



# Oregon

John A. Kitzhaber, M.D., Governor

**Department of Land Conservation and Development**

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## **NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION**

Date: 11/07/2014  
Jurisdiction: City of Lake Oswego  
Local file no.: LU 14-0014  
DLCD file no.: 002-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 11/06/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 47 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 002-14 {19949}

Received: 11/6/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Lake Oswego

Local file no.: **LU 14-0014A**

Date of adoption: 11/04/14

Date sent: 11/7/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 04/11/14

No

Is the adopted change different from what was described in the Notice of Proposed Change?    Yes    No  
If yes, describe how the adoption differs from the proposal:

**In reviewing the code amendments, some items were identified as potential policy issues & the City subsequently broke the proposal into LU 14-0014A & LU 14-0014B. LU 14-0014B addresses policy issues, including items necessitating Measure 56 notice. LU 14-0014A addresses non-policy issues.**

Local contact (name and title): Leslie Hamilton, Senior Planner

Phone: 503-675-3731

E-mail: lhamilton@ci.oswego.or.us

Street address: PO Box 369

City: Lake Oswego

Zip: 97034-

### PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

#### **For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

#### **For a change to a comprehensive plan map:**

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

- 50.03 – Use Regulations and Conditions
- 50.04 – Dimensional Standards
- 50.05 – Overlay and Design Districts
- 50.06 – Development Standards
- 50.07 – Review and Approval Procedures
- 50.08 – Adjustments, Alternatives and Variances
- 50.09 – Enforcement and Penalties
- 50.10 – Definitions and Rules of Measurement

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: Metro

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

ORDINANCE NO. 2643

**AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE) FOR THE PURPOSE OF CLARIFYING, CORRECTING AND UPDATING VARIOUS PROVISIONS; AND ADOPTING FINDINGS (LU 014-0014A).**

WHEREAS, through the application of the Community Development Code and related code provisions, the public and Planning Division staff have found that some sections of the Lake Oswego Code, Chapter 50 (Community Development Code) could be improved by removing ambiguous and conflicting language, correcting provisions, adding clarifying text which is consistent with past interpretations, and updating the Community Development Code;

The City of Lake Oswego ordains as follows:

**Section 1.** The City Council hereby adopts the Findings and Conclusions (LU 14-0014A-1845), attached as Exhibit 1.

**Section 2.** The Lake Oswego Code, Chapter 50 (Community Development Code) is hereby amended as shown on attached Exhibit 2 by deleting the text shown by ~~strikethrough~~ type and adding new text shown in double underlined type. (Sections or subsections within LOC Chapter 50 that are omitted below, and not marked for deletion or addition, are neither amended nor deleted by this Ordinance.)

**Section 3.** 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 meeting of the City Council of the City of Lake Oswego held on the 4th day of November, 2014.

AYES: Mayor Studebaker, Bowerman, Gudman, Gustafson, Hughes, Jordan, O'Neill

NOES: None

ABSTAIN: None

EXCUSED: None



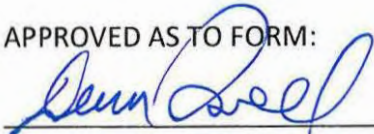
Kent Studebaker, Mayor

Dated: November 5, 2014

ATTEST:

  
Catherine Schneider, City Recorder

APPROVED AS TO FORM:

  
David Powell, City Attorney

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BEFORE THE CITY COUNCIL  
OF THE CITY OF LAKE OSWEGO

A REQUEST FOR AMENDMENTS TO THE  
COMMUNITY DEVELOPMENT CODE TO  
CLARIFY, CORRECT AND UPDATE VARIOUS  
PROVISIONS

LU 14-0014A-1845  
CITY OF LAKE OSWEGO  
FINDINGS AND CONCLUSIONS

**NATURE OF PROCEEDINGS**

This matter came before the Lake Oswego City Council on the recommendation of the Planning Commission for legislative amendments to the Lake Oswego Community Development Code (CDC) to update various sections to correct errors, eliminate text ambiguities and redundancies and clarify code text. The proposed amendments are to:

- LOC 50.03 Use Regulations and Conditions
- LOC 50.04 Dimensional Table
- LOC 50.05 Overlay and Design Districts
- LOC 50.06 Development Standards
- LOC 50.07 Review and Approval Procedures
- LOC 50.08 Adjustments, Alternatives and Variances
- LOC 50.10 Definitions and Rules of Measurement.

Proposed amendments also address inadvertent changes by the March 2012 Code Re-Organization and by previous ordinances, and needed amendments identified by staff through use and application of the Code.

NOTE: Certain additional proposed amendments to the CDC that were originally part of the application will be considered separately as LU14-0014B.

**HEARINGS**

The Planning Commission held a public hearing and considered this application at its meeting of May 28, 2014. The City Council held a study session on the proposal on October 7, 2014, and held public hearing to consider the Planning Commission’s recommendation on October 21, 2014.

1 **CRITERIA AND STANDARDS**

2 A. City of Lake Oswego Comprehensive Plan:

3 Civic Engagement Policies 1, 3 and 4  
4 Land Use Planning, Section D: Land Use Administration Policy D-1

5 B. City of Lake Oswego Community Development Code:

6 LOC 50.07.003.16.a Legislative Decisions Defined  
7 LOC 50.07.003.16.c Required Notice to DLCDC  
8 LOC 50.07.003.16.d Planning Commission Recommendation Required  
9 LOC 50.07.003.16.e City Council Review and Decision

8 **FINDINGS AND REASONS**

9 The City Council incorporates the staff reports dated May 16, 2014 and May 28, 2014,  
10 with all exhibits, and the Council Reports dated June 26, 2014, October 15, 2014 and October  
11 17, 2014, with all exhibits, and the Findings, Conclusions and Order of the Planning Commission  
12 as support for its decision, supplemented by the further findings and conclusions below. If  
13 there is any inconsistency between the supplemental findings and the incorporated matters,  
14 the supplemental findings control.

15 Following are the supplemental findings and conclusions of the City Council:

16 The City Council concurs with the Planning Commission’s recommendation that the  
17 proposed amendments to correct the text of LOC 50.05.004.5.d.i. as to the criteria for allowing  
18 a fourth story in buildings in the Downtown Redevelopment Design District should not be made  
19 at this time. Instead, alterations to the text should await a future analysis of desirable criteria  
20 for fourth stories in that district. Until the related text of LOC 50.05.004.5.d.i. is changed, the  
21 Council’s interpretation of that Code section remains as stated in its findings in AP14-08/LU13-  
22 0046.

23 The City Council also agrees with the Planning Commission that it would be appropriate  
24 to not adopt the proposed changes to parking requirements and parking modifiers at this time  
25 (LOC 50.05.004.9; LOC 50.06.002.2.a.v). These parking issues should instead be reviewed by  
26

1 the parking task force currently being reorganized. However, the Council does find that, to be  
2 consistent with recent revisions to the text of the Comprehensive Plan, LOC 50.05.004.9 should  
3 be revised to remove “but not excessive” so that it is clear that the goal is “adequate parking.”

4 The Council concurs with staff and the Commission that the proposal to change text  
5 from “areas” to “use” relating to required open space (LOC 50.06.005.3.b) should be considered  
6 with the amendments to be presented in LU14-0014B, as should the amendments relating to  
7 yard setbacks in the R-6 zone (LOC 50.04.001.2), because both items would benefit from  
8 additional analysis.

9 The proposed amendments to 50.06.005.3.a., relating to the amount of open space  
10 required, should be made as recommended by staff in Exhibit A-4 to be consistent with the  
11 adopted Transportation System Plan. Further, staff’s recommended adjustments to the  
12 proposed changes to LOC 50.07.003.3, relating to public notice and comment, should be  
13 implemented in the form shown on Exhibit A-4, restructuring that Code section in a manner  
14 that provides clarity and consistency.

15 The City Council finds that, as modified to be consistent with the above adjustments, the  
16 Code amendments proposed in LU 14-0014A appropriately correct errors, eliminate text  
17 ambiguities and redundancies, clarify code text, and address inadvertent changes caused by the  
18 2012 Code reorganization and other Code amendments.

19 **CONCLUSION**

20 The City Council concludes that LU 14-0014A, as modified to be consistent with these  
21 findings, complies with all applicable criteria as described in these findings, including the  
22 incorporated materials. The Council also concludes that proposed Ordinance 2643, which  
23 implements LU 14-0014A, should be enacted.

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**50.03.002 USE TABLE**

**2. RESIDENTIAL USE TABLE**

<b>TABLE 50.03.002-1: RESIDENTIAL DISTRICTS USE TABLE</b> P = Permitted Use   Blank = Not Permitted   C = Conditional Use [x] Table notes located at the end of the table												
Use Cat.	Use Type	Residential										Use Specific Standards
		R-15	R-10	R-7.5	R-6	R-5	R-DD	R-W	R-3 [8]	R-2	R-0 [8]	
<b>RESIDENTIAL USES</b>												
	****											
Household Living	Manufactured homes (individual lot)	P	P	P	P	P	P	P	P	P	P	50.03.003.1.e <u>b</u>
	Manufactured home parks and subdivisions					P			P	P	P	50.03.003.1.d <u>c</u>
	Secondary dwelling unit	P	P	P	P	P	P		P	P	P	50.03.003.1.f <u>e</u>
Group and Institutional Housing	****											
<b>PUBLIC, INSTITUTIONAL, AND CIVIC USES</b>												
	****											
Institutional Uses		C	C	C	C [1]	C	C		C	C [1]	C	50.03.003.3 <u>4</u>
Utilities/Public Facilities	Major	C	C	C	C [1]	C	C		C	C [1]	C	50.03.003.3 <u>4</u>
	Minor [3]	P	P	P	P	P	P	P	P	P	P	50.03.003.3 <u>4</u>
	Telecommunications facilities, new	C	C	C	C [1]	C	C		C	C [1]	C	50.03.003.3 <u>4</u>
<b>NONRESIDENTIAL USES</b>												
Agricultural	Raising of produce [4]	P	P	P	P		P					
	Large animals kept for owner's use [5]	P	P									50.03.003.4 <u>3.c</u>
	Animals kept for owner's use [5]				P							
Office, Business, or Professional	Home occupation	P	P	P	P	P	P		P	P	P	50.03.003.4.b <u>3.a</u>
	Office uses (in structures on City's Landmark Designation List) [6]	C	C	C	C [1]	C	C		C	C [1]	C	50.03.003.4.d
Recreation/Entertainment	****											

TABLE 50.03.002-1: RESIDENTIAL DISTRICTS USE TABLE												
P = Permitted Use   Blank = Not Permitted   C = Conditional Use												
[x] Table notes located at the end of the table												
Use Cat.	Use Type	Residential										Use Specific Standards
		R-15	R-10	R-7.5	R-6	R-5	R-DD	R-W	R-3 [8]	R-2	R-0 [8]	
Notes:	[1] Conditional uses in R-2 and R-6 see LOC 50.03.003.1-b2.d. ****											

### 3. COMMERCIAL, MIXED USE, INDUSTRIAL, AND SPECIAL PURPOSE DISTRICTS USE TABLE

TABLE 50.03.002-2: COMMERCIAL, MIXED USE, INDUSTRIAL AND SPECIAL PURPOSE DISTRICTS USE TABLE																									
P = Permitted Use   Blank = Not Permitted   C = Conditional Use																									
[x] Table notes located at the end of the table																									
Use Cat.	Use Type	Commercial, Mixed Use, Industrial												Special Purpose		Use Specific Standards									
		NC [47]	GC	HC	OC [47]	EC [47]	CR&D	MC	WLG- [32]				FMU [32], [46]	I	IP		IPO [37]	CI	PF	PN A					
<b>RESIDENTIAL USES</b>																									
Household Living	Residential use																								
	Residential use at R-0 density	C	P	P	P	P	P									P									NC, GC and EC zones: 50.03.003.1.ed
	Residential use at R-3 and R-5 density	C	P	P	P		P																		NC and GC zones: 50.03.003.1.ed.i(1)
	Residential use at R-7.5, R-10 and R-15 density	P	P	P	P																				NC and GC zones: 50.03.003.1.ed.i(2)
	****																								
<b>PUBLIC, INSTITUTIONAL, AND</b>																								50.03.003.34	

**TABLE 50.03.002-2: COMMERCIAL, MIXED USE, INDUSTRIAL AND SPECIAL PURPOSE DISTRICTS USE TABLE**

**P = Permitted Use | Blank = Not Permitted | C = Conditional Use**

**[x] Table notes located at the end of the table**

Use Cat.	Use Type	Commercial, Mixed Use, Industrial													Special Purpose			Use Specific Standards		
		NC [47]	G C	H C	OC [47]	EC [47]	CR& D	M C	WLG- [32]				FM U [32], [46]	I	I P	IPO [37]	C I		P F	PN A
									OC	RM U	R-2.5	RL W								
<b>CIVIC USES</b>																				
	****																			
	Religious agency structures and related accessory uses													P						
	****																			
	Music schools	C	P			P								P						
	Other educational uses associated with private or public institutions							P						P						
	Private or public educational institutions	C	P			P			P					P						
	Schools and school district office buildings [35]													P				C		
	Vocational schools	C	P			P								P	P	P				
	****																			

**TABLE 50.03.002-2: COMMERCIAL, MIXED USE, INDUSTRIAL AND SPECIAL PURPOSE DISTRICTS USE TABLE**

**P = Permitted Use | Blank = Not Permitted | C = Conditional Use**

**[x] Table notes located at the end of the table**

Use Cat.	Use Type	Commercial, Mixed Use, Industrial													Special Purpose			Use Specific Standards	
		NC [47]	G C	H C	OC [47]	EC [47]	CR& D	M C	WLG- [32]				FM U [32] , [46]	I P	IPO [37]	C I	P F		PN A
									OC	RM U	R- 2. 5	RL W							
Office, Business, or Professional [12] (continued)	Professional offices [13]	P	P	P	P	P	P	P	P	P		P	P	P	P				WLG and IP zones: 50.03.003.4- <u>e3.c</u>  WLG RLW zone: 50.04.001.4.b.ii(1)
****	****																		
<p>[1] At a net site density of 2,500 sq. ft./lot area per unit area allowed in conjunction with office uses in the same building.</p> <p>****</p> <p>[12] Nonprofit office uses in structures on the City’s Historic Landmarks List see 50.03.003.4-<u>d,h</u>.</p> <p>****</p>																			

50.03.003.1 – 5 [Use Specific Standards]

**1. RESIDENTIAL USES – PERMITTED USES**~~HOUSEHOLD LIVING~~

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**a. Attached, Residential Townhome Uses in West Lake Grove**

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**b. Conditional Uses in the R-2 and R-6 Zones**

In addition to the criteria contained in LOC 50.07.005, Conditional Use Permits, an application to establish a new conditional use in the R-2 or R-6 zones must comply with the following criteria:

- ~~i. A new conditional use shall not be located on a street with a traffic level that exceeds the functional classification of the street as set forth in the Lake Oswego Comprehensive Plan Goal 12.~~
- ~~ii. If the street upon which the new use will be located is an arterial or collector and is currently operating within the parameters of its functional classification as set forth in the Lake Oswego Comprehensive Plan Goal 12, the use shall not cause the street to exceed the allowable amount of traffic for its functional classification.~~
- ~~iii. If the street upon which the new use will be located is a local street and is currently operating within the parameters of its functional classification as set forth in the Lake Oswego Comprehensive Plan Goal 12, the use shall not generate more than ten additional Average Daily Traffic (ADT) trips when the projected ADT or increased ADT of the proposed conditional use is divided by a figure equal to the square footage of the lot or parcel on which the conditional use will be located divided by 2,000 in the R-2 zone or 6,000 in the R-6 zone.~~
- ~~iv. Where available, a conditional use shall take access from collector or arterial streets and not from local streets. Exception: A conditional use may take access from a local street if a professional traffic analysis indicates that access to the local street would improve public safety or traffic management when compared to access from the available collector or arterial.~~

**bc. Manufactured Homes**

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**cd. Manufactured Home Park or Subdivision**

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**de. Residential Uses in Commercial Zones**

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**ef. Secondary Dwelling Unit**

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**2. ~~CONDITIONAL USE STANDARDS FOR RESIDENTIAL USES~~ – CONDITIONAL USES GROUP AND INSTITUTIONAL HOUSING**

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**a. Residential Care Housing and Congregate Housing**

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**b. Residential Care Housing Facilities and Congregate Housing in R-7.5, R-10 and R-15 Zones**

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**c. Skilled Nursing Facilities in the R-0, WLG R-2.5, R-3 and R-5 Zones**

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**d. Conditional Uses in the R-2 and R-6 Zones**

In addition to the criteria contained in LOC 50.07.005, Conditional Use Permits, an application to establish a new conditional use in the R-2 or R-6 zones must comply with the following criteria:

i. A new conditional use shall not be located on a street with a traffic level that exceeds the functional classification of the street as set forth in the Lake Oswego Comprehensive Plan Connected Community chapter.

ii. If the street upon which the new use will be located is an arterial or collector and is currently operating within the parameters of its functional classification as set forth in the Lake Oswego Comprehensive Plan Connected Community chapter, the use shall not cause the street to exceed the allowable amount of traffic for its functional classification.

iii. If the street upon which the new use will be located is a local street and is currently operating within the parameters of its functional classification as set forth in the Lake Oswego Comprehensive Plan Connected Community chapter, the use shall not generate more than ten additional Average Daily Traffic (ADT) trips when the projected ADT or increased ADT of the proposed conditional use is divided by a figure equal to the square footage of the lot or parcel on which the conditional use will be located divided by 2,000 in the R-2 zone or 6,000 in the R-6 zone.

iv. Where available, a conditional use shall take access from collector or arterial streets and not from local streets. Exception: A conditional use may take access from a local street if a

professional traffic analysis indicates that access to the local street would improve public safety or traffic management when compared to access from the available collector or arterial.

### **3. COMMERCIAL – PERMITTED USES**

#### **a. Home Occupations**

A home occupation may be conducted where allowed by other provisions of this Code if the following conditions are continuously complied with:

- i. The use does not alter the residential character of the neighborhood nor infringe upon the right of residents in the vicinity to the peaceful enjoyment of the neighborhood.
- ii. A current and valid business license is maintained.
- iii. No employees other than family members who reside at the dwelling.
- iv. No outside storage of goods or materials other than vegetation.
- v. No more than 25% of the dwelling is devoted to nonresidential use.

#### **b. Large Animals Kept for Owner’s Use**

This use may be permitted with no commercial activity under the following conditions:

- i. The lot area shall be a minimum of one acre. The total number of large animals allowed on a specific property shall be determined by dividing the total area of the property by 15,000 sq. ft. per animal over the age of six months.
- ii. Animal runs or barns shall not be closer than 70 ft. from the front property line and not closer than 35 ft. from a side or rear property line.
- iii. Animals shall be properly housed and proper sanitation shall be maintained with food, other than hay or fodder, stored in metal or other rodent-proof receptacles.

#### **c. Professional Offices**

##### **i. WLG RMU Zone**

(1) Offices with limited customer or client traffic intended to attract and serve customers or clients on premises, such as: attorneys, physicians, dentists, counselors, insurance, travel agents, investment and financial services, real estate, studios (photography, commercial art, advertising), architects, landscape architects, engineers or other design businesses, research,

software development, corporate offices, medical testing laboratories, specialty medical services.

(2) Professional Office Uses and Minor Public Facilities. A single building which provides for professional office uses or minor public facilities shall be limited to a total floor area of 8,000 sq. ft. in a multi-story building, with no more than 5,000 sq. ft. on any floor.

ii. WLG OC Zone

(1) Offices with limited customer or client traffic intended to attract and serve customers or clients on premises, such as: attorneys, physicians, dentists, counselors, insurance, travel agents, investment and financial services, real estate, studios (photography, commercial art, advertising), architects, landscape architects, engineers or other design businesses, research, software development, corporate offices, medical testing laboratories, specialty medical services.

(2) A single building which provides for any of the permitted uses shall be limited to a maximum building footprint of 5,000 sq. ft.

iii. WLG RLW Zone

Offices with limited customer or client traffic intended to attract and serve customers or clients on premises, such as: sole practitioner attorneys, counselors, investment and financial services, studios such as photography, artists, commercial software development and information technology services. (Such uses are subject to conditions for commercial use set forth in LOC 50.04.001.4.b.ii(1).)

iv. IP Zone

Not to exceed 15% of gross site area.

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**43. OTHER – CONDITIONAL USES – CONDITIONAL USE STANDARDS FOR PUBLIC, INSTITUTIONAL, AND CIVIC USES, INCLUDING STANDARDS FOR TELECOMMUNICATIONS FACILITIES**

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**a. Churches, Convent and Related Facility**

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**b. Major Public Facilities and Institutional Uses Not Covered by Other Specific Standards**

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**c. Nonprofit Conditional Uses in Certain Zones**

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**d. Schools**

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**e. Telecommunications Facilities**

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**f. Telecommunications Facilities in Residential or Mixed Residential/Commercial Zones**

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**g. Conditional Uses Listed in Commercial or Industrial Zones and Not Covered by Other Specific Standards**

i. The site will be designed so that ingress and egress will not cause hazardous turning movements, traffic slow-downs or blockages due to storage of vehicles waiting for services.

ii. Public services are or can be provided at the site.

iii. All outdoor lighting except security lighting shall be extinguished at the close of business hours.

iv. Any adverse impacts on adjoining residential uses such as noise, lights, or loss of privacy will be mitigated by landscaping, screening or increased setbacks.

v. Parking shall meet the parking standards and may be increased if additional spaces are shown to be necessary.

vi. For retail tire, batteries and accessory sales, the following criteria also apply:

(1) Must be located on an arterial street;

(2) Must be within one mile by road of an I-5 interchange;

(3) Must provide service to the industrial park uses as well as retail service to the general public. Such industrial service shall be included in routine advertising for the business;

(4) Site and building design shall give attention to the specialized requirements of industrial park users by such mechanisms as review of turning radii, height and width of service doors, dimensions of storage parking for vehicles waiting to be serviced, and internal site circulation; and

(5) Only one two-way access to the arterial is allowed. A one-way internal street with two access points located at least 100 ft. apart may be approved as an alternative.

**h. Office Uses in Structures on the City's Historical Landmarks List and Which Are Located on Arterial Streets**

i. Public services are adequate to serve the facility.

ii. Notwithstanding LOC 50.06.002.2, the required parking for office uses in historic landmarks shall be determined in the conditional use approval. In applying the general conditional use criteria under LOC 50.07.005.3.a.iii and iv, the on-site parking may be reduced to protect the historic character of the landmark.

iii. Access should be located on an arterial street, if practicable. If access is to a local residential street, consideration of a request shall include an analysis of the projected average daily trips to be generated by the proposed use and their distribution pattern, and the impact of the traffic on the capacity of the street system which would serve the use. A traffic study will be required of the applicant to identify the projected average daily trips to be generated and their distribution pattern. Uses which are estimated to generate fewer than 20 trips per week shall be exempted from the requirements of this subsection.

iv. Noise generating equipment shall be sound buffered when abutting a residential use.

v. Exterior lighting and signage shall be designated to avoid glare onto adjacent residential uses.

vi. Levels of operations shall be adjusted to avoid conflict with adjacent uses, where practicable.

vii. The historical designation of the property shall be maintained throughout the period of the conditional use. The property owner shall provide a deed restriction with the application which ensures that the property owner will not remove the property from the City's Historical Landmark List for the duration of the conditional use permit. Request for removal from the list shall void the conditional use permit.

#### **4. COMMERCIAL**

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##### **a. Conditional Uses Listed in Commercial or Industrial Zones and Not Covered by Other Specific Standards**

- ~~i. The site will be designed so that ingress and egress will not cause hazardous turning movements, traffic slow-downs or blockages due to storage of vehicles waiting for services.~~
- ~~ii. Public services are or can be provided at the site.~~
- ~~iii. All outdoor lighting except security lighting shall be extinguished at the close of business hours.~~
- ~~iv. Any adverse impacts on adjoining residential uses such as noise, lights, or loss of privacy will be mitigated by landscaping, screening or increased setbacks.~~
- ~~v. Parking shall meet the parking standards and may be increased if additional spaces are shown to be necessary.~~
- ~~vi. For retail tire, batteries and accessory sales, the following criteria also apply:
  - ~~(1) Must be located on an arterial street;~~
  - ~~(2) Must be within one mile by road of an I-5 interchange;~~
  - ~~(3) Must provide service to the industrial park uses as well as retail service to the general public. Such industrial service shall be included in routine advertising for the business;~~
  - ~~(4) Site and building design shall give attention to the specialized requirements of industrial park users by such mechanisms as review of turning radii, height and width of service doors, dimensions of storage parking for vehicles waiting to be serviced, and internal site circulation; and~~
  - ~~(5) Only one two-way access to the arterial is allowed. A one-way internal street with two access points located at least 100 ft. apart may be approved as an alternative.~~~~

##### **b. Home Occupations**

A home occupation may be conducted where allowed by other provisions of this Code if the following conditions are continuously complied with:

- ~~i. The use does not alter the residential character of the neighborhood nor infringe upon the right of residents in the vicinity to the peaceful enjoyment of the neighborhood.~~
- ~~ii. A current and valid business license is maintained.~~

~~iii. No employees other than family members who reside at the dwelling.~~

~~iv. No outside storage of goods or materials other than vegetation.~~

~~v. No more than 25% of the dwelling is devoted to nonresidential use.~~

**~~c. Large Animals Kept for Owner's Use~~**

~~This use may be permitted with no commercial activity under the following conditions:~~

~~i. The lot area shall be a minimum of one acre. The total number of large animals allowed on a specific property shall be determined by dividing the total area of the property by 15,000 sq. ft. per animal over the age of six months.~~

~~ii. Animal runs or barns shall not be closer than 70 ft. from the front property line and not closer than 35 ft. from a side or rear property line.~~

~~iii. Animals shall be properly housed and proper sanitation shall be maintained with food, other than hay or fodder, stored in metal or other rodent-proof receptacles.~~

**~~d. Office Uses in Structures on the City's Historical Landmarks List and Which Are Located on Arterial Streets~~**

~~i. Public services are adequate to serve the facility.~~

~~ii. Notwithstanding LOC 50.06.002.2, the required parking for office uses in historic landmarks shall be determined in the conditional use approval. In applying the general conditional use criteria under LOC 50.07.005.3.a.iii and iv, the on-site parking may be reduced to protect the historic character of the landmark.~~

~~iii. Access should be located on an arterial street, if practicable. If access is to a local residential street, consideration of a request shall include an analysis of the projected average daily trips to be generated by the proposed use and their distribution pattern, and the impact of the traffic on the capacity of the street system which would serve the use. A traffic study will be required of the applicant to identify the projected average daily trips to be generated and their distribution pattern. Uses which are estimated to generate fewer than 20 trips per week shall be exempted from the requirements of this subsection.~~

~~iv. Noise generating equipment shall be sound buffered when abutting a residential use.~~

~~v. Exterior lighting and signage shall be designated to avoid glare onto adjacent residential uses.~~

~~vi. Levels of operations shall be adjusted to avoid conflict with adjacent uses, where practicable.~~

vii. The historical designation of the property shall be maintained throughout the period of the conditional use. The property owner shall provide a deed restriction with the application which ensures that the property owner will not remove the property from the City's Historical Landmark List for the duration of the conditional use permit. Request for removal from the list shall void the conditional use permit.

#### **e. Professional Offices**

##### **i. ~~WLG RMU Zone~~**

~~(1) Offices with limited customer or client traffic intended to attract and serve customers or clients on premises, such as: attorneys, physicians, dentists, counselors, insurance, travel agents, investment and financial services, real estate, studios (photography, commercial art, advertising), architects, landscape architects, engineers or other design businesses, research, software development, corporate offices, medical testing laboratories, specialty medical services.~~

~~(2) Professional Office Uses and Minor Public Facilities. A single building which provides for professional office uses or minor public facilities shall be limited to a total floor area of 8,000 sq. ft. in a multi-story building, with no more than 5,000 sq. ft. on any floor.~~

##### **ii. ~~WLG OC Zone~~**

~~(1) Offices with limited customer or client traffic intended to attract and serve customers or clients on premises, such as: attorneys, physicians, dentists, counselors, insurance, travel agents, investment and financial services, real estate, studios (photography, commercial art, advertising), architects, landscape architects, engineers or other design businesses, research, software development, corporate offices, medical testing laboratories, specialty medical services.~~

~~(2) A single building which provides for any of the permitted uses shall be limited to a maximum building footprint of 5,000 sq. ft.~~

##### **iii. ~~WLG RLW Zone~~**

~~Offices with limited customer or client traffic intended to attract and serve customers or clients on premises, such as: sole practitioner attorneys, counselors, investment and financial services, studios such as photography, artists, commercial software development and information technology services. (Such uses are subject to conditions for commercial use set forth in LOC 50.04.001.4.b.ii(1).)~~

##### **iv. ~~IP Zone~~**

~~Not to exceed 15% of gross site area.~~

**50.03.003.1.a.ii(1) [Residential Uses – West Lake Grove]**

**a. Attached, Residential Townhome Uses in West Lake Grove**

\*\*\*\*

**ii. Within the WLG RMU zone:**

**(1)** Attached townhomes are allowed solely or in conjunction with office uses in the same building.

**(2)** When a combination of office-commercial and attached townhome residential uses are proposed together on the same site and in separate buildings, the commercial structure(s) shall front on Boones Ferry Road. Residential buildings shall occupy the rear portion of the parcel which is most proximate to the surrounding residential zoning districts.

**50.03.003.1.e(i)(1) [Residential Uses in Commercial Zones / GC and NC zones]**

**i. GC and NC**

**(1)** At R-0, R-3 and R-5 Density

Except as specifically allowed in LOC 50.02.002.2, Specific Standards for Commercial, Mixed Use, and Industrial Zones, a residential use may occupy the ground floor in the GC or NC zones only if a commercial use is located along the street frontage and the residential use is located **behind** the commercial use with the following exceptions:

i. \_\_\_\_\_ A residential use may occupy the ground floor in the GC zone at street frontage designated Park Lane, Crossroads Gateway or Campus Woods within the Lake Grove Village Center Overlay District (see Village Character Map, LOC Figure 50.05.007-D).

ii. \_\_\_\_\_ On a corner site, the residential use is behind the commercial use as viewed from the higher classification street.

**50.04.001.2 [Dimensional Table/Residential Medium Density Zone/Yard Setback Additional Standards]**

**ii. R-6 Yard Setback Standards**

**(1) Required Setbacks**

\*\*\*\*

**(2) Additional Setback Standards and Modifications**

**(a)** A projecting covered front porch may extend into the front yard setback up to six ft.

(b) Additions to pPrimary and accessory structures built before July 1, 2010, are subject to the following minimum side yard setbacks:

<b>TABLE 50.04.001-6: MINIMUM SIDE YARD SETBACKS FOR ADDITIONS TO PRIMARY AND ACCESSORY STRUCTURES BUILT BEFORE JULY 1, 2010</b>	
Structures ≤ 18 ft. in height	Structures > 18 ft. in height
5 ft.	5 ft. minimum width on a side, 15 ft. cumulative, except a multi-story structure may have a smaller side yard setback than required by this section where the ground floor is set back a minimum of 5 ft. and the remainder of the structure is stepped back from the building line by at least 4 ft. on each side.

**50.05.004.3 [Downtown Redevelopment Design District/Relationship to Other Development Standards]**

**3. RELATIONSHIP TO OTHER DEVELOPMENT STANDARDS**

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a. LOC 50.05.004.5 to 50.05.004.7 supersede LOC 50.06.001.5, Commercial, Industrial, and Multi-Family Development Standards for Approval, in its entirety for developments subject to this overlay district.

b. LOC 50.05.004.8 supersedes LOC 50.06.004.1, Landscaping, Screening and Buffering, in its entirety for developments subject to this overlay district, shall apply in addition to the requirements of LOC 50.06.004.1, Landscaping, Screening and Buffering, but exceptions to the requirements of LOC 50.06.004.1 may be granted as provided in LOC 50.08.005, Downtown Redevelopment District Exceptions to Standards.

\*\*\*\*

**50.05.004.9 [Downtown Redevelopment Design District/Parking Requirements]]**

**9. Parking Requirements**

Parking shall be designed to provide adequate, ~~but not excessive,~~ space while preserving and enhancing the village character of Lake Oswego, through compliance with the following criteria:

\*\*\*\*

**50.06.001.2.b [Building Design/Structure Design – Residential Zones/Street Front Setback Plane]**

**b. Street Front Setback Plane**

Except as set forth in LOC 50.06.001.2.d and for flag lots ~~in the R-6 zone~~, the profile of a structure that fronts on a street shall fit behind a plane that starts at the setback line (front yard or side yard abutting a street) and extends upward to 20 ft. in height, then slopes toward the center of the lot up to the maximum base height of the zone, as illustrated below in Figure 50.06.001-A: Street Front and Street Side Setback Plane:

\*\*\*\*

**50.06.001.4.a.v [GARAGE APPEARANCE AND LOCATION; R-0, R-2, R-3, R-5, R-7.5, R-10, and R-15 Residential Zones]**

**v. Multiple Garage Opening Setbacks**

In any instance where a garage or a set of adjacent garages is designed to park three or more vehicles, only the garage openings for the first two vehicles may occupy the same building plane. Each additional building plane with a garage opening shall be set back by a minimum of two ft. from the previous garage building plane.

Exceptions:

(1) The lot is a steeply sloped lot;

(2) The width of a parcel is less than 50 ft.; or

(3) The garage is proposed to be set back at least 60 ft. from the public right-of-way.

**50.06.002.2.a (Parking / Standards for Approval)**

**2. STANDARDS FOR APPROVAL**

**a. Vehicle Parking**

\*\*\*\*

**ii. Number of Required Parking Spaces**

The number of required parking spaces under this article shall be determined by either the Numerical Method (subsection 2.a.ii(1) of this section) or the Parking Study Method (subsection 2.a.ii(2) of this section).

**(1) Numerical Method**

Refer to Tables 50.06.002-1, 50.06.002-3 and 50.06.002-4 to determine the number of parking spaces required. The minimum number of parking spaces specified for each type



of use shall include reductions to parking requirements pursuant to subsection 2.a.v(1) of this section and Table 50.06.002-3.

<b>TABLE 50.06.002-1: NUMERICAL METHOD OF DETERMINING MINIMUM PARKING SPACES REQUIRED</b>	
<b>Determine:</b>	<b>Method of Determining:</b>
Floor Area Amount	From Table 50.06.002-3, determine if floor area is used to calculate the number of parking spaces required for the use(s). (Floor Area per Parking Space)
Number of Employees	Determine number of full-time, temporary, part-time and contract employees, or independent contractors, if employee count is used in Table 50.06.002-3 to calculate the number of parking spaces required. (Employee Per Space amount)
Gross Parking Requirement	<ol style="list-style-type: none"> <li>1. Multiply the adjusted Floor Area Amount by the Floor Area per Parking Space.</li> <li>2. Multiply the Number of Employees by the Employee Per Space amount.</li> <li>3. Add the results of (1) and (2) above together.</li> </ol>
Reductions	<ol style="list-style-type: none"> <li>1. See Table 50.06.002-4 for possible reductions.</li> <li>2. Apply reduction percentages to Gross Parking Requirement.</li> </ol>
Mixed Uses	The total requirements for mixed uses on a site shall be the sum for the various uses computed separately.
Rounding	Any fractional space amount determined following the application of Reductions and Mixed Uses above shall be rounded up to the next highest whole space.
Minimum Parking Requirement	The minimum parking requirement is the "rounded" number above.

**(2) Parking Study Method.** Use the parking study methodology for determining the parking needs of the proposed use as provided in subsection 2.a.ii(56) of this section.

\*\*\*\*

**50.06.002.2.b (Parking Standards / Standards for Approval / Bicycle Parking)**

**b. Bicycle Parking**

**i. Applicability**

1. Bicycle parking shall be provided for all new multi-family residential developments (four units or more) and commercial, industrial, public facilities and

institutional uses, except seasonal uses, such as fireworks stands and Christmas tree sales; drive-in theaters; and self-storage facilities are exempted.

2. Modifications which increase the size of existing commercial, industrial, public function structures or institutional buildings by more than 10% or a change of use shall provide bicycle parking spaces to meet the requirements of Table 50.06.002-6 for the entire development. For the purposes of this section, an "existing building" is a building as it exists on February 19, 1998.

\*\*\*\*

~~iii. [Reserved]. Modifications which increase the size of existing commercial, industrial, public function structures or institutional buildings by more than 10% or a change of use shall provide bicycle parking spaces to meet the requirements of Table 50.06.002-6 for the entire development. For the purposes of this section, an "existing building" is a building as it exists on February 19, 1998.~~

### **50.06.005.3.a. (Parks and Open Space Contribution / Standards for Approval)**

#### **a. Amount of Open Space Required**

i. All developments, except as otherwise provided by this section, shall provide open space land approved by the City in an aggregate amount equal to at least 20% of the gross land area of the development.

ii. Commercial (except commercial development in OC zone), institutional, and industrial development shall provide open space approved by the City in an aggregate amount equal to at least 15% of the gross land area of the development.

iii. Subdivisions and major partitions on sites of greater than 75,000 sq. ft. in size shall provide open space approved by the City in an aggregate amount equal to at least 20% of the gross land area of the development.

iv. Subdivisions and major partitions of 75,000 sq. ft. or less shall provide open space for the following areas of the site:

**(1)** Areas identified as RP (Resource Protection) or RC (Resource Conservation) on the Sensitive Lands Atlas.

**(2)** If a pathway identified on the Transportation System Plan already exists on or abutting the site, or is to be dedicated or improved as part of the subdivision or major partition, Aa 505.0-ft. buffer shall be provided along a mapped recreational trail that crosses or is abutting the site each side of the pathway, to a maximum of 20% of the gross site area. If the buffer area would exceed 20% of the gross site area, the buffer area shall be uniformly reduced along the recreational trail pathway so that the buffer area is 20% of the gross site area.

~~**(3)** Exception: The buffer width may be reduced to a lesser amount, up to zero, as designated by an adopted trail plan for the mapped recreational trail pathway.~~

**(3)(4)** The area of the site contains resources identified as Class I or II Riparian Corridors/Wildlife Habitat or Class A or B Upland Wildlife Habitat as mapped on Metro's Title 13 Regionally Significant Fish and Wildlife Habitat Inventory Map (adopted by Metro on September 29, 2005, and amended on December 8, 2005); provided, however, the maximum required area is 20% of the gross site area. See Figure 50.07.007-C: Regionally Significant Fish and Wildlife Habitat Inventory Map.

**50.07.003.1 [Review Procedures / Application]**

**f. Neighborhood Contact and Notice Required for Certain Applications**

\*\*\*\*

**ii. Selecting Date, Time, and Location of Neighborhood Meeting**

In establishing the date, time and location of the meeting with the neighbors and with the neighborhoods:

**(1) Procedure**

The applicant shall follow the applicable procedures in subsections 1.f.ii(1)(a)(i) and (ii) of this section.

**(a) Required Organizations**

\*\*\*\*

**(ii) County Community Planning ~~Citizen Participation~~ Organizations (CPOs).**

Where the proposed development is within the boundaries of a County-recognized CPO, or equivalent, the applicant shall provide the chair of the County CPO in which the site proposed for development is predominantly located three alternative meeting options (on three different days, with at least seven days between the first and the last date proposed).

\*\*\*\*

**50.07.003.1 [Review Procedures / Application]**

**j. Modification of Pending Application**

i. Modifications of a pending application shall be considered under the standards in effect at the time the ~~modification~~ application was filed, if the modification:

**(1)** Does not increase the amount of required parking, square footage, or the number of dwelling units; or

**(2)** Does not change the form of a structure.

ii. Any modification that does not comply with subsection 1.j.i of this section shall be considered a new application.

### **50.07.003.3 [Review Procedures / Public Notice/Opportunity for Public Comment]**

**a. Written and Posted Notice for Minor Development:** Except as set forth in LOC 50.07.003.3.d~~b~~, prior to making a final decision on a minor development permit application, notice of the opportunity to comment upon an application and, if applicable, the date of a public hearing upon the application, shall be given as follows:

#### **ia. Written Notice**

##### **i. Recipients**

##### **(1) Notice to Property Owners**

The City Manager shall provide written notice to property owners within 300 ft. of the entire contiguous site for which the application is made. If there are fewer than 50 properties (excluding City-owned properties) within 300 ft. of the site, the notice area shall be expanded by ten-ft. increments outward from the 300-ft. boundary until at least 50 properties (excluding City-owned properties) are included in the notice area. The list shall be compiled from the most recent property tax assessment roll.

##### **ii. (2) Notice to Neighborhood Associations**

Written Notice shall also be sent to:

**(1)(a)** Any recognized neighborhood association(s) whose boundaries either contain part or all of the site; and

**(2)(b)** All adjacent recognized neighborhood associations (adjacent recognized neighborhood associations are those associations which share boundaries with the neighborhood(s) identified in subsection 3.a.i(2)(a) of this section, and include recognized neighborhood associations that are separated from the neighborhood association(s) identified above by a street or stream).

##### **iii. (3) Notice to Oregon Department of Transportation and the Affected Railroad Company**

Written notice shall be provided to the Oregon Department of Transportation and the affected railroad company if the application indicates that a railroad-highway

crossing provides or will provide the only access to land that is the subject of the application.

**iv.(4) Notice for Development within the Greenway Management Overlay District**

In addition to the notification required above, the City shall notify the Oregon State Department of Transportation by certified mail immediately upon receipt of a complete application for development, change or intensification of use in the Greenway Compatibility Review Boundary area and shall notify the Department of final actions taken on the applications.

**vii. Contents of Notice**

The notice required by this section, above, shall:

\*\*\*\*\*

**viii. Posted Notice**

Within three business days after the mailing date of the notices in LOC 50.07.003.3.a.i-iv, the City shall post notice on the property subject to the proposed application. The notice shall be posted at a location visible from the public right-of-way. The notice shall state:

- (1)i.** That the site is the subject of a proposed development application,
- (2)ii.** The name of the applicant,
- (3)iii.** The name and telephone number of the staff coordinator for the application,
- (4)iv.** The deadline for submission of written comments,
- (5)v.** The date of the public hearing, if applicable,
- (6)vi.** That a copy of the mailed notice (which includes a listing of the criteria for the decision) can be obtained from the planning coordinator.

The site shall remain posted until the conclusion of the date for submission of comments and, if applicable, the date set for the first evidentiary public hearing upon the application.

The City Manager shall certify that such notice was given.

**c. Published Notice for Legislative Hearing**

~~Published notice of a hearing on a legislative decision shall be published at least once in a newspaper of general circulation in the City of Lake Oswego at least ten days in advance of the hearing. Where~~

~~published notice is required, notice shall also be mailed at least ten days in advance to the Committee 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.~~

**bd. Written and Posted Notice for Residential Infill Design Review Notice**

For development processed through the residential infill design review process (LOC 50.08.007), the City Manager shall provide written notice of a preliminary decision as follows:

**i. Notice to Property Owners**

Notice to property owners within 300 ft. of the entire contiguous site for which the application is made shall be given. The list shall be compiled from the most recent property tax assessment roll.

**ii. Notice to Neighborhood Associations**

Notice shall be given to recognized neighborhood associations listed in LOC 50.07.003.3.a.ii(2).

**iii. Notice to Oregon Department of Transportation and the Affected Railroad Company**

Notice shall be given to the Oregon Department of Transportation and the affected railroad company if the application indicates that a railroad-highway crossing provides or will provide the only access to land that is the subject of the application.

**iv. Postinged Notice**

Notice shall be posted upon the subject property in the same manner as LOC 50.07.003.3.ba.iv.

**v. Contents of Notice**

The notice of preliminary decision shall:

\*\*\*\*

**ce. Notice for Initial Public Hearing for Minor and Major Development**

i. Notice of a public hearing before a hearing body containing the information required below shall be mailed at least 20 days before the initial public hearing as follows:

(1) To the applicant;

(2) To property owners in the same manner as provided in LOC 50.07.003.a.i~~(1)~~;

(3) To neighborhood associations in the same manner as provided in LOC 50.07.003.a.ii~~(2)~~;

(4) To the Oregon Department of Transportation and affected railroad company if the application indicates that a railroad-highway crossing provides or will provide the only access to land that is the subject of the application; and

(5) Persons filing comments within any comment period: If the hearing regards an appeal of a City Manager decision on a minor development application, to any person not otherwise required to be notified by this section who submitted comments during the 14-day comment period.

ii. Nothing in subsection 3.ce.i of this section shall preclude the City Manager from providing additional public notice as the City Manager deems appropriate.

iii. Except as otherwise provided in subsection 3.ce.iv of this section, the notice shall:

\*\*\*\*

iv. In addition to the mailed notice above, notice shall be given by posting upon the subject property in the same manner as required by LOC 50.07.003.3.ba.vi.

[**Editor's Note:** Per LOC 50.07.004.5, notification of a circulation analysis is required if a minor development is subject to the Street Connectivity Development Standard.]

#### **d. Notice for Legislative Hearing**

Notice of a hearing on a legislative decision shall be published at least once in a newspaper of general circulation in the City of Lake Oswego at least ten days in advance of the hearing. Notice shall also be mailed at least ten days in advance to the Committee 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.

**50.07.003.4.f.iv [Review Procedures / Hearings/Continuances]**

**iv. Notice**

No additional notice of a continued hearing is required if the hearing body continues the hearing to a date, time and place certain. If a public hearing must be continued due to lack of a quorum of the hearing body, no additional notice of the continued hearing is required if all entrances to the hearing location are posted by the time and date of the originally scheduled hearing with a conspicuous written notice setting forth a date, time and place certain for the continued hearing. In all other cases, public notice of a continued hearing shall be given pursuant to LOC 50.07.003.3.ec.

**50.07.003.4.g.iii [Review Procedures /Hearings/Decision of the Hearing Body]**

iii. In the case of a major development which requires an amendment of the Comprehensive Plan, or the text or map of this Code, the hearing body's order adopted pursuant to subsection 4.g.ii of this section shall be considered a recommendation to Council and not a final decision. The notice of the hearing body's decision provided pursuant to LOC 50.07.003.4.h shall be modified to note that the decision is a recommendation which will be forwarded to the Council for public hearing and final decision. The Council shall review the recommendation pursuant to LOC 50.07.003.7.f through o, Appeals, and LOC 50.07.003.4.e, Preservation of Order, except that, for purposes of the appeal hearing in LOC 50.07.003.7.i, Conduct of the Appeal Hearing, the applicant shall proceed with testimony, followed by persons in favor of the application, opponents, and rebuttal by the applicant.

**50.07.003.5.a.v [Conditions on Development]**

5. CONDITIONS ON DEVELOPMENT

a. The reviewing authority may impose conditions of approval on a major or minor development permit in one or more of the following circumstances:

\*\*\*\*

v. The proposed variance or exception to a code requirement is based on the preservation of tree(s), and the condition of approval is reasonably related to preserving the tree(s) that is the basis for the variance or exception.



## LOC 50.07.003.7 [Appeals]

### b. Appeal of Minor Development Decision

\*\*\*\*

iv. An appeal of a City Manager decision regarding a minor development shall be heard de novo by the hearing body pursuant to LOC 50.07.003.3.ec, 50.07.003.4 and 50.07.003.15.b.i and ii

#### j. Time Limits on Testimony

The provisions of LOC 50.07.003.4.b shall be applicable here with the following time frames substituted for those in LOC 50.07.003.4.b.i:

i. If the appellant is the applicant:

- (1) Fifteen minutes for the applicant's presentation;
- (2) Ten minutes for a representative of a recognized neighborhood association, homeowners association, government or government agency, or other incorporated public interest organization;
- (3) Five minutes each for other persons; and
- (4) Five minutes for the applicant's rebuttal.

ii. If the appellant is not the applicant:

- (1) Fifteen minutes for the applicant's presentation, except if the time is expanded by the Mayor pursuant to LOC 50.07.003.4.b.iii; ~~Fifteen minutes for the appellant's presentation. If there is more than one appellant, the appellants shall have a total of 15 minutes, unless the time is expanded by the Mayor pursuant to LOC 50.07.003.4.b.iii;~~
- (2) Fifteen minutes for the applicant's presentation, except if the time is expanded by the Mayor pursuant to LOC 50.07.003.4.b.iii; ~~Fifteen minutes for the appellant's presentation. If there is more than one appellant, the appellants shall have a total of 15 minutes, unless the time is expanded by the Mayor pursuant to LOC 50.07.003.4.b.iii;~~
- (3) Ten minutes for a representative of a recognized neighborhood association, homeowners association, government or government agency, or other incorporated public interest organization;
- (4) Five minutes each for other persons; and
- (5) Five minutes for the applicant's rebuttal.

## 50.07.003.8 [Remands]

### a. Remands from the Council to the Hearing Body

i. An order of the City Council remanding an application to a hearing body is a final decision for purposes of appeal to LUBA. If not appealed, all issues resolved by the

remand order shall be considered decided and may not be revisited on remand, unless addressing the remanded issues results in amendments to the application which change the criteria or the factual basis on which the Council based its decision regarding an issue or issues not remanded.

ii. The hearing body shall issue public notice and hear the application on remand as provided in LOC 50.07.003.15.b.i and ii and LOC 50.07.003.3.ec, except that issues shall be limited as provided in subsection 8.a.i of this section.

**b. Remands from LUBA to the City Council**

When a final decision of the City Council is remanded to the City by the Oregon Land Use Board of Appeals (LUBA), the City Council shall either:

i. Hold a hearing on remand if the issue upon which LUBA remanded the decision can be resolved by the City Council without reopening the record for additional evidence. Notice of the hearing on remand shall be given pursuant to LOC 50.07.003.7.g, Notice of the Appeal Hearing, to all persons who testified before the City Council at the public hearing or hearings that led to the decision remanded by LUBA. Instead of the explanation contained in LOC 50.07.003.7.g.ii(4), the notice shall set forth issues on remand that will be considered by the Council. The hearing shall be conducted pursuant to LOC 50.07.003.4, Hearings, except that testimony shall be limited to the issues upon which LUBA remanded the decision to the City, unless the application is amended on remand in a manner which changes the applicable criteria or the factual basis on which LUBA or the City Council based its decision regarding an issue or issues not remanded.

ii. Remand the application to the hearing body if the issue upon which LUBA remanded the decision requires reopening the record for additional evidence. Notice of the hearing on remand shall be given pursuant to LOC 50.07.003.3.ec, Notice for Public Hearing, and the hearing shall be conducted pursuant to LOC 50.07.003.4, Hearings, except that the notice of the applicable criteria and the testimony shall be limited to the criterion or criteria or the issue or issues upon which LUBA remanded the decision to the City, unless the application is modified in a manner which changes the applicable criteria or the factual basis on which LUBA or the City Council based its decision regarding an issue or issues not remanded. A decision of the hearing body on remand may be appealed to the

**50.07.003.13.e [Review Procedures / Ministerial Development Decisions / Review and Decision]**

**e. Review and Decision**

**i. Decision-Making Authority**

Ministerial development applications shall be reviewed and approved by the City Manager.

**ii. Review Criteria for Ministerial Developments**

A ministerial development shall comply with the requirements of the zone, including overlay zones, in which the subject lot or parcel is located, and shall comply with the following sections of the development standards:

- (1) Parking, LOC 50.06.002.
- (2) Hillside Protection, LOC 50.06.006.2.
- (3) On-Site Circulation – Driveways and Fire Access Roads, LOC 50.06.003.2.
- (4) If the ministerial development involves placement of a manufactured home, Manufactured Homes, LOC 50.03.003.1.e**b**.
- (5) Building Design Standard, LOC 50.06.001.5.b.viii (mechanical equipment screening).
- (6) Weak Foundation Soils, LOC 50.06.006.1, for construction of structures where the requirements of LOC 50.06.006.1 have not been previously addressed for the development site.
- (7) If located in the Flood Management Area, LOC 50.05.011.

**50.07.003.16.c [Review Procedures / Required Notice to DLCD]**

**c. Required Notice to DLCD**

i. Except as provided by subsections 16.c.ii and iii of this section, any proposed amendment or addition to the City's acknowledged Comprehensive Plan or land use regulations shall be forwarded to the Director of the Oregon Department of Land Conservation and Development (DLCD) ~~at least 45 days~~ as required by OAR 660-018-0020 before the first evidentiary hearing on adoption. The City shall include the text of the proposed amendment and any supplemental information that the City believes is necessary to inform the Director as to the effect of the proposal. The notice shall include the date set for the first evidentiary hearing.

**50.07.003.16.d.iii [Review Procedures/Legislative Decisions/Planning Commission Recommendation Required/Notice]**

**iii. Notice**

Notice of a Planning Commission hearing on a legislative decision shall be published pursuant to LOC 50.07.003.3.ec, ~~Published Notice~~ Notice for Legislative Hearing.

**50.07.003.16.e [Review Procedures / Legislative Decisions / City Council Review and Decision]**

**e. City Council Review and Decision**

The City Council shall hold at least one public hearing on the proposed legislative decision.

**i. Notice**

Notice of a City Council hearing on a legislative decision shall be published pursuant to LOC 50.07.003.3.ec, ~~Published Notice~~ Notice for Legislative Hearing. Notice shall also be mailed at least ten days in advance to the Committee for Citizen Involvement, to all recognized Neighborhood Associations and to all persons who appeared either orally or in writing at the Planning Commission hearing. The notice shall include:

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

**50.07.004.5.a.i [Additional Submission Requirements / Local Street Connectivity]**

**a. Submission Requirements**

For all applicable development or construction, the applicant shall submit:

- i.** Proof of notification of a circulation analysis pursuant to this subsection and subsection 5.a.ii of this section, to all property owners within 530 ft. of the boundaries of the parcel on which a development or construction is proposed, if any future streets or accessways are proposed beyond the boundaries of the subject parcel. Notification shall be in a form substantially similar to the example provided by the City. Notification shall be sent to the applicant and the owners of record on the most recent property tax assessment roll as stated above, in the manner required in LOC 50.07.003.3.ec, ~~Notice for Public Hearing~~ Initial Public Hearing for Minor and Major Development.

**50.07.004.8.a.ii [Additional Submission Requirements / Sensitive Lands Overlay Districts]**

**a. Criteria for Designating Property within an Overlay District**

**i. Goal 5 Analysis Required**

In order to include an individual property, a portion of a property, or a group of properties within an RP or RC overlay district, the reviewing body shall find that the resource on the site or sites has been ranked and evaluated through an Economic, Social, Environmental, and Energy (ESEE) Process Analysis in compliance with Statewide Land Use Planning Goal 5 and merits a Resource Protection (RP) and/or Resource Conservation (RC) designation.

**ii. Procedure**

An RP or RC designation may be imposed, modified or removed pursuant to either a City or area-wide Goal 5 analysis or a Goal 5 analysis of a single property or small number of individual properties. A ~~City-wide or area-wide group of properties analysis~~ shall be processed as a legislative Comprehensive Plan Map and Zoning Map amendment pursuant to LOC 50.07.003.16.a.i, and an analysis affecting a single property or small number of individual properties shall be processed as a quasi-judicial Comprehensive Plan Map and Zoning Map amendment pursuant to LOC 50.07.003.16.a.ii.

**50.07.004.12.a [Additional Submission Requirements / Telecommunications Facilities]**

**a. New Facilities**

In addition to standard required application material, the applicant for a new facility shall submit the following information in conjunction with an application for a new facility:

**i. A site reconnaissance study containing, at a minimum:**

- (1)** A vicinity map depicting the proposed extent of the service area.
- (2)** A graphic simulation showing the appearance of the proposed tower and accessory structures from five points within the impacted vicinity. Such points are to be mutually agreed upon by the City Manager and applicant.
- (3)** An inventory within the applicant's proposed service area depicting the height and location of nonhabitable structures, including poles, towers, and appurtenances that could accommodate collocation of the proposed antennas.

**ii.** Recognizing that technology in this field is changing rapidly, a demonstration that an alternative technology that does not require the use of new towers, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, or any other less visually obtrusive method, is unsuitable. For the purposes of this subsection, a "less visually obtrusive method" means a reasonably practicable alternative technology that will better accomplish the purposes of this section as set forth in LOC 50.03.003.34.e.i, Purpose. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

**50.07.005.3.a [Conditional Use Permits / Authorization to Permit or Deny Conditional Uses]**

- a. An application for a conditional use shall be allowed if:
  - i. The requirements of the zone are met; and
  - ii. Special conditions found in LOC 50.03.003.1.b2.d, 50.03.003.2.a through 50.03.003.2.c, 50.03.003.34.a through 50.03.003.34.d, 50.03.003.34.f, and 50.03.003.4.ag and 50.03.003.4.dh, if applicable, are met; and
  - iii. The site is physically capable of accommodating the proposed use; and
  - iv. The functional characteristics of the proposed use are such that it can be made to be reasonably compatible with uses in its vicinity.

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**50.07.005.6.c.iii [Conditional Use Permit/Review of Conditional Use Permits; Amendment and Revocation Procedures]**

c. A conditional use permit may be revoked or modified by the hearing body if the applicable conditions or the specific requirements of this Code are not continuously met and also for the reasons stated in LOC 50.09.002.3, Revocation of Permit.

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iii. The hearing body shall hold a hearing pursuant to the provisions of LOC 50.07.003.3.eg and LOC 50.07.003.15.b.i and ii. After consideration of all evidence presented at the public hearing, the City Manager's report, the applicable Code provisions, the use permit requirements, and the criteria set forth in LOC 50.09.002.3, Revocation of Permit, the hearing body may revoke, terminate, allow continuation of the use, amend the use permit, or may grant additional time to bring the use into conformance. If additional time is granted, specific direction may be given setting forth the changes required to achieve conformance. An appeal to the City Council may be taken pursuant to LOC 50.07.003.7, Appeals.

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**50.07.007.2.e.iii(1)(b) [Flag Lot Maximum Building Height Calculation]**

(b) The average height of all dwellings on properties abutting the development site, as determined prior to the time of creation of the flag lot. Where there is no dwelling on the abutting property or where a dwelling is located more than 100 ft. away from the development site:

1. \_\_\_\_\_, ~~then~~ the maximum height permitted in the underlying zone shall be used for calculating the average, except.

i. \_\_\_\_\_ In cases where the abutting property is zoned to permit a height greater than that allowed on the subject site, then the maximum height for the zone in which the subject site is located shall be substituted and used to calculate the average.

**50.07.006.7.a [Overall Development Plan and Schedule/Review and Decision/Decision-Making Body]**

**7. REVIEW AND DECISION**

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**a. Decision-Making Body**

i. The appropriate hearing body shall consider the ODPS at a public hearing conducted pursuant to LOC 50.07.003.4, Hearings, and notice shall be given in accordance with LOC 50.07.003.3.ec, Notice for ~~Public Hearing~~Initial Public Hearing for Minor and Major Development.

ii. The Planning Commission shall approve mixed use ODPS applications prior to consideration of a related development permit application. The ODPS may be considered concurrently with a zoning application.

iii. Single use ODPS applications shall be reviewed and approved by the Development Review Commission.

**50.07.007.2.e.v [Land Divisions/Flag Lots/Building and Site Design Standards/Setback Requirements]**

**v. Setback Requirements**

(1) The standard front yard setback of the zone shall be superseded by the following front yard requirement: A minimum ten ft. front yard setback is required from the access lane, except that a 20-ft. setback is required from the access lane to the front of a garage or carport when the garage or carport opening faces the access lane. For flag lot partitions that receive a minor variance to the determination of the front yard, per LOC 50.08.002.3.o, the setbacks from the access lane described above shall apply. For purposes of this standard, the access lane shall include the projected extension of the access lane through the property as illustrated in Figure 50.07.007-B: Access Lane.

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**50.07.007.2.f [Land Divisions/Flag Lots/Building and Site Design Standards/Screening, Buffering and Landscaping Installation]**

**f. Screening, Buffering and Landscape Installation**

iii. The rear and side yards of the flag lot shall be screened from abutting lots outside of the partition site with a six-ft. tall fence, except

**(1)** ~~Where a four-ft. fence is required by LOC 50.06.004.2.b.i, Fences, or by LOC 50.05.010.2.c(iv), Sensitive Lands Overlay Districts and except, or~~

**(2)** Where the fence would be located within a wetland or stream channel, or

**(3)** Where the abutting owner agrees in writing that a fence is not necessary along the common property line.

In addition, a landscaped buffer within the rear yard setback a minimum of six ft. in width shall be created along the rear property line and planted with a deciduous or evergreen hedge, a minimum four ft. in height at planting, which shall grow to a height of six ft. within two years and shall be maintained at a minimum of that height, except where the abutting owner agrees in writing that a landscaped buffer is not necessary. The above requirements pertaining to the "rear yard" are not applicable where the rear yard abuts Oswego Lake or railroad rights-of-way.

**50.08.002.1 [Minor Variance/Classification of Variances]**

e. Variances in floor area for single-family residential development, up to a maximum 15% increase in floor area, subject to the following lot size limitations:

<b>TABLE 50.08.002-1: VARIANCE IN FLOOR AREA</b>	
<b>Zone</b>	<b>Minimum Lot Size Required if House Floor Area Is to Be Adjusted Under Minor Variance</b>
R-5	10,000 sq. ft.
R-6	12,000 sq. ft.
R-7.5	15,000 sq. ft.
R-10	15,000 sq. ft.
R-15	22,500 sq. ft.



### **50.08.002.3 [Minor Variance/Classification of Variances]**

A variance which would allow development not in conformance with the requirements of the development standards may be granted. The City Manager shall decide the classification of any variance application.

Minor variances are small changes from the Code requirements and which will have little or no effect on adjacent property or users. Minor variances include:

k. Variances to driveway and access lane width for flag lots (LOC 50.07.007.2.c).

### **50.08.007.2 [Adjustments, Alternatives and Variances/Residential Infill Development (RID)/Applicability]**

## **2. APPLICABILITY**

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This standard is applicable to minor developments listed in LOC 50.07.003.14.a.ii(15) where an applicant has requested approval of an alternative design that does not meet the clear and objective development standards of the Code but may otherwise be compatible with the character of the neighborhood and surrounding residential development.

[**Cross-Reference:** See LOC 50.07.003.3.d~~o~~, Residential Infill Design Review Notice, and 50.07.03.14.d.iii(2), Final RID Application, for notice and decision process for RID review applications.]

### **50.09.002.3 [Enforcement and Penalties/Enforcement/Revocation of Permit]**

## **3. REVOCATION OF PERMIT**

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Upon referral by the City Manager, the Development Review Commission may hold a hearing pursuant to LOC 50.07.003.3.e~~c~~, 50.07.003.4, and 50.07.003.15.b to consider revocation of an approved permit and/or revocation of a certificate of occupancy. The DRC may revoke any permit approval or certificate of occupancy based upon one or more of the following findings:

a. The applicant or the applicant's representatives either intentionally or unintentionally committed a material misrepresentation of fact in the application or the evidence submitted in support of the application. For the purposes of this section, "material misrepresentation of fact" means a misstatement of factual information that:

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### 50.10.003.2 Definitions (Dwelling Unit, Secondary)

#### Dwelling Unit, Secondary

A second dwelling unit, either attached or separate, located on a lot already containing a dwelling unit. The following dwelling configurations shall also constitute a secondary dwelling unit regardless of whether the occupants of the second dwelling unit are a part of the family of the occupants of the primary dwelling unit:

- a. A detached accessory structure that contains all of the elements of a dwelling unit within the accessory structure and the accessory structure complies with LOC 50.03.003.1.~~fe~~; or
- b. A portion of the dwelling structure contains the elements of a secondary dwelling unit pursuant to LOC 50.03.003.1.~~fe~~, and the other portion of the dwelling structure meets the definition of "dwelling unit," and the two portions are physically separated from each other by means of a wall or other permanent barrier, so that the usual and customary use of the two portions of the dwelling structure is as separate dwelling units, not as a single, interconnected housekeeping unit.

### 50.10.003.2 Definitions (Lot, Steeply Sloped)

#### Lot, Steeply Sloped

A "steeply sloped lot" is a lot with a slope of 20% or more, when measured from the lowest or highest front lot line, whichever results in the greater difference in grade, to the most distant point of the primary building footprint.