouses of 800 feet rather than 400 feet. This is consistent with the size allowed for other accessory structures.
- Reformats and clarifies the conditions under which setbacks can be reduced to three feet.

Article 50.15
Greenway Management Overlay District

Section 50.15.010 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” because, although those may be considerations and objectives the City might like to see in a development application, they should not be criteria.
- Amends the requirements to clarify that the applicant need not provide recreation on the lot in order to meet the criteria, but if it is provided, then it must be done so to minimize impact on the land and adjacent properties.
- Eliminates the suggestion that objectives of the Comprehensive Plan are “criteria”, and incorporates the “conditions of approval” provisions which generally apply to development permits.
- Classifies all of the development activities within the district as either minor or major development, under LOC 50.79.

Section 50.15.015 Permitted Uses

- Eliminates reference to signs. Signs are not a “development activity” on the land 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 since these are not “uses” of the property.

Article 50.17
PLANNED DEVELOPMENT OVERLAY

Section 50.17.010 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 either a PD modification is necessary (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 to PD Overlay approval, governs height within the PD.

Section 50.17.015 Authorization

- Authorizes the PD process to apply the underlying zone standards.
- Specifies the standards that can not 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 area is deducted from the project area, in determining the lot coverage for a project.
- Clarifies that floor area can be reallocated among lots but the total can not exceed the sum of the allowed floor areas for each respective lot within the whole project.
- Provides minor wording changes for consistency; eliminates the term cluster development; uses the general term park land for open space land.
- Clarifies the requirement that lot size at the perimeter of a PD be 75% of the lot size in the adjacent zones means adjacent *city* zones of R-7.5, R-10 and R-15.
- Adds the R-2.5 zone to the list of residential zones where the “perimeter” requirement above applies.

**Article 50.20
FLAG LOTS**

Section 50.20.025 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.

Section 50.20.035 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.
- Provides three options for mitigation when trees are removed for flag lot development.

**Article 50.22
EXCEPTIONS TO SITE DEVELOPMENT STANDARDS
AND SPECIAL DETERMINATIONS**

Section 50.22.020 One Year Exception to Height / Setback / Lot Coverage Requirements for New Subdivision Lots

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

Section 50.22.030 Oswego Lake Setback

- Allows certain accessory structures (barbeque, fireplace, lights; steps, docks, deck; and spa / Jacuzzi), fences, and water dependent uses (boat houses) to occur within the Oswego Lake Setback.

Section 50.22.035 Special Street Setback

- Clarifies the purpose of the special street setback.
- Moves the *procedure* for establishing the Special Street Setback Reference Line to the general Code relating to streets, LOC 42.03.135 (new section).

- Updates the table outlining special street setbacks 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 50.22.045 General Exceptions for ~~Building Projections and Decks~~ to Setbacks

- Changes the title because the section is expanding in scope to include items other than building projections and decks.
- Creates two lists for features that can project into a required yard. Adds bay windows located on the ground floor and flower boxes to the list of two-foot 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. This would result in a number of non-conforming trams and staircases being legalized.
- Exempts public utility equipment from setback requirements.

Article 50.30

SPECIAL REQUIREMENTS FOR TYPE OF FACILITY

Section 50.30.005 Home Occupation

- Expands the types of occupations that would be permissible and gives greater clarity to applicants, neighbors, and staff about what types of occupations are permitted.
- Expands and clarifies what would be considered in conflict with residential neighborhood character (vehicle trips, noise, outside activities and storage).
- Sets a 600 square foot limit on site (primary or accessory structure). Current code limits the use to 25% of the dwelling (no accessory structure use).
- Clarifies the current “no non-resident employees” restriction, but clarifies that it also includes other “employment relations” – partners, shareholders, LLC members, independent contractors, interns, etc. This conforms with existing interpretation.
- Lists prohibited uses including: auto repair, landscaping service, construction, large appliance repair, furniture upholstery, pet care, and businesses requiring a state or federal permit for handling or storage of hazardous materials.
- Allows the office/bookkeeping component portion of a prohibited business and the vegetation raising portion of a landscaping service.

Section 50.30.010 Specific Standards for Secondary Dwelling Unit

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

Article 50.40
Drainage Standard for Ministerial and Minor Development Other Than
Partitions, Subdivisions, And Certain Structures

Section 50.40.005 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, staff 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 50.40.010 Standards for Approval

- New language states require that the drainage project not harm natural resources (tree groves, stream corridors, and wetlands).
- Requires that project be designed to accommodate flow from a “10-year” storm event.

Article 50.41
Drainage Standard for Major Developments, Partitions, Subdivisions,
and Certain Structures

Section 50.41.005 Applicability

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

Section 50.41.020 Standards for Approval

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

Article 50.42
Weak Foundation Soils

Section 50.42.005 Applicability

- Requires a soils analysis when a site is initially developed, so that a soils report is prepared and then, later, when a subsequent ministerial building permit is applied for, the building department requires the structure to be built in accordance with the 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 50.42.010 Standards for Approval

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

Section 50.42.015 Standards for Construction

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

Section 50.42.025 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 50.43 Hillside Protection

Section 50.43.005 Applicability

- Clarifies applicability. Applies to areas identified as “Slide Area,” “Slide Hazard,” or parcels that have undisturbed slopes in excess of 12%.
- Applies at the time of both minor development (land division) and ministerial (building permit). When applying the percentage of the “site” that can be developed, if it is applied at both times, more of each lot is subject to protection than intended. This amendment “exempts” the area of the lot which was previously determined to be developable, but still applies the construction standards for development on the steep slope areas (consistent with Planning Division past practice).
- Clarifies that once the project is approved, then the building permits are assumed to be in compliance with the standard based on the showing in the original review.

Section 50.43.015 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 50.43.020 Construction Standards

- Reorganizes construction and approval standards.

Article 50.55 PARKING

Section 50.55.005 Applicability

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

Section 50.55.010 Standards of Approval

- Requires the parking reduction factors to be applied when calculating the maximum amount of parking allowed. This reduces the number of parking spaces.
- Reorganizes some text.
- 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” 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 development lot owner 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.
- Requires the reduction factors to be applied, in order to reduce the number of parking spaces.
- Provides general code clarification and reorganization.
- Requires multiple 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.

Appendix 50.55-A 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 for a commercial purpose.
- Clarifies requirements for uses not specifically mentioned.

Appendix 50.55-C 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 District have been clarified and attention to the special parking provisions has been highlighted.

Article 50.68 VARIANCES

LOC 50.68.015 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 Class 1 variances, and by such a listing expressly excludes other types of reserved areas being considered for Class 1 variance requests, i.e., sensitive lands buffers, 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 when the lot is created. 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 50.69 CONDITIONAL USES

Section 50.69.085 Specific Standards for ~~non-profit~~ office uses in Structures on the City's Historical Landmarks List and which are Located on Arterial Streets

- Broadens the opportunity for office uses in historic buildings. This was proposed by the Historic Resources Advisory Board as a means of expanding the permitted uses of historic homes, resulting in a greater incentive to preserve historic structures. The following options are proposed:
 - Expand the applicability to historic resources located on major collector streets.
 - Limit parking so that it does not degrade the character of the site.

NOTE: This change should occur with the related housekeeping changes outlined in Ordinance 2525.

Article 50.70 Non-Conforming Uses and Structures

- The article title is expanded to also address non-conforming structures.

Section 50.70.005 Non-Conforming Use, Structure Defined; Rights Granted

- Reorganized for clarification.
- Clarifies that “repair” is allowed as long as the repair does not enlarge or expand the degree of non-conformity.

Section 50.70.020 Destruction, Movement and Replacement of Structures

- Questions are raised about the how sections .020 and .030 work together.

Section 50.70.030 Repairs and Maintenance

- Adds roof materials to the list of items allowed under repair and maintenance.

Section 50.70.035 ~~Reserved.~~Expansion of Non-conforming Structure and Compliance with Development Standards

- Clarifies when a non-conforming structure or use triggers the necessity to comply, at least in part, with a development standard. For example, if there is a change in the façade of a commercial structure, review occurs under LOC 50.45 (Building design) no change to existing landscaping or parking has been required because the applicant has a right to continue the non-conforming landscaping or parking.
- Clarifies that when the square footage of the combined footprints of structures on the site are increased by 50% or more, the site / building must be brought into full compliance.

Article 50.79
TYPES OF DEVELOPMENT AND REVIEW CRITERIA FOR EACH TYPE OF DEVELOPMENT

Section 50.79.010 Ministerial Development Classification

- References to weak foundation soils and landslide areas are eliminated so that building permits may be authorized through a ministerial process in these areas. This is consistent with proposed changes to LOC Article 50.42 and LOC Article 50.43 and current practice.

50.79.015 Review Criteria for Ministerial Developments

- References to weak foundation soils and landslide areas are modified so that building permits may be authorized through a ministerial process in these areas. This is consistent with proposed changes to LOC Article 50.42 and LOC Article 50.43 and current practice.