ORDINANCE No. 2316

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE OSWEGO ADOPTING A NEW CHAPTER 50 (COMMUNITY DEVELOPMENT CODE) CONSOLIDATING THE CITY'S ZONING AND DEVELOPMENT CODES AND DEVELOPMENT STANDARDS, REPEALING LOC CHAPTERS 48 (ZONING CODE) AND 49 (DEVELOPMENT CODE), REPEALING THE SEPARATE COMPILATION OF THE LAKE OSWEGO DEVELOPMENT STANDARDS (LODS), AND ADOPTING FINDINGS LU 01-0048-1457

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

WHEREAS, the Planning Commission has recommended that LU 01-0048-1451 be approved by the City Council; and

WHEREAS, a public hearing on LU 01-0048-1451 was held before the City Council of the City of Lake Oswego on February 5, 2002.

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings, Conclusions and Order (LU 01-0048-1457) attached as Exhibit "A".

The Lake Oswego Code is hereby amended deleting the text shown by ~~strikeout~~ and adding the new text shown in redline and underline.

Section 2. Section 11.04.360 is hereby amended to read as follows

11.04.360 Matters Subject to Referendum by City Electors.

Any general ordinance of the City Council and any comprehensive plan textual amendment or major plan map amendment of a legislative nature ordered pursuant to LOC ~~49.60~~50.75 (Legislative Decisions) are subject to referral to the voters by petition of City electors except any general ordinance which carries an emergency clause which declares the ordinance to be effective earlier than 30 days after its enactment. A petition to refer must be filed for signature verification with the City Recorder no later than the 30th day after the date of enactment of the matter that is the subject of the petition.

(Ord. No 1762, Sec. 3; 4-22-80. Ord. No. 1827, Sec. 2; 5-4-82. Ord. No. 2101, Amended, 08/01/94)

Section 3. Section 12.51.030 is hereby amended to read as follows

12.51.030 Development Review Commission.

1. Creation; Membership; Term. There is hereby created a Development Review Commission of the City of Lake Oswego consisting of seven members appointed for three year

terms.

2. Qualifications. At least four members of the Development Review Commission shall reside within the City limits. Three members shall be from the fields of architecture, landscape architecture or artistic design. One member shall be from the field of civil engineering. One member shall be engaged in the business of financing the purchase and development of real property. No more than two members of the commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

3. Duties. The Development Review Commission shall exercise the powers and duties as set forth in State Law, the City Comprehensive Plan, the City ~~Zoning and~~Community Development Codes ~~(LOC Chapters 48 and 49~~50), and other applicable City Codes.

4. Removal. Notwithstanding LOC 12.50.015(3), a member of the Development Review Commission may be only be removed by the City Council, after hearing, for misconduct or nonperformance of duty. "Misconduct" includes failure to declare a conflict of interest and failure to comply with any applicable requirement of the Lake Oswego Code. "Non-performance of duty" includes unexcused absence from three or more consecutive meetings.

(Ord. No. 2091, Enacted, 04/19/94)

Section 4. Section 12.51.060 is hereby amended to read as follows

12.51.060 Planning Commission.

1. Creation; Membership; Term. There is hereby created a Planning Commission of the City of Lake Oswego consisting of seven members appointed for four year terms.

2. Qualifications. Members of the Planning Commission shall reside within the City limits or the limits of the City Urban Services Boundary, except that no more than two members may reside outside of the City limits. No more than two members of the commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

3. Duties. The Planning Commission shall exercise the powers and duties as set forth in State Law, the City Comprehensive Plan, the City ~~Zoning and~~Community Development Codes (LOC Chapters ~~48 and~~ 49~~50~~), and other applicable City Codes.

4. Removal. Notwithstanding LOC 12.50.015(3), a member of the Planning Commission may only be removed by the City Council, after hearing, for misconduct or nonperformance of duty. "Misconduct" includes failure to declare a conflict of interest and failure to comply with any applicable requirement of the Lake Oswego Code. "Non-performance of duty" includes unexcused absence from three or more consecutive meetings.

(Ord. No. 2091, Enacted, 04/19/94)

Section 5. Section 12.52.010 is hereby amended to read as follows

12.52.010 Specific Recordable Instruments.

The following instruments maybe recorded in the appropriate county records:

1. Local Improvement Districts.

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

b. Waiver of Right to notice, hearing, remonstrance or assessment for a local improvement district (LID), public improvement, facility or service. (See LOC 40.020.050.)

c. Notice of Pendency of Formation of a local improvement district or assessment. (See LOC 40.02.040 and 40.02.060(1)).

d. Reapportionment of Special Assessment for LID's or public improvements. (See LOC 40.02.160.)

e. Continuing Request for Public Improvements or Services approved for recording by City Manager or designee. (See LOC 40.02.020(3)).

2. Development Review. Development restrictions relating to a major development, minor development, or ministerial development, including but not limited to land divisions, variances, conditional use permits, and the Conditions of Approval imposed on the subject real property when approved for recording by the ~~Planning Director~~City Manager or designee. (See LOC ~~49.22.225~~50.79.010.)

3. Agreements to Pay Charges.

a. System development charges. (See LOC 39.06.101). (May be recorded or may be posted in the Municipal Lien Docket.)

b. Any impact fees or taxes imposed on real property pursuant to Lake Oswego Code.

c. Agreement for Public Improvements, to construct or maintain public improvements required by the ~~Planning Director~~City Manager, City hearing body, or City Engineer. (See LOC ~~49.58.141~~50.87.020.)

d. Zone of Benefit Connection Charge to reimburse a person for the costs of financing a sewer, street, surface water management or water improvement. (See LOC 40.04.050.)

4. Real Property Conveyance Acceptance. Acceptance of Transfer or Acceptance of Dedications of road right-of-way or other public interest in real property approved for recording by the City Manager.

5. Property Line Adjustment. Property Lot Line Adjustment Approval, or agreement pursuant to Approval. (See LOC 12.52.010(2), ~~49.20.105~~50.79.010, ~~49.20.110~~50.79.020 and ~~49.20.115~~50.79.030.)

6. Change of Street Name. Change of Street Name approved for recording by City Engineer. (See LOC 43.02.090.)

7. Building Department Notices. Notice of Final Inspection, Notice of Occupancy Approval, Notice of Failure to Obtain Final Inspection, and Notice of Failure to Obtain Occupancy Approval if approved for recording by Building Official.

8. Declaration of Nuisance and Related Documents. Notice that a property is subject to a pending Declaration of Nuisance or has been determined to be a Nuisance or a Nuisance Lien amount has been approved for recording by City Manager or designee. (See LOC 34.08.405, 34.08.411 and 34.08.421.)

9. Permit of Entry. A permit or license of entry authorizing City, its employees, agents or contractors to enter onto private property.

10. Seizure or Forfeiture of Property. Notice of Intent to Seize or Intent to Forfeit Property, Certificate of Forfeiture or Sale approved for recording by City Manager or designee.

11. Verification of Official Act. Resolution and Order, Minute Order or other comparable order evidencing an official act of City board or commission approved for recording by the City Recorder or designee.

12. Agreement to Construct Public Improvements. Agreement to Construct Public Improvements if approved by the City Manager or designee for recording.

13. Agreement to Hold Harmless or Indemnification. Agreement to Hold Harmless, to indemnify, or defend City of Lake Oswego, its officers, employee, agents or contractors approved by the City Manager or designee for recording.

14. Land Use Required Documents. Any document required or directed to be recorded pursuant to or in furtherance of a land use, development approval or building permit issuance and approved for recording by the Planning Director, Building Official, City Manager, or any designee thereof. Examples include: Restrictive Covenant, Non-Access Strip, Waiver, Joint-use Agreement, Access Restriction, Maintenance Agreements, Development or Use Restriction.

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

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

17. Tree Permits.

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

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

18. Historic Preservation. Historic Landmark or Historic District Designation, or Removal of Designation. (See LOC 58.02.)

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

Section 6. Section 12.53.035 is hereby amended to read as follows

12.53.035 City Council Hearing; Criteria.

1. The City Manager shall forward to the City Council all pertinent information relating to the Claim, including:

a. Claimant's application (excluding names and mailing addresses of neighbors and neighborhood association chairs)

b. Written comments received by the date established by the City Manager under LOC 12.53.025.

c. Any appraisal performed at the request of the City Manager.

d. Recommendation of the City Manager.

2. The date scheduled for the City Council consideration of the Claim may be continued by order of the City Manager or upon motion of the City Council from time to time.

3. If the regulation for which the Claimant seeks compensation relates to ~~a Zoning~~the Community Development Code or other land use regulation, as defined by ORS 197.015(11), the City Council shall hold a public hearing on the application in the manner generally provided by LOC Article ~~49.46~~ 50.83 (Hearings Before a Hearing Body), except:

a. The criteria for the City Council decision shall be whether:

1. The application is complete.

2. The Claimant is a qualifying Property Owner under Measure 7.

3. The cited regulation(s) is a qualifying regulation entitling the Property Owner to compensation or release of the imposition of the regulation on the Property, under Measure 7.

4. The Claimant has exhausted all applicable procedures for an exemption, variance, waiver or other release from the regulation(s) by the applicable Code or other regulation, or that the application for such exemption, variance, waiver or other release from the regulation(s) would be futile.

b The right to request an opportunity to present additional evidence or testimony or to make final written argument under LOC ~~49.46.1000~~5083.005(11) and (12) shall be subject to restriction or elimination, as the City Council determines convenient or necessary to assure that a written decision is made and sufficient administrative time remains thereafter to cause payment of compensation within the constitutionally required ninety (90) days from the date of filing a Claim.

4. If the regulation for which the Claimant seeks compensation is not subject to subsection (3) above, the City Council may elect to conduct a public hearing in a summary or expedited manner. The criteria stated in subsection (3)(a) shall apply.

5. The City Council shall adopt written findings and conclusions as to whether the criteria under subsection (3)(a) have been met, and, if just compensation is to be paid, the amount of compensation, equal to the reduction in the fair market value of the property.

a. If the City Council finds that the public burden of paying the required compensation, considering the City's financial resources for the payment of such claims, justifies release of the public benefits derived from maintaining the imposition of the subject regulation on the Property, the City Council shall enter an Order of Release of Regulation from the specified regulation.

b. If the City Council finds that the public benefits derived from maintaining the imposition of the subject regulation to the Property are sufficient to justify the public burden of paying just compensation, taking into consideration the City's financial resources for the payment of such claims, the City Council shall enter an Order directing payment of just compensation.

c. If the City Council finds that some of the public benefits from application of the regulation to the Property Owner's private real property are sufficient to justify the public burden of paying some of the required just compensation, taking into consideration the City's financial resources for the payment of such claims, but that other public benefits are not sufficient to justify the public burden of paying the balance of the required just compensation, taking into consideration the City's financial resources for the payment of such claims, the City Council shall enter an Order of Release of Regulation to the limited extent necessary to avoid the Property Owner being entitled to just compensation as to that part of the specified regulation providing public benefits not sufficient to justify the public burden of paying just compensation and the City shall pay the required just compensation as to that part of the specified regulation as to which release of regulation is not granted.

d. If the City Council finds that modification of the regulation(s) would be in the public interest and would avoid the public burden of paying the required compensation, the City Council shall enter an Order Modifying a Regulation as applied to the Property.

6. In taking action under subsections (5)(b) or (5)(c) above, the City Council may make its decision to pay just compensation conditional upon the City receiving a defined amount of

contributions from others by a specified date. In the event the City Council makes such a conditional decision, the Finance Director shall establish an account for all contributions the City receives for the payment of just compensation. If by the specified date the defined amount of contributions has been received, the just compensation shall be paid and the regulation(s) shall continue to be imposed upon the Property. If the defined amount of contributions has not been received by such date, the City shall issue the Order of Release from Regulation and all contributions received shall be returned to the contributors.

7. The City Council shall adopt a written Order either directing that payment of just compensation be made to the Property Owner and to any other persons holding an interest in the Property, in such manner as determined by the City Manager, pursuant to subsection (5)(b), (5)(c), or (6) above for the continued imposition of the regulation(s) on the Property, releasing the Property from the effect of the regulation(s) in the manner provided by LOC 12.53.045, or modifying the regulation(s) as applied to the Property in such a manner as to avoid payment of just compensation to the Property Owner.

8. A copy of the findings, conclusion and Order shall be mailed by first class mail to:

a. the Claimant and all other interested persons who submitted written testimony or testified before the City Council and provided their mailing address to the City Recorder; and

b. the neighborhood association(s) and governmental agencies that were provided notice of the Claim under LOC 12.53.025 (3)(b)-(f).

Section 7. Section 15.06.610 is hereby amended to read as follows

15.06.610 Oregon Uniform Fire Code Adopted.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion the Oregon Uniform Fire Code 1998 Edition. Such a code is enacted and adopted in whole by this reference as though set forth at length except such portions as are hereinafter deleted, modified or amended by this section.

1. **Section 101.8.1** is amended to delete: VI-D.
2. **Section 103.3.1.2.1** is amended to read as follows:

Right of entry shall be according to ORS 476.070, ORS 476.150(1) and Lake Oswego Code 34.04.106(2).

3. **Section 902.2.2.1** is amended to read as follows:

Dimensions. Fire apparatus access roads shall have an unobstructed width and uniform surface of not less than 15 feet one way, 20 feet if two way and a vertical clearance of 13'6". Both one and two way fire lanes shall be posted "No Parking Fire Lane". Private roads or public streets where landscaping islands are used shall be considered one way each direction at the island.

4. **Section 2501.17, Exception 4** is amended to add the following Section:

Limited use of hand held candles may be allowed as part of a ritual or performance where a small number of designated individuals handle the candles, and the candles are not passed, distributed, or used in any way by the general audience.

5. **Section 7801.1** is amended to add the following Sections:

7808.1.1 Retail sales of Oregon approved fireworks shall be limited to those areas zoned east end commercial, neighborhood commercial and general commercial. Sales are prohibited at any service station or other site where flammable liquids are sold or dispersed regardless of zone. Sales may occur within a permanent structure only after receiving the prior written permission of

the City.

7801.1.2 Temporary stands for the sale of fireworks may be constructed no earlier than midnight June 19 of the year in which sales are to occur and must be removed no later than midnight July 10 of the same year.

7801.1.3 Prior to the construction of a stand or the sale of fireworks a permit must be issued for such activity. The requested use shall comply with the standards required by the set back and vision clearance requirements of LOC Chapter ~~48~~50.

6. **Appendix III-A, Section 1** is amended to read as follows:

All buildings or portions of buildings hereafter erected or which are altered by additions, repairs, or other development, the cost of which exceeds 50% of the valuation of the pre-existing structure, shall be occupied, used and maintained so that required fire flow is available within the mains and hydrants surrounding the structure. The required flow shall be determined by the procedures and standards set forth in the 1998 Oregon Uniform Fire Code, Appendix III-A and the 1998 Oregon Structural Specialty Code, Appendix Chapter 9, Division 2.

7. **Section 7902.2.2.1** is amended to read as follows:

Locations where above ground tanks are prohibited. Storage of Class I and II liquids in above ground tanks is prohibited by the City.

Exception. Storage may be permitted in commercial, industrial and campus institutional zones when tanks are located in special enclosures as noted in Sections 5202.3 and 5202.4, or in double wall storage tanks approved by the Fire Chief.

Storage in quantities of 55 gallons or less may be permitted by the Fire Marshal. This will be permitted only if the Fire Marshal determines there will be no threat to public safety if permission is granted. In any case the material shall be in a steel drum dispensed with a pump taking suction from the bottom of the container. These allowances do not preclude other applicable requirements of Article 79, Flammable and Combustible Liquids.

8. **Section 7701** is amended to include the following:

Overnight storage of any quantity of explosives or blasting agents is prohibited within the boundaries of the City.

(Ord. No. 1080, Sec. 2; 09-21-65. Ord. No. 1598, Sec. 5; 11-04-75. Ord. No. 1877, Sec. 1; 02-07-84. Ord. No. 1877, Sec. 1; 02-07-84. Ord. No. 1918, Secs. 1, 2; 05-21-85. Ord. No. 2029, Sec. 6; 04-02-91. Ord. No. 2080, Sec. 1; 09-21-93. Ord. No. 2080, Amended, 09/21/93; Ord. No. 2134, Amended, 06/04/96; Ord. No. 2185, Amended, 03/02/99)

Section 8. Section 34.06.147 is hereby amended to read as follows

34.06.147 Violations of the Community Development Code.

Violations of the Community Development Code of the City of Lake Oswego (LOC Chapter 4950), as now or hereafter constituted, are hereby declared civil violations and such violations may in addition to or in lieu of other remedies or enforcement measures provided by State law or ordinance be enforced under the provisions of this chapter. Whenever the City Manager becomes aware of violations of the provisions of the Community Development Code, he may initiate enforcement measures as prescribed herein.

(Ord. No. 1856, Sec. 1; 12-28-82.)

Section 9. Section 34.06.152 is hereby repealed in its entirety

~~**34.06.152 Violations of the Zoning Chapter.**~~

~~Violations of the Zoning Code of the Lake Oswego Code (LOC Chapter 48) as now or hereafter constituted, are hereby declared civil violations and such violations may in addition to or in lieu of other remedies or enforcement measures provided by State law or ordinance be enforced under the provisions of this chapter. Whenever the City Manager becomes aware of violations of the provisions of the above chapter, he may cause enforcement measures to be initiated as prescribed herein.~~

(Ord. No. 1856, Sec. 1; 12-28-82.)

Section 10. Section 39.06.105 is hereby amended to read as follows

39.06.105 Exemptions, Reductions and Waivers.

1. Structures and uses established and existing on or before July 1, 1991 are exempt from a system development charge, except water and sewer charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the water or sewer system.

2. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the system development charge.

3. An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility is exempt from all portions of the system development charge for that facility.

4. A system development charge may be proportionately reduced if:

a. Evidence indicates that the construction, alteration, addition, replacement or change in use does not increase the parcel's or structure's use of a system or systems to the degree calculated in or anticipated by the methodology for the particular system development charge; and

b. Any future construction, alteration, addition, replacement or change in use that would or could increase the use of the system or systems would require a development permit that would permit imposition of a system development charge under this Chapter.

5. The Parks and Recreation system development charge may be waived or reduced by the City where the City requires a developer to dedicate or reserve more than the minimum amount of open space pursuant to LOC Chapter 4950.46 (Parks and Open Space) or where a property owner voluntarily donates a conservation easement pursuant to LOC 59.04.015(1).

6. The following percentages of all portions of the systems development charge for non-profit or state or federal assisted low to moderate cost housing for elderly and disabled persons may be deferred by the City Manager. Such deferral may be made upon a showing, to the satisfaction of the City Manager, that the deferral is necessary to make the project economically feasible within the maximum rental rate established by the funding agency, or for projects with interest rate subsidies only, to bring the monthly rental rates within 10% of the prevailing rates for similar housing in the Portland Standard Metropolitan Statistical Area.

Maximum Rental Rates	No. of Units	Interest Subsidy
75%	1 - 30	50%
35%	31 - 45	35%
25%	46 - 60	20%
0	61+	0%

If a project changes in status to one which would not qualify for a deferral, the total amount of the deferral, computed as of the time of the application for deferral, becomes due and payable in accordance with the terms of this chapter.

7. Systems Development charges imposed on developments which received development approval prior to December 15, 1998, but which did not receive a building permit by that date, shall be based upon the methodology in effect immediately prior to December 15, 1998, provided that the building permit is applied for by June 15, 1999, and the building permit is issued by December 15, 1999.

(Ord. No. 2030, Sec. 2; 07-01-91. Ord. No. 2168, Amended, 06/02/98; Ord. No. 2183, Amended, 02/16/99)

Section 11. Section 40.06.010 is hereby amended to read as follows

40.06.010 Definitions.

City. The City of Lake Oswego.

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

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

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

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

Parcel of Land or Parcel. A lot as defined in LOC ~~48.02.015~~50.02.005.

Person. Any person or legal entity.

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

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

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

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

(Ord. No. 2120, Enacted, 12/19/95)

Section 12. Section 42.03.015 is hereby amended to read as follows

42.03.015 Application.

All street improvements within the jurisdiction of the City of Lake Oswego shall be governed by the provisions of LOC Article 42.03 and the provisions of Chapter ~~49~~50.

(Ord. No. 1713, Sec. 4; 12-19-78. Ord. No. 1807, Sec. 6; 9-15-81. Ord. No. 1981, Sec. 2; 2-07-89. Ord. No. 2091, Amended, 04/19/94; Ord. No. 2164, Ren&Amd, 01/20/98, 44.08.374)

Section 13. Section 42.03.110 is hereby amended to read as follows

42.03.110 Provision for widening streets.

Whenever existing streets adjacent to or within a tract are of inadequate width, the provision of additional right-of-way may be required as a condition of development permit approval pursuant to LOC ~~49.22.225~~50.79.040(1)(c).

(Ord. No. 565, Sec. 12; 5-6-78. Ord. No. 1807, Sec. 13; 9-15-81. Ord. No. 2164, Ren&Amd, 01/20/98, 44.08.510)

Section 14. Section 42.12.610 is hereby amended to read as follows

42.12.610 Permit - Required.

1. It shall be unlawful for any person, without first obtaining a permit therefor to:

a. Dig up, break into, excavate, disturb, dig under, or undermine any street for the purpose of laying or working upon any water pipe, water main, sewer, branch sewer, or pipe of any kind;

b. Make connection with, obstruct, or interfere with any public sewer or drain pipe;

c. Cut or break into any brick, clay, terra cotta, cement pipe or other sewer;

d. Connect with any sewer, except at the branches duly provided in such sewer for connection therewith;

e. Excavate or dig up a street for the purpose of laying down, installing or constructing underground conduits for electric wires or steam, or for making any connection therewith;

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

g. Do any other excavation work in a roadway.

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

2. The permit required by this section is a minor development permit and is obtained pursuant to the procedures set forth in LOC Chapter ~~49~~50.81. The standards for approval set forth in Chapter ~~49~~50.79.025 apply in addition to those set forth in this chapter.

(Ord. No. 593, Sec. 1; 10-7-58. Ord. No. 1807, Sec. 4; 9-15-81.)

Section 16. Section 45.07.025 is hereby amended to read as follows

45.07.025 Permit Expiration, Extension and Reinstatement.

1. Time Limit to Begin Construction: Every permit issued by the Building Official shall expire and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the Building Official to indicate the intent to start and complete the project. The Building Official may require the permittee to document these activities.

2. Time Limit to Complete Construction: Every permit issued by the Building Official shall expire, and become null and void 24 months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

3. Extension: Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once.

4. Exceptions:

a. At the time of permit issuance the Building Official may approve a period exceeding 24 months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within 24 months unreasonable.

b. The time periods to commence or complete construction shall be tolled:

i) If construction is subject to a final City land use decision under LOC Chapter ~~48 or 49~~50;

ii) The final land use decision is appealed to the Land Use Board of Appeals and/or the appellate courts;

iii) The applicant elects in writing not to proceed with construction pending final decision on the land use decision; and

iv) The applicant agrees in writing that the Building Official may require a modification of the approved permit at the time of construction to comply with any modifications to the Building Code that are enacted during the pendency of the land use appeal.

The time periods shall resume following final resolution of the appeal.

5. Reinstatement: Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

a. The Building Code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit.

b. No changes have been made or will be made in the original plans and specifications for such work.

c. The original permit expired less than six months from the request to reinstate.

The fee for a reinstated permit shall be one-half the amount required for a new permit.

Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required.

(Ord. No. 2135, Enacted, 10/01/96)

Section 16. Section 45.12.530 is hereby amended to read as follows

45.12.530 Building Permit Required.

Pursuant to the State Structural Specialty Code, enforced pursuant to LOC 45.09.005, a building permit is required for all buildings moved to a location within the City. The building permit required is a minor development pursuant to LOC ~~chapter 49~~50.79 and is in addition to, not in lieu of, the moving permit required by LOC 45.12.510. In addition to all requirements set forth in the building regulations, the following must also be met to the satisfaction of the City Manager before a development permit may be issued:

1. The building to be moved shall be located and used in a manner consistent with all zoning and land use ordinances of the City, together with any other applicable ordinances, laws or governmental regulations.

2. The building shall be sufficiently similar to other buildings in the immediate vicinity in size, age, architectural style and structural conditions so as to be compatible with other buildings in the area and so as not to cause property in the area to decrease in value.

3. Denial of a development permit application for failure to comply with subparagraphs (1) and (2) of this section may be appealed to the Development Review Commission, as provided or minor development, under LOC ~~Chapter 49~~50.82. In any event, the City Manager may refer the application to the Development Review Commission for a determination of compliance with subparagraphs (1) and (2).

(Ord. No. 1496, Sec. 4; 12-19-72. Ord. No. 1597, Sec. 8; 10-7-75. Ord. No. 1830, Sec. 9; 6-8-82. Ord. No. 2091, Amended, 04/19/94; Ord. No. 2135, Amended, 10/01/96)

Section 17. Section 45.15.020 is hereby amended to read as follows

45.15.020 Location and Height.

1. Fences and walls in residential zones shall not exceed four feet in height when located within ten feet of a property line abutting a public or private street or an access easement which serves more than two lots. This restriction shall not apply to properties which abut an access easement but which do not have a legal right to use the easement. The maximum height of a fence or wall located more than ten feet from a property line abutting a public or private street or an access easement which serves more than two lots shall not exceed six feet. The maximum height of a fence or wall located at a property line abutting an access easement which serves two or fewer lot shall not exceed six feet, except within ten feet of a property line abutting a public or private street, the maximum height shall not exceed four feet.

a. For purposes of determining fence height under this subsection, alleys are not considered as public streets. Fence height along alleys shall not exceed six feet.

2. Gates in a fence or wall located within ten feet of a property line abutting a public or private street or an access easement shall not exceed six feet in height.

3. Portals located within ten feet of a property line abutting a public or private street or an access easement shall not exceed eight feet in height.

4. Fences and walls in commercial and industrial zones shall not exceed eight feet in height. A fence or wall over six feet height shall be screened by an evergreen hedge which shall be of a size and spacing so as to provide a six-foot high, dense screen within three years of the date of planning. (Any fence over six feet in height requires a building permit.

5. Fences, walls, gates, and portals shall comply with the provisions of LOC ~~48.20.530~~50.22.045 (Vision Clearance).

6. Every body of water, as defined in LOC 45.15.015, shall have a barrier as required by the *State of Oregon One and Two Family Dwelling Specialty Code*.

7. The height of a fence located on top of a retaining wall shall be measured upward from the finished ground level on the higher side where there is a necessary retaining wall required for purposes other than creating a false grade.

8. Berms, when used in conjunction with fences or walls, shall be included in height determinations.

9. Exceptions from Height Limitations. The height limitations of this section do not apply to an open (80 percent open) fence enclosing part or all of a tennis court, swimming pool, playing field, park, recreation facility, public or semi-public utility structure. Such fence height shall not exceed ten feet.

(Ord. No. 2100, Enacted, 08/01/94; Ord. No. 2173, Amended, 08/04/98)

Section 18. Section 45.15.035 is hereby amended to read as follows

45.15.035 Procedures.

1. If a complaint is received by the City that the structural side of a fence faces the public, the City shall require the property owner to provide evidence to City staff of the written consent of all abutting property owners to construct the fence in such a manner and shall provide design plans showing both sides of the fence in elevation and plan. Based upon the evidence provided, staff shall determine compliance with this Section. If the property owner is unable to provide such evidence, the City shall notify the property owner(s) in writing regarding corrective action requirements. Within thirty (30) days of the date of mailing of the notice, the property owner(s) shall provide a corrective action plan subject to the approval of the City.

a. Corrective action shall require the structural side of the fence to face the owner's property or the written consent of all abutting property owners as described in 45.15.035(1) above.

2. Variances to fence height shall be processed as minor development as enabled by LOC ~~48.24.655~~50.68.020 of the ~~Zoning~~Community Development Code.

(Ord. No. 2100, Enacted, 08/01/94)

Section 19. Section 47.03.015 is hereby amended to read as follows

47.03.015 Definitions.

For the purpose of this chapter certain terms and words are defined as follows: the words "used for" include "designed for" and vice-versa; words used in the present tense include the future, the singular tense include the plural and vice-versa; the word "shall" is always mandatory; the word "may" is discretionary; the masculine gender includes the feminine gender, except as otherwise provided. The definitions in LOC 50.02.005~~48.02.015, and 49.16.015~~ apply to this

chapter to the extent that they do not conflict. The following terms shall mean:

Abandoned Sign. A sign associated with the use of a property which has ceased for a period of at least six months.

Accessory Signs. Signage which is an integral part of outdoor accessory or display structures or uses allowed by City code.

Alter. Any change to a sign excluding change of copy or maintenance - when there is no change of use, or occupancy or ownership.

Architectural Detail. Elements of building design commonly used in Lake Oswego building styles, including the Arts and Crafts, English Tudor and the Oregon Rustic Styles. (See photos and descriptions in Lake Oswego ~~Development Standards (LODS) Chapter 23~~Community Development Code, LOC 50.65 (Downtown Redevelopment District Design Standards), Appendix ~~C~~50.65-A).

Awning. A shelter supported entirely from the exterior wall of a building and composed of nonrigid materials except for supporting framework.

Backlighting, "backlighted", and "backlit". Includes cabinet signs, "Channelhume" (plastic lighted letters), neon lighted letters, and individual letters on awnings and canopies.

Balloon Signs. A sign consisting of a membrane that relies on internal gaseous pressure or a semirigid framework for maintaining its form.

Banners. Nonrigid material secured or mounted so as to allow movement caused by the wind.

Blade Sign. A sign hung from a canopy or awning perpendicular to the direction of pedestrian movement.

Canopy. A nonmovable roof-like structure attached to a building.

Change of Copy. The change of logo and/or message upon the face or faces of a legal sign.

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

Complex Sign. A sign which is located at a street intersection or principle access to a multi-building complex.

Cornice. The horizontal element in the elevation of a building demarcating the difference between the pedestrian oriented level on street (characterized by entrances, shops, service space, loading areas and lobbies) and office/residential use on levels above.

Erect. To build, construct, attach, place, suspend, or affix, including the painting of a wall sign.

Facing or Surface. The surface of a sign upon, against, or through which the message is displayed or illustrated.

Free Standing Sign. Any ground mounted, pole or monument sign supported by one or more uprights or braces placed upon the ground, and not attached to any building.

Frontage Business. A business that has building wall exposure to a street or area open to public travel. Frontage may include streets, alleys, driveways, easements, or parking aisles.

Indirectly Lighted Sign. A sign with a source of illumination which is intended to light the sign, but which is not attached to the sign, its trim or support. Interior or exterior lighting which incidentally illuminates the sign is not considered indirect lighting.

Industrial Zones. Industrial Zones shall mean the I and IP zones as described and established by the Lake Oswego ~~Zoning~~Community Development Code.

Maintenance. The replacing or repairing of a part or portion of a sign made unusable by

ordinary wear, or damaged beyond the control of the owner or the replacing of existing copy without changing the composition or color of the copy.

Monument Sign. A sign which is affixed to a base which is no more than 30 inches above the nearest ground surface.

Non-conforming Sign. Non-conforming signs are those signs which were lawfully installed which do not comply with the requirements of this sign code.

Overhanging Sign. A sign which is attached perpendicular to a building wall and hangs out over the public right-of-way or any private area subject to pedestrian travel.

Pennants. Strings of small flags.

Permanent Sign. Any legally placed sign which is intended to be and is so constructed as to be of a lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear) and position, and in a permanent manner affixed to the ground, wall or building.

Pole Sign. A free standing sign erected on one or more supports which are more than 30 inches above the adjacent ground surface.

Portable Sign. A temporary sign which is capable of being moved easily and is not permanently affixed to the ground or a structure.

Public Sign. A sign erected and maintained by a public agency within the right-of-way of a street or alley.

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

Roof Line. The ridge on a gable or peaked roof, the parapet or fascia of a flat roof. A mansard roof is considered as a gable roof for the purpose of this definition.

Roof Sign. Any sign erected upon or over the roof of any building with the principal sign support on the roof structure.

Sign. A device, structure, or fixture which incorporates graphics, symbols, or written copy visible to the public, including those devices, structures or fixtures which are behind windows or building openings, which are intended to communicate information. Graphics, art work and seasonal decorations which do not relate to the use of a site or structure are not considered signs.

Sign Band. A continuous painted, attached or structurally internal linear area for the placement of signs extending along one or more sides of a structure located between the windows and the parapet on a one story building with a flat roof and at or below the fascia on a one story building with a pitched roof. On a multistory building it shall be located above the windows and below the second story line.

Sign Height. The vertical distance from the lowest point of the adjacent grade below the sign to the highest part of the sign.

Temporary Sign. Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other like materials, with or without frames, and any other type sign not permanently attached to the ground, or a structure, intended to be displayed for a short period of time only.

Wall Sign. A sign attached to, erected against or painted on a wall of a structure, with the exposed face of the sign projecting twelve (12) inches or less, with the exception of awnings and canopies which may project more than twelve (12) inches. Sign bands are not wall signs. Window signs that are permanently attached to the outside of a window are wall signs.

Wind Sign. Signage which is an integral part of a device intended to more or operate by the action of the wind such as a wind sock or pin wheel.

(Ord. No. 1921, Sec. 3; 07-02-85. Ord. No. 2085, Enacted, 01/04/94)

Section 20. Section 47.04.100 is hereby amended to read as follows

47.04.100 Non-Conforming Signs in all zones, except in the EC Zones.

1. A non-conforming sign in all zones other than the EC zone as described and established by the Lake Oswego ~~Zoning~~Community Development Code may be maintained or undergo a change of copy without complying with the requirements of this chapter, with the exception that any change for a new business or use or any changes in a wall sign which is painted on a structure will comply with this chapter at such time as change in copy or alteration occurs.

2. All non-conforming signs are required to meet the provisions of this chapter at such time as the sign is altered, as defined by LOC 47.03.015.

3. Signs installed in violation of any prior Sign Code or applicable laws or regulations, and which are in violation of this chapter, shall be removed, replaced or altered in order to conform to the requirements of this chapter.

4. Signs recognized as an historical element of a historical landmark are exempt from this chapter.

5. All non-conforming signs shall be altered to conform to the requirements of this chapter by May 21, 2004.

6. A sign for which a variance is granted under the provisions of this chapter is not considered non-conforming.

(Ord. No. 1398, Sec. 1; 09-15-70. Ord. No. 1921, Sec. 5; 07-02-85. Ord. No. 2085, Enacted, 01/04/94)

Section 21. Section 47.04.102 is hereby amended to read as follows

47.04.102 Non-Conforming and Unlawful Signs in EC Zone Only.

In the EC zone, as defined and established by the Lake Oswego ~~Zoning~~Community Development Code:

1. Non-conforming signs may continue in use subject to the restrictions in this subsection, but shall be brought into compliance with LOC 47.10.412 by May 21, 2004.

A. A non-conforming sign shall not be:

(1) Modified, unless the modification brings the sign into compliance with this Chapter. A change of copy is allowed, except that any change in a wall sign which is painted on a structure shall comply with LOC 47.10.412.

(2) Expanded.

(3) Relocated.

B. A non-conforming sign may undergo normal maintenance, except:

(1) "Normal maintenance" excludes major structure repairs designed to extend the useful life of the non-conforming sign.

(2) If a non-conforming sign is damaged by wind, fire, neglect or by any other cause, and such damage exceeds 60% of its replacement value, the non-conforming sign shall be removed.

C. Upon change of use of a business or premise, a non-conforming sign shall be brought into compliance with LOC 47.10.412 within one-hundred-eighty (180) days.

2. Unlawful Signs: A sign is an unlawful sign if it does not conform to the provisions of LOC 47.10.412, and did not conform to any Sign Code applicable on the date of installation. An unlawful sign shall be removed or made to conform within 60 days after written notice from the Department of Planning. Said 60 day period may be extended if the owner of an unlawful sign submits to the Planning Department a declaration signed under penalty of perjury, on form provided by the Department, stating that he/she intends to terminate the business identified by said sign within twelve (12) months of the date of the notice and agrees to remove the sign upon the expiration of the twelve-month period or the date he/she terminates his/her business, whichever occurs first.

Section 22. Section 47.06.205 is hereby amended to read as follows

47.06.205 Permanent Signs Exempt From Permit and Fee.

The following signs shall comply with all provisions and regulations of this chapter; However, no fee, permit or application is required.

1. One sign not exceeding one square foot in area erected on any building within the City.
2. One non-illuminated sign not exceeding two square feet in area placed on any occupied residential lot.
3. Incidental signs not exceeding six square feet in area shall be allowed on any parcel that a Multiple Dwelling (as defined by the Lake Oswego ~~Zoning~~Community Development Code) is constructed, in the industrial, or commercial zone, except in the EC zone. Incidental signs not exceeding one square foot, with the aggregate areas of less than four square feet, shall be allowed in the EC zone. A freestanding sign may not exceed 60 inches in height. An incidental wall sign may not exceed eight feet in height above grade.
4. Public signs, signs for hospital or emergency services, legal notices, railroad signs, and danger signs.
5. Signs or tablets (including names of buildings, and the date of erection) when cut into any masonry surface, or constructed of bronze or other noncombustible surface not to exceed eight square feet in area.
6. Athletic Field Signs. Rigid signs located on the outfield fence of athletic fields may be installed. Each individual sign shall be no more than 32 square feet in area. There shall be no more than 32 square feet of area for any 8 linear feet of fence. The maximum height shall not exceed 8 feet above grade. The signs shall be placed so as to be visible from the interior of the field and/or viewing stands. One sign located at one end of the field visible to spectators shall have a maximum height of 15 feet above grade and shall be a maximum of 64 square feet.
7. Accessory signs within a commercial or industrial zone which are permanent and an internal part of permitted outdoor accessory or display structures such as soft drink machines, fuel pumps, and newspaper dispensers.
8. Flags displayed from permanently located freestanding or wall-mounted flagpoles which are designed to allow raising and lowering of flags. The number of such flagpoles shall be limited in number to one per site and the maximum height shall be 30 feet.
9. Signs erected within a building which do not obstruct more than 25 percent in a commercial or industrial zone or more than 10 percent in any residential zone of any individual window surface shall be allowed. No such signs shall exceed the maximum square footage as set forth in LOC 47.06.205(3).
10. "No solicitation" sign as permitted pursuant to LOC 34.16.945.

(Ord. No. 2085, Enacted, 01/04/94)

Section 23. Section 47.08.300 is hereby amended to read as follows

47.08.300 Temporary Signs Exempt From Permit and Fee.

The following signs shall comply with all provisions and regulations of this chapter; however, no fee, permit or application is required. Temporary signs are prohibited signs except as provided by this section.

A. Generally.

1. Illumination: No temporary sign shall be internally or externally illuminated.
2. Location:

a. No temporary sign shall extend into or over the public right-of-way of any street.

b. Signs allowed in the right-of-way for temporary traffic control shall provide a minimum of 5 feet of clear passage for pedestrians on the sidewalk where a sidewalk exists and shall come no closer than 2 feet from areas subject to vehicular travel.

c. No temporary sign shall extend into the vision clearance area.

3. Maintenance: Temporary signs shall be kept neat, clean and in good repair. Signs which are faded, torn, damaged or otherwise unsightly or in a state of disrepair shall be immediately repaired or removed.

4. Placement: Except as provided by this section, temporary signs shall not be attached to trees, shrubbery, utility poles, or traffic control signs or devices. They shall not obstruct or obscure primary signs on adjacent premises.

5. Sign Collection and Retrieval:

a. The City may collect temporary signs placed in the public right of way without a permit.

b. Each sign collected will be stored for a minimum of 30 days.

c. Notice will be mailed within 3 business days of the date of collection to the owner of each sign if the ownership is reasonably discernible from the sign or as previously filed by the owner of the sign with the City Maintenance Department.

d. The owner of a sign may retrieve a sign collected by the City within 30 days of the collection date. The owner must present proof of ownership of the sign and pay a sign retrieval fee in an amount established by resolution of the City Council.

e. The owner of a sign may request a hearing before a Hearing Examiner to contest the sign removal. The City Manager shall designate the Hearings Examiner. To request a hearing, the owner of a sign must file an application for a hearing and pay a hearing fee in an amount established by resolution of the City Council within 15 days of the date of mailing of the notice as provided in subsection (c) above. The hearing fee and the sign retrieval fee are refunded if the Hearing Examiner finds that the sign was removed improperly. At the hearing, testimony and evidence begins with the City, followed by the owner, and concludes with rebuttal by the City. After the evidence has been provided, the Hearing Examiner will close testimony and issue a written decision that states the facts of the case and the conclusions of the decision.

f. Final Decision. The decision of the Hearing Examiner shall be the final decision of the City.

B. Allowed Signage.

1. In any residential zone temporary signage shall be allowed for each and every lot. This signage shall not be restricted by content, but is usually and customarily used to advertise

real estate sales, political or ideological positions, garage sales, home construction or remodeling, etc. Signage shall be allowed for each lot as follows:

a. Temporary signs not exceeding six square feet, provided the signs are erected not more than 90 days prior to an election and removed within five days following the election.

b. One temporary sign not exceeding six square feet provided the sign is removed within fifteen days from the sale, lease or rental of the property or within seven days of completion of any construction or remodeling. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously. On tracts of land of more than 2 acres in residential zones the sign area may be increased to 32 square feet. In no case shall the sign or signs be erected for more than twelve (12) months.

c. One temporary sign not exceeding four square feet in area which is erected for a maximum of eight days in any calendar month and is removed by sunset on any day it is erected.

d. Temporary signs erected within a building which do not obstruct more than 10 percent of any individual window surface.

2. In any commercial or industrial zone temporary signage shall be allowed for each and every lot. This signage shall not be restricted by content, but is usually and customarily used to advertise real estate signs, political or ideological positions, construction or remodeling, etc. The signage shall be allowed for each lot as follows:

a. Temporary signs not exceeding six square feet, provided the signs are erected not more than 90 days prior to an election and removed within five days following the election.

b. Temporary sign not exceeding 32 square feet provided said signs are removed within fifteen days from the sale, lease or rental of the property or within seven days of completion of any construction or remodeling. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously.

c. Temporary non-illuminated signs not exceeding 16 square feet for charitable fund-raising events placed by nonprofit and charitable organizations. Such signs shall not be placed more than seven days prior to the event and must be removed within two days following the event. No more than three such events shall be advertised in this manner per lot per year.

d. Temporary signs not exceeding 16 square feet in area erected in association with the temporary uses allowed by LOC ~~48.20.510~~50.14.010, including Christmas tree sales, pushcart vendors, Saturday market and sidewalk sales. These provisions shall also apply to fireworks sales authorized by LOC Chapter 15 (Fire Protection). The signage shall be allowed for the same duration as the temporary use.

e. Temporary signs erected within a building which do not obstruct more than 25 percent of any individual window surface.

(Ord. No. 2085, Enacted, 01/04/94)

Section 24. Section 47.10.400 is hereby amended to read as follows

47.10.400 Signs Requiring Permit.

1. It is unlawful and a civil violation for any person to erect, construct, alter or relocate any sign without first obtaining a permit pursuant to the provisions of this chapter unless a provision of this chapter specifically exempts a sign from the permit requirement.

2. It is unlawful and a civil violation for any person to construct a sign that is not specifically allowed by this chapter or to erect, construct, maintain or allow to exist a sign in violation of the terms of the permit issued pursuant to this chapter.

3. The permit required by this section is a minor development permit. The permit is obtained pursuant to the provisions of LOC Chapter ~~49~~50 (Community Development Code) except as those provisions are modified by this chapter. In determining whether the criteria for approval for permit issuance are satisfied the deciding authority shall use the criteria set forth in Subsection 4 of this section and not the criteria set forth in LOC ~~49.20.110~~50.79.020. For an application which is not part of a major development a decision is to be made within 14 days of receipt of a complete application.

4. An application for a sign permit shall include:

A. A completed Sign Permit Application form and fee

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

Existing Structures
Driveways
Street and Right-of-Way
Existing Signs
Proposed Sign
Vision Clearance (LOC ~~48.20.530~~50.21.005)
All Incidental Signs

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

Height
Width
Square Footage
Thickness
Size and style of letters
Color
Type of illumination
Materials

(Ord. No. 789, Secs. 2, 24-31; 12-05-61. Ord. No. 940, Sec. 1; 07-16-63. Ord. No. 1100, Sec. 1; 03-06-66. Ord. No. 1147, Sec. 1; 12-13-60. Ord. No. 1921, Sec. 13; 07-02-85. Ord. No. 2085, Enacted,
01-04-94)

Section 25. Section 47.10.412 is hereby amended to read as follows

47.10.412 Permanent Signage Requiring Permit Allowed in the EC Zone

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

1. Permitted Signs.

A. Blade Signs.

Blade signs may be hung below roof overhangs, canopies or awnings over public or private pedestrian ways. Such signs shall be uniform in size and placement in relationship to such signs on adjacent buildings, but in no case shall they be larger than 10 inches in height or six feet in length. Lettering shall not exceed six inches in height. Signs shall have a white sign board with dark green, black, dark brown or gold leaf lettering or may be of routed wood.

B. Cornice Signs.

Signs of up to 32 square feet in size may be erected on a building within a 2-foot high signage area above the first floor windows and below the retail cornice. Lettering shall not exceed 14 inches in height.

C. Signs Above the First Floor Cornice.

One sign per building may be located above the first floor cornice level if:

(1) The sign is composed of individual letters affixed to or molded or carved into the surface material of the building, does not exceed 24 square feet in area, and the lettering does not exceed 14 inches in height; or

(2) The sign projects over the pedestrian way, does not exceed 16 square feet in area, and is designed to fit within a 4 foot x 4 foot square.

D. Awning Signs.

A sign consisting of a single row of white or black letters or graphics up to six inches in height shall be allowed on an awning. In addition, a sign 18 inch x 18 inch or smaller graphic symbol or logo shall be allowed on an awning.

E. Window Signs.

Signs painted on the glass surface of a window shall be allowed as long as total sign area does not exceed 4 square feet and white or gold lettering is used. More than one such sign is allowed per window as long as the 4 square foot area restriction is not exceeded.

2. Lighting.

A. All signs except for blade signs may be unlit, indirectly lit, or backlit. Awnings and canopy signs shall only backlight individual letters or graphics. The entire canopy shall not be backlighted.

B. Blade signs shall be unlighted or indirectly lighted.

3. Sensitivity to Architectural Detail Required.

Notwithstanding the above provisions or the provisions of this Sign Code, no sign shall be erected in a manner that obscures architectural detail.

4. Modification of Certain Sign Restrictions.

In order to encourage a variety of attractive signs and provide flexibility for property owners, if an applicant elects not to site a cornice sign under subsection (1)(B) of this section, he or she may increase the size of a sign approved pursuant to subsections (1)(D) (awning signs) or (E) (window signs) to the maximum square footage and letter size allowed for cornice signs pursuant to subsection (1)(B) and shall not be subject to any color restrictions otherwise applicable. If an applicant received approval for an window or awning sign under this subsection, he or she may not thereafter receive approval to site a cornice sign unless the window sign or awning sign is first brought into compliance with subsection (1)(D) or (E) of this section.

5. Sign Maintenance.

A. All signs, together with all their supports, braces, guys and anchors shall be kept in good repair and be maintained in a safe, neat, clean and attractive condition. Signs shall be kept free of rust, corrosion, peeling paint, cracks, fading and other surface deterioration.

B. Illuminated signs shall function properly.

C. Any sign structure or supports that are no longer used shall be removed.

D. Sign Structures shall only be used to support signs. They may not be used to support electrical, telephone, cable or other utility wiring. Exception, collocated telecommunications facilities that meet the requirements of the ~~Zoning~~ Community Development Code may be located on an existing sign.

6. Exempt Signs.

The following signs are exempt from the provisions of this section.

A. Interior signs that are not readily visible from any exterior public right-of-way or area open to the public.

B. Interior signs that are located within fifteen feet (15') of the business frontage and are visible from any exterior public right-of-way or from any area open to the public that contain lettering of on inch (1") or less in height; and similarly visible interior signs located beyond fifteen feet (15') of the business frontage that contain lettering three inches (3") or less in height. Exception: If the combined amount of all visible interior sign faces exceeds ten (10) square feet, such signs shall be considered "window signs" subject to LOC 47.10.412(1)(E).

C. A sign that is recognized historic element of an historic landmark.

D. A sign erected by a public agency.

7. Exception to the Requirements of this Sections.

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

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

B. A request for exception under this provision may be processed as part of the underlying application or separately as a major development pursuant to LOC Chapter ~~49~~50.79.030.

Section 26. Section 47.12.500 is hereby amended to read as follows

47.12.500 Variances.

1. All sign variances shall follow the same procedure as a Class ~~I~~1 variance to the Community Development Code and shall be regulated pursuant to the procedural provisions of LOC ~~49.28.400(2)~~50.68.020.

2. The granting authority may approve a variance to any requirement of this chapter if the applicant demonstrates that:

A. Strict application of the code requirement would deny the applicant a reasonable opportunity to communicate by sign in a manner similar to like persons or uses because of an unusual or unique circumstance relating to the property or the proposal, such as site or building location, building design, physical features on the property, or some other circumstance;

B. The sign which would result from the variance will not affect the surrounding neighborhood or other property affected by the request in a manner materially inconsistent with the purpose of the Sign Code expressed in LOC 47.03.010; and

C. The degree of the variance is limited to that reasonably necessary to alleviate the problem created by the unique or unusual circumstance identified pursuant to subsection 2(A) of this section.

(Ord. No. 789, Sec. 21; 12-05-61. Ord. No. 1921, Sec. 19; 07-02-85. Ord. No. 2085, Enacted, 01/04/94)

Section 27. Section 52.02.040 is hereby amended to read as follows

52.02.040 Erosion Control Permit Required.

An erosion control permit approved by the City Manager shall be required prior to

conducting the following activities on a property or site:

1. Activities including, but not limited to: construction, landscaping, removal of vegetation, stockpiling of soil or construction debris, grading, filling, excavating, trenching, drilling, transport of fill, utility work, etc. that disturb 500 square foot or more of land surface area.

2. Activities as described in subsection 1 or this subsection that disturb less than 500 square feet of land surface and are within 50 feet of any pond, lake, river, stream corridor, canal, or wetland.

3. Exemptions: Landscaping activities in conjunction with a single family residence shall be exempt from compliance with this Chapter. For purposes of this Subsection, "landscaping activities" means the installation or removal of vegetation and minor landscaping features. It does not include installation or removal of more than 50 cubic yards of fill, or installation of large site features like parking pads, swimming pools or structures as defined in LOC Chapter ~~49~~50, which are not exempt if the activity involved would otherwise require an erosion control permit under this Section.

(Ord. No. 2132, Enacted, 07/02/96)

Section 28. Section 55.02.035 is hereby amended to read as follows

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

1. If a Major or Minor Development Permit applied for pursuant to LOC Chapter ~~49~~50.79 would require or result in tree removal and/or a tree cutting permit as defined in this Chapter, compliance with LOC 55.02.080 shall be a criterion of approval of such development permit. Tree removals in conjunction with a Major or Minor Development Permit shall be considered in conjunction with such permit and shall be subject to the application, notice, hearing and appeal procedures applicable to the proposed Major or Minor Development pursuant to LOC Chapter ~~49~~50.82 and 50.84. The required Notice for Major or Minor Developments that would require or result in tree removals shall include a site plan indicating the location of any trees proposed for removal on the subject site. The proposed trees shall also be flagged with yellow flagging tape on site. Such flagging shall be maintained until a final decision on the proposal is rendered. The remaining, notice, hearing and appeal procedures in Chapter 55 shall not apply to tree removals considered in conjunction with a Major or Minor Development request. Subsequent tree removals that have not been reviewed through either Major or Minor Development procedures shall be reviewed as provided in this Chapter.

2. Once a final decision has been rendered on the Major or Minor Development Permit, trees that have been approved for removal as part of that decision shall be subject to the verification permit process. Applications for verifications shall be made on the application forms as prescribed by the City Manager and be accompanied by an application fee as established by resolution of the City Council. The purpose of the verification process is to ensure that the trees approved for removal are properly identified for removal in the field and that the trees that were not approved for removal are not inadvertently removed. Removal of trees in violation of such land use approval will be considered a violation of this Chapter. The criteria contained in LOC 55.02.080 shall not apply to verification applications for tree cutting permits.

3. If a tree proposed to be removed has been specifically required to be preserved or protected as a condition of approval of a land use action pursuant to the Lake Oswego ~~Zoning or~~ Community Development Code, the tree removal application shall be processed as a modification to that land use action and shall be reviewed subject to the criteria of LOC

55.02.080 by the body responsible for reviewing such land use actions. Such modification procedure shall not be required in cases of an emergency as provided in LOC 55.02.042(3), or when the tree is dead as provided in LOC 55.02.080(1) or is a hazard as provided in LOC 55.02.080(2).

(Ord. No. 2097, Enacted, 12-20-94)

Section 29. Section 55.02.042 is hereby amended to read as follows

55.02.042 Permit Classifications and Review Procedures.

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

1. TYPE I PERMIT is required for:

a. A property that is located in a residential zone and is occupied by a single family dwelling;

b. Removal of up to two trees, 10 inch caliper or less per tree at DBH within a calendar year; and

c. A tree that is not:

i. Protected by a condition of approval of a development permit pursuant to the Lake Oswego ~~Zoning or~~ Community Development Codes~~;~~

ii. Located within an area or parcel that has been placed on the Historic Landmark Designation List pursuant to LOC Chapter 58;

iii. A Heritage Tree per LOC 55.06;

iv. Located within an RC or RP sensitive land overlay district;

v. Located within the Willamette River Greenway (WRG) overlay district;

vi. Located within the 25 foot Oswego Lake Special Setback;

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

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

2. TYPE II PERMIT:

a. A Type II permit is required prior to any tree removal application that does not qualify in issuance as a Type I permit, Dead Tree Removal Permit, Hazard Tree Removal Permit, Emergency Permit, Verification Permit, or Topping Permit as described in this section.

b. Type II permits shall be reviewed and approved by the City Manager pursuant to LOC 55.02.080 (Approval Criteria) and 55.02.082 (Notice Requirements).

3. DEAD TREE REMOVAL PERMIT:

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

b. In order to provide for wildlife habitat and natural processes, the City Manager may require the retention of a dead tree. Dead trees shall not be removed if located in wetlands, RC Protection Areas (LOC ~~48.17.205~~50.16.055), stream corridors, parks or open space areas required to be preserved as a condition of development approval, unless the tree presents a potential hazard to persons or property.

4. HAZARD TREE REMOVAL PERMIT: The City shall issue a tree cutting permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.

a. A hazard tree is a tree that is cracked, split, leaning or physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within a public right of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

b. The City may require the applicant to submit an arborist's report confirming the hazard potential of the tree along with an analysis of alternative methods to alleviate the hazard without removal, and submit a completed hazard evaluation form as provided by the City.

5. EMERGENCY PERMIT:

a. If the condition of a tree presents an immediate danger of collapse, and represents a clear and present hazard to persons or property, an emergency tree cutting permit may be issued and the payment of a fee may be waived. For the purposes of this subsection, "immediate danger of collapse" means that the tree is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree cutting permit could be obtained through the non-emergency process. "Immediate danger of collapse" does not include hazardous conditions that can be alleviated by pruning or treatment.

b. Emergency tree cutting permits must be approved by the City Manager. If an emergency situation arises at a time when the City Manager is unavailable, and such emergency creates a significant likelihood that the tree will topple or otherwise fail before such official becomes available, the owner of the tree shall, if practical and reasonable, first notify the City Tree Hotline phone number and state the address where the tree is being removed, the company performing the removal, along with the property owner's name, address, and telephone number. The owner shall photograph the tree showing emergency conditions and then may proceed with removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days of such removal, the owner of the tree shall apply for a retroactive emergency tree cutting permit and shall submit with the application, evidence to demonstrate the emergency nature of the tree.

c. The city may require the application to hire an arborist to review the evidence to ascertain whether the tree presented an immediate danger of collapse. The person or entity performing the removal shall not be eligible to provide this review. If the evidence shows that the tree did not satisfy the emergency tree removal standards set forth in this chapter, the application shall be denied and the owner of the tree shall be subject to penalties pursuant to LOC 55.02.130 and the mitigation requirements of LOC 55.02.084.

6. VERIFICATION PERMIT:

a. If a site has received development approval through a Major or Minor Development Process, then a Verification Permit shall be issued for those trees approved for removal through that process. To obtain a verification permit, an applicant must clearly identify in the field the trees to be removed by tying yellow tagging tape around each tree and submitting a site plan indicating the location of the requested trees. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application. The City Manager will then verify that the requested trees match the site plan approved through the Major or Minor Development Process. The City shall require the applicant to mitigate for the removal of each tree pursuant to LOC 55.02.084. Such mitigation requirements shall be a condition of approval of the original development permit.

b. Any tree not approved for removal through the original Major or Minor Development

review process shall not be approved as part of the verification permit process, unless the subject tree is located within an approved building footprint, public/private utility or improvement area, and no feasible alternative exists to preserve the tree. In such cases, the City may allow the tree to be removed without a Type II tree cutting permit process; however, the mitigation requirements of LOC 55.02.084 shall still apply.

c. Verification permits shall be issued upon application and demonstration by the applicant that the request complies with this section. Verification permits shall not be issued prior to the issuance of a building permit for the subject property without prior authorization by the City Manager.

7. TOPPING PERMIT:

a. A topping permit may be issued only if the following apply:

i. A utility, public agency, or other person who routinely tops trees in furtherance of public safety, may apply for a topping permit pursuant to this section based upon an arborist or forester report establishing a methodology for topping in compliance with this subsection.

ii. Trees under utility wires may be topped only where other pruning practices are impractical.

b. The City, in granting approval for tree removal in an open space or undeveloped area, may allow a tree to be topped to a designated height in order to maintain a "snag" for wildlife habitat.

c. A tree cutting permit obtained for tree removal shall not authorize topping unless said tree cutting permit specifically authorizes such action.

(Ord. No. 2097, Enacted, 12/20/94)

Section 30. Section 55.02.130 is hereby amended to read as follows

55.02.130 Penalties.

1. Civil Violation. A violation of any provision of this chapter, or the breach of any condition of a permit granted under this chapter shall be a civil violation as defined by LOC 34.04.105, enforceable pursuant to LOC Article 34.04. The unlawful removal of each individual tree shall be a separate offense hereunder. Failure to comply with the provisions of this chapter or a condition of approval shall be a separate offense each day the failure to comply continues. The violation shall be punishable by a fine set forth by the municipal court and the enforcement fee and restoration requirements as set forth in LOC 55.02.130(3) and (4).

2. Nuisance Abatement. The removal of a tree in violation of this chapter is hereby declared to be a public nuisance, and may be abated by appropriate proceedings pursuant to LOC Article 34.08.

3. Enforcement Fee. A person who removes a tree without first obtaining a tree cutting permit form the City pursuant to this Chapter, removes a tree in violation of an approved tree cutting permit, or violates a condition of an approved tree cutting permit shall pay an enforcement fee to the City in an amount as established by resolution of the City Council.

4. Restoration.

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

resolution of the City Council.

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

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

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

iii. The tree removed was any of the following:

(a) 36 caliper inches in diameter or greater,

(b) a heritage tree, per LOC 55.06,

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

(d) located within the Willamette River Greenway per LOC ~~48.16~~50.15,

(e) part of a Resource Conservation (RC) or Resource Protection (RP) area, per LOC ~~48.17~~50.16,

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

5. Injunction. Upon request of the City Manager or direction from Council, the City Attorney may institute appropriate action in any court to enjoin the removal of trees in violation of this chapter.

6. Loss of City Privileges.

a. A person hired to perform tree removal within the City, upon request shall provide evidence to the City Manager that he or she possess a valid license to conduct business in Lake Oswego. The person is subject to business license revocation pursuant to LOC 20.02.085 if the person violates any provision of this Chapter.

b. Any arborist, builder, landscaper, contractor, or tree service that has performed any tree removal in violation of this chapter or submitted a falsified report for the criteria required in this chapter, shall not be considered a responsible bidder for any City contracts for a period of two years from the date of violation or report.

7. Arborist Report and Required Treatment. Upon request by the City, a person who violates any provision of this chapter shall submit a report prepared by an arborist to evaluate the damage to a tree and/or make recommendations to remedy the violation. The City upon evaluating these recommendations may, at the City's discretion, require that the recommended measures be implemented.

8. Cumulative Remedies. The rights, remedies, and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 1880, Sec. 1; 02-07-84. Ord. No. 2059, Sec. 1, 06-16-92. Ord. No. 2097, Amended, 12-0-94.)

Section 31. Section 57.02.005 is hereby amended to read as follows

57.02.005 Definitions.

For the purposes of this chapter the following terms and words are defined as follows:

City Manager. The person holding the position of City Manager or any officer or employee of the City of Lake Oswego.

Crown Cover. The area within the drip line or perimeter of the foliage of a tree.

Development. Any partition, subdivision or planned development for which a development permit is required pursuant to LOC Chapter ~~49~~50.

Exempt tree or vegetation. The full height and breadth of vegetation that the City Manager has identified as "solar friendly" and listed in the "Solar Friendly Trees Report" dated April, 1987 as that report may be amended from time to time; and any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.

Front lot line. A lot line abutting a street. For corner lots the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the lot line that is most parallel to and closest to the street, excluding the pole portion of the flag lot.

Hearing Body. The Lake Oswego Development Review Commission, Planning Commission or City Council, or in the case of a permit request which is considered a minor development pursuant to LOC Chapter ~~49~~50, the City Manager.

Non-exempt tree or vegetation. Vegetation that is not exempt.

Northern lot line. The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two lot lines have an identical angle relative to a line drawn east-west, then the northern lot line shall be a line 10' in length within the lot parallel with and at a maximum distance from the front lot line.

North-south dimension. The length of a line beginning at the midpoint of the northern lot line and extending a southerly direction perpendicular to the northern lot line until it reaches a property boundary.

Protected solar building line. A line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or non-exempt trees.

Shade. A shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3°, and an azimuth ranging from 22.7° east and west of true south.

Shade point. The part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3°, and an azimuth ranging from 22.7° east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of three feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If the shade point is located at the north end of a ridgeline of a structure oriented within 45° of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by three feet. If a structure has a roof oriented within 45° of a true east-west line with a pitch that is flatter than 5 feet (vertical) in 12 feet (horizontal) the shade point will be the eave of the roof. If such a roof has a pitch that is 5 feet in 12 feet or steeper, the shade point will be the peak of the

roof.

Shade reduction line. A line drawn parallel to the northern lot line that intersects the shade point.

Shadow pattern. A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3° and an azimuth ranging between 22.7° east and west of true south.

Solar access height limit. A series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit.

Solar access permit. A document issued by the City that describes the maximum height that non-exempt vegetation is allowed to grow on lots to which a solar access permit applies.

Solar feature. A device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window that contains at least 20 square feet of glazing oriented within 45° east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this chapter.

Solar gain line. A line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot.

South or South facing. True south, which is 20° east of magnetic south.

Sunchart. One or more photographs that plot the position of the sun between 10:30 a.m. and 1:30 p.m. on January 21. The sunchart shall show the southern skyline through a transparent grid on which is imposed solar altitude for a 45-degree and 30 minute northern latitude in 10-degree increments and solar azimuth from true south in 15-degree increments.

Undevelopable area. An area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding 20% in a direction greater than 45° east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

(Ord. No. 1974, Sec. 1; 10-18-88. Ord. No. 2091, Amended, 04/19/94)

Section 32. Section 57.04.025 is hereby amended to read as follows

57.04.025 Exemptions from Design Standard.

A development is exempt from the requirements of LOC 57.04.020 if the hearing body finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from LOC 57.04.020 to the extent the hearing body finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with LOC 57.04.020.

1. Slopes. The site, or a portion of the site for which the exemption is sought, is sloped 20%

or more in a direction greater than 45° east or west of true south, based on a topographic survey by a licensed professional land surveyor.

2. Off-site Shade. The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as but not limited to structures, topography, or non-exempt vegetation, which will remain after development occurs on the site from which the shade is originating.

a. Shade from an existing or approved off-site dwelling in a single family residential zone and from topographic features is assumed to remain after development of the site.

b. Shade from an off-site structure in a zone other than a single family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.

c. Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; or they are part of a developed area, public park, or legally reserved open space; or they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to a development permit issued pursuant to LOC Chapter ~~49~~50.

d. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable development permits have been approved on the date a complete application for the development is filed.

3. On-site Shade. The site, or a portion of the site for which the exemption is requested, is:

a. Within the shadow pattern of on-site features such as, but not limited to structures and topography which will remain after the development occurs; or

b. Contains non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured four feet above the ground which have a crown cover over at least 80% of the site or relevant portion. The applicant can show such crown cover exits using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50% of the trees that cause the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant to comply with this requirement. The City shall be made a party of any covenant or restriction created to enforce any provision of this chapter. The covenant or restriction shall not be amended without written City approval.

(Ord. No. 1974, Sec. 1; 10-18-88.)

Section 33. Section 57.04.030 is hereby amended to read as follows

57.04.030 Adjustments to Design Standard.

The hearing body shall reduce the percentage of lots that must comply with LOC 57.04.020 to the minimum extent necessary if it finds the applicant has shown one or more of the following site characteristics apply:

1. Density and cost. If the design standard in LOC 57.04.020 is applied, either the resulting density is less than that proposed, or on-site development costs (e.g. grading, water, storm drainage and sanitary systems and roads) and solar related off-site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with LOC 57.04.020 would reduce density or increase per lot costs in this matter. The applicant shall show which if

any of these or other similar site characteristics apply in an application for a development.

a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10% or more and is oriented greater than 45° east or west of true south based on a topographic survey of the site by a professional land surveyor.

b. There is a significant natural feature on the site, identified as such in the comprehensive plan or development standard, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.

c. Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards, future streets plan, or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.

d. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

2. Development Amenities. If the design standard in LOC 57.04.020 applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s),comply with LOC 57.04.020 is relevant to whether a significant development amenity is lost or impaired.

3. Existing Shade. Non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground have a crown cover over at least 80% of the lot and at least 50% of the crown cover will remain after development of the lot. The applicant can show such crown cover exists using a scaled survey of non-exempt trees on the site or using an aerial photograph.

a. Shade from non-exempt trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to LOC Ch. ~~49~~50; and they do not need to be removed for a driveway or other development.

b. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files in the office of the County Recorder a covenant binding the applicant to retain the trees causing the shade on the affected lots.

(Ord. No. 1974, Sec. 1; 10-18-88.)

Section 34. Section 57.06.070 is hereby amended to read as follows

57.06.070 Exemption from the Maximum Shade Point Height Standard.

The City Manager shall exempt a proposed structure or non-exempt vegetation from LOC 57.06.060 and 57.06.065 if the applicant shows that one or more of the conditions in this section exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

1. Exempt Lots. When created the lot was subject to LOC 57.04.010 - 57.04.040 and was not subject to the provisions of LOC 57.04.035.

2. Pre-Existing Shade. The structure or applicable non-exempt vegetation will shade an area that is shaded by one or more of the following:

a. An existing or approved building or structure;

b. A topographic feature;

c. A non-exempt tree that will remain after development of the site. It is assumed a tree will remain after development if it: is situated in a required building setback; is part of a developed area or landscaping required by LOC Chapter ~~49~~50, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

3. Slope. The site has an average slope that exceeds 20 percent in a direction greater than 45° east or west of true south based on a topographic survey by a licensed professional land surveyor.

4. Insignificant Benefit. The proposed structure or non-exempt vegetation shades one or more of the following:

a. An undevelopable area; or

b. The wall of an unheated space, such as a typical garage: or

c. Less than 20 square feet of south-facing glazing.

5. Public Improvement. The proposed structure is a publicly owned improvement.

(Ord. No. 1974, Sec. 1; 10-18-88.)

Section 35. Section 58.02.015 is hereby amended to read as follows

58.02.015 Definitions.

For the purposes of this chapter certain terms and words are defined as follows: the words "used for" include "designed for" and vice-versa; words used in the present tense include the future, the singular tense includes the plural and vice-versa; the word "shall" is always mandatory; the word "may" is discretionary; and the masculine gender includes the feminine gender, except as otherwise provided. The definitions in LOC ~~48.02.015 and 49.16.015~~50.02 apply in this chapter. If a term or similar terms are defined in both LOC Chapters ~~48 and 49~~50 and in this chapter, the definitions in this section shall apply ~~term shall in Chapter 48 be given the definition given in LOC 48.02.015, and Chapter 49 shall be given the definition found in LOC 49.16.015, and in this chapter shall be given the definition given in this section.~~ The following terms shall mean:

Alteration, Major means an exterior alteration which is not a minor alteration.

Alteration, Minor means an exterior alteration which does not change the appearance or material of the landmark or contributing resource as it exists, or which duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans or other evidence of original features or materials.

Board means the Historic Resources Advisory Board.

City Manager means the person holding the position of City Manager or any officer or employee of the City of Lake Oswego.

Conflicting Uses means the development or redevelopment planned for a property which may result in demolition, alteration or moving of a landmark or contributing resource. In the absence of a development proposal, the identified conflicting use is the most intensive use allowed in the zone.

Contributing Resource means a structure, site, or object in a historic district, and the property surrounding it, if so designated pursuant to this chapter, which is 50 years old or older, which may have received alterations, but retains its overall physical integrity, contributes to the integrity of the historic period represented in the district, but individually does not merit

landmark status. A contributing resource must be specifically designated pursuant to the provisions of this chapter.

Council means the Lake Oswego City Council.

Cultural Resource means evidence of an ethnic, religious or social group with distinctive traits, beliefs and social forms.

Demolish means to raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a contributing resource within a historic district or any landmark.

ESEE Analysis means an evaluation in which the economic, social, environmental and energy consequences to the community of designating or preserving a historic or cultural resource are considered and balanced with the community benefit of allowing change or loss of the historic or cultural resource to a conflicting use.

Historic District means a geographically defined area, the boundaries of which have been adopted pursuant to the provisions of this chapter. Historic Districts are composed of structures, sites and objects classified pursuant to this chapter as landmarks, contributing resources or noncontributing resources.

Historic Resource means sites, structures and objects that have local, regional, statewide or national historical significance. Historic resources are contributing resources within historic districts and landmarks.

Landmark means any site, object or structure, and the property surrounding it, if so designated pursuant to this chapter, that is identified as a landmark pursuant to the provisions of this chapter.

Maintenance or Repair means upkeep or repair of any object, site or exterior architectural feature, which does not involve a change in design, material or appearance of the object, site or feature or if such a change is required it is one which the City Manager determines is required without delay in order to preserve the public safety and convenience due to the presence of an unsafe, dangerous or emergency condition.

Major Development means development defined as major development in LOC ~~49.20.115~~50.79.030.

Minor Development means only the following types of development: a) construction of single family dwelling, duplex, zero lot line dwellings, accessory building which requires a building permit; garage, carport, studio, etc., b) minor partition, c) lot line adjustment where resulting lots will meet requirements of the ~~Zoning~~Community Development Code~~ and Comprehensive Plan~~, d) signs, e) tree cutting, f) grading which is not exempt from the Uniform Building Code and g) an exterior remodel of a duplex or single family dwelling which requires a building permit.

Moving means relocating a historic or cultural resource from its existing parcel or tax lot to another site.

Noncontributing Resource means a structure, site or object within a Historic District which is neither a contributing resource nor a landmark.

Water Quality Protection Actions means activities, including construction, related to waterways, canals and water bodies intended to affect the quality of water including, but not limited to, dredging, siltation removal or transfer, siltation dams or gabeons; maintenance, repair, additions, alterations, removal and replacement of utility lines located in the waterbody; weed or algae control, weed or algae harvesting measures; chemical or biological treatment and water filtration; other water quality improvement measures including temporary stoppage of water flow; management of fish, water fowl and wildlife; raising or lowering water level; control of

water flow rate including periodic, temporary or emergency stoppage or drainage; diversions, dams or channel relocations.

(Ord. No. 2000, Sec. 1; 3-14-90. Ord. No. 2091, Amended, 04/19/94; Ord. No. 2160, Amended, 11/18/97)

Section 36. Section 58.02.080 is hereby amended to read as follows

58.02.080 The Review Process.

1. Application for Designation or Removal of Designation:

(a) Landmark: The process for designating a landmark may be initiated by the City Council, the Board, or the owner of the property or their authorized representative. The process for removing a landmark or contributing resource designation may be initiated by the City Council, the Board, or the property owner or their authorized representative.

(b) Historic District: The process to create or modify the boundaries of a Historic District may be initiated by the City Council, the Board, City staff, or by the owners, or their authorized representatives, of at least one-third of the privately owned property in the area sought to be designated. In the case of a boundary modification, the owners of property within the area encompassed by the existing district and the total proposed district boundary shall be counted. If there is multiple ownership in a parcel of land, each consenting owner shall be counted as a fraction equal to the interest the owner holds in the land relative to other owners. At the time of application, the City Manager shall make available information regarding the benefits and restrictions of a designation to all the property owners within the proposed Historic District boundaries.

(c) Contributing Resource: The process for designating a contributing resource may be initiated by the City Council, the Board, or the owner of the property or their authorized representative. The process for removing a contributing resource designation may be initiated by the City Council, the Board, or the property owner or their authorized representative.

2. Application to Demolish or Move a Landmark and Contributing Resource.

The process for demolishing or moving a landmark or contributing resource may be initiated only by the property owner or their authorized representative.

3. Application for Major or Minor Development.

Authorization to initiate a major or minor development is found in LOC Chapter ~~49~~50. Alteration of a landmark, contributing or noncontributing resource is a development.

(Ord. No. 2000, Sec. 1; 3-14-90. Ord. No. 2160, Amended, 11/18/97)

Section 37. Section 58.02.090 is hereby amended to read as follows

58.02.090 Review Procedures and Notice.

1. Review of any application pursuant to this chapter shall follow procedures set forth in LOC Article ~~49.32~~50.76 ~~or Article 49.36, whichever is applicable~~.

2. The Board shall follow the public hearing procedures found in LOC Article ~~49.46~~50.83 and the notice requirements of LOC ~~49.44.920~~50.82.020 when reviewing the following applications:

(a) Designation of a historic resource or historic district;

(b) Removal of a historic resource or historic district designation;

(c) Modification of a historic district boundary;

(d) Demolition or moving of a landmark; and

(e) Alterations subject to the Board's jurisdiction.

3. Appeals of a Board decision shall be to the City Council pursuant to LOC 58.02.160.

4. The Development Review Commission shall apply the criteria of this chapter for major development which occurs on or to a landmark or within a Historic District during its normal consideration of such development. The Historic Resources Advisory Board may make recommendations regarding these matters to the Development Review Commission.

5. The City Manager shall follow the minor development procedures found in LOC ~~Article 49.40~~50.81 when reviewing:

(a) Major alterations subject to the City Manager's jurisdiction.

(b) Moving or demolition of a contributing resource.

(c) Alteration of or addition to a noncontributing resource within a district that exceeds 30% of the floor area of the existing structure.

(d) Lot line adjustments or minor land partitions which occur on or to a landmark or within a historic district.

6. All other actions for which the City Manager has decision making authority shall be subject to administrative review pursuant to LOC ~~Article 49.32~~50.76.600 or Article ~~49.40~~50.81, whichever is applicable.

(Ord. No. 2000, Sec. 1; 3-14-90. Ord. No. 2091, Amended, 04/19/94; Ord. No. 2160, Amended, 11/18/97)

Section 38. Section 58.02.160 is hereby amended to read as follows

58.02.160 Appeals.

1. The applicant, or any person aggrieved by a decision of the City Manager may appeal that decision to the Historic Resources Advisory Board or the Development Review Commission. The City Manager shall determine if the Commission or Board is the appropriate hearing body based upon the nature of the decision appealed, the notice of appeal and the expertise of the Commission and Board. If notice of the application was given, the person must have participated in the process leading to the Manager's decision in order to appeal.

2. Appeals of City Manager actions shall follow the procedures set forth in LOC ~~49.14.630~~50.84.005.

3. The applicant or any person who participated in the hearing and is aggrieved by a decision may appeal a decision of the Historic Resources Advisory Board or Development Review Commission to the City Council, pursuant to procedures set forth in LOC ~~49.14.625~~50.84.010.

4. Any notice of appeal must be filed with the City Recorder within 15 calendar days of the date of the decision.

(Ord. No. 2000, Sec. 1; 3-14-90. Ord. No. 2091, Amended, 04/19/94; Ord. No. 2160, Amended, 11/18/97)

Section 39. Section 59.02.015 is hereby amended to read as follows

59.02.015 Applicability.

1. The Chapter applies to any interest created after October 17, 1996, that complies with this Chapter, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise.

2. This Chapter applies to any interest created before October 15, 1983, if it would have been enforceable had it been created after October 17, 1996, unless retroactive application contravenes the Constitution or laws of this state or the United States.

3. This Chapter does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other law of this state.

4. The public hearing requirements of this Chapter shall not apply to a conservation easement that is dedicated to the City in order to comply with a condition of approval imposed on a land use application pursuant to LOC Chapter ~~48 or 49~~50, where such application was subject to public notice and the opportunity for a hearing.

5. The incentive provisions of this Chapter shall not apply to a conservation easement that is dedicated to the City in order to comply with a condition of approval imposed on a land use application pursuant to LOC Chapter ~~48 or 49~~50, unless the person dedicating the easement elects to dedicate a larger easement or an easement with a greater impact on private use of the property than would otherwise be required.

(Ord. No. 2124, Enacted, 09/17/96; Ord. No. 2161, Amended, 12/16/97)

Section 40. Section 59.04.015 is hereby amended to read as follows

59.04.015 Incentives for Donation of Conservation Easement.

1. At the time of conveyance of a conservation easement to the City or to another holder who has entered into a cooperative agreement with the City under LOC, the donor may elect to take advantage of one of the following incentives for the donation:

a. A credit against any Park and Recreation Systems Development Charge (SDC) imposed against the property pursuant to LOC Chapter 39 at the time of future development, if the conservation easement is determined by the City Manager to further the City's Park, Recreation and/or Pathways Master Plans or Capital Improvement Plans;

b. A credit against any Transportation SDC that may be imposed against the property subject to the easement at the time of future development, if the easement provides for public pathway or walkway access and is determined by the City Manager to further the City's Pathway Master Plan or Capital Improvement Plan;

c. A credit against the surface water management component of the City Utility User Fee imposed pursuant to LOC Chapter 38, if the conservation easement protects a wetland or stream corridor that provides for conveyance of surface water or enhances the water quality of surface water and if the conservation easement includes a right of entry for City staff (as opposed to the general public) for the purpose of operating, maintaining and/or enhancing the stream or wetland subject to the easement to improve surface water conveyance or quality; or

d. A credit against the percentage of open space reservation or dedication required pursuant to ~~LODS Chapter 8~~LOC 50.46 (Park and Open Space) at the time of future development of the property, upon a determination by the City Manager that allowance of such a credit would not leave unprotected another significant natural area on the property that otherwise would be required to be protected.

2. The incentive credits provided in subsection 1 of this section shall be personal to the

donor of the conservation. Such credits or the rights to such credit shall expire upon sale or transfer of the property subject to the conservation easement to a new owner.

3. The implementation of each incentive credit will differ on a case by case basis, taking into consideration the size, value, impact on the property and nature of the donated conservation easement. The credit will be implemented by agreement between the City Manager and the donor which shall set forth the nature and duration of the credit based upon these factors.

(Ord. No. 2124, Enacted, 09/17/96)

Section 41. The Lake Oswego Code is hereby amended by repealing LOC Chapter 48 (Zoning Code) and Chapter 49 (Development Code) and Tables and adding new Chapter 50 entitled Community Development Code as shown in Exhibit B. All references in the City Code to repealed Chapters 48 (Zoning Code) and 49 (Development Code) shall be modified to reference appropriate Articles or Sections in the new Chapter 50 (Community Development Code).

Section 42. The Lake Oswego Development Standards, Tables and Appendices are hereby repealed in their entirety and incorporated within new Chapter 50, as shown in Exhibit B.

Section 43. Transition to New Code. All obligations now existing pursuant to LOC Chapters 48 and 49, and the Lake Oswego Development Standards, including:

a. fees and charges,
b. conditions of approval,
c. covenants, conditions, and restrictions, and
d. development restrictions,

or otherwise arising as a result of an act, omission or action, or development permit shall survive the repeal of LOC Chapters 48 and 49, and of the Lake Oswego Development Standards (LODS), and shall continue under the applicable provisions of LOC Chapter 50.

Section 44. Cross-References.

a. Exhibit 1 of this Ordinance contains "cross-references", following certain sections. These cross-references refer to other sections within the Code or otherwise and are intended to be of assistance to the reader of the Community Development Code. The cross-references on Exhibit 1 are not adopted as part of the Community Development Code.

b. The City Attorney and the City Manager are hereby authorized to insert cross-references or delete cross-references from the codified version of the Community Development Code from time to time. The cross-references appearing in the codified version of the Community Development Code shall not be construed to be a part of the Community Development Code.

Section 45. 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.

Read by title and enacted at the regular meeting of the City Council of the City of Lake Oswego held on 5th day of March, 2002.

///

AYES: Mayor Hammerstad, Turchi, Grahmm, Hoffman, McPeak

NOES: none

ABSENT: Schoen, Rohde

ABSTAIN: none

Judie Hammerstad
Judie Hammerstad, Mayor

Dated: 3-6-02

ATTEST:

Robyn Christie
Robyn Christie, City Recorder

APPROVED AS TO FORM:

David D. Powell, City Attorney

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BEFORE THE CITY COUNCIL

OF THE CITY OF LAKE OSWEGO

A REQUEST TO REPEAL THE TEXT OF THE LAKE OSWEGO CODE, CHAPTERS 48 (ZONING CODE) AND 49 (DEVELOPMENT CODE), AND THE LAKE OSWEGO DEVELOPMENT STANDARDS, AND TO ADOPT A NEW CHAPTER 50 (COMMUNITY DEVELOPMENT CODE) TO CONSOLIDATE THE ZONING AND DEVELOPMENT CODES AND DEVELOPMENT STANDARDS (ORDINANCE 2316)	LU 01-0048-1457 (City of Lake Oswego) FINDINGS AND CONCLUSIONS

NATURE OF PROCEEDING

This matter came before the City Council pursuant to a recommendation by the Lake Oswego Planning Commission to amend the text of the Lake Oswego Code to consolidate the provisions of Chapter 48 (Zoning Code), Chapter 49 (Development Code) and the Lake Oswego Development Standards into new Chapter 50 (Community Development Code).

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting of November 26, 2001. The City Council held a public hearing and considered the Planning Commission's recommendation at its meeting of February 5, 2002.

CRITERIA AND STANDARDS

A. City of Lake Oswego Comprehensive Plan:

Goal 1: Citizen Involvement - Policies 1 & 5
Goal 2: Land Use, Section 1: Land Use - Policy 23

B. Statewide Planning Goals:

David D. Powell
City Attorney - City of Lake Oswego
380 "A" Avenue - P.O. Box 369, Lake Oswego, Oregon 97034
(503) 635-0225 FAX (503) 699-7453

PENGAD-Bayonne, N.J.
EXHIBIT
A
ORD 2316

Goal 1 – Citizen Involvement
Goal 2 – Land Use Planning

C. City of Lake Oswego Development Standards:

LOC 49.16.010	Purpose
LOC 49.20.115	Major Development
LOC 49.22.200	Burden of Proof
LOC 49.36.000-.710	Application Procedures
LOC 49.44.900-.920	Review of Major Development Applications and Appeals
LOC 49.46	Hearings before a Hearing Body
LOC 49.60.1500(2)	Legislative Decision Defined
LOC 49.60.1510	Required Notice to DLCD

FINDINGS AND REASONS

The City Council incorporates the staff Council Report, dated October 26, 2001, for LU 01-0048 (with all exhibits) and the January 16, 2002 Staff Report (with all exhibits) as support for its decision, together with the minutes of the Planning Commission meeting of November 26, 2001, the entire record of the proceedings before the Planning Commission and the entire record of the proceedings before the City Council, supplemented by the further findings and conclusions set forth herein. In the event of any inconsistency between the supplementary matter herein and the incorporated matters, the matter herein controls. To the extent they are consistent with the approval granted herein, the City Council adopts by reference its oral deliberations in this matter.

The city's development regulations are currently found in number of separate compilations. These include the Zoning Code (LOC Chapter 48), the Development Code (LOC Chapter 49) and the Lake Oswego Development Standards (LODS). In addition, there are a number of regulatory policies in the Lake Oswego Comprehensive Plan. The current regulatory structure is unnecessarily cumbersome and confusing, especially for those who do not regularly work with Lake Oswego's code.

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The proposal is to reorganize the Zoning Code, Development Code and Development Standards into one document called the Community Development Code. This consolidation will not result in any substantive changes to the Code or Development Standards. The Council finds that the consolidation results in a document that is more logically and concisely organized and is less confusing. Applicants, staff, decision-makers and members of the public should find the new Community Development Code significantly easier to use than the current assortment of regulatory documents.

CONCLUSION

The City Council concludes that LU 01-0048-1457 complies with all applicable criteria and is consistent with applicable Statewide Goals and Lake Oswego Comprehensive Plan Policies.

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REVERSE INDEXES NOT PART OF ORD.// ADDED TO THIS PDF FOR READER convenience

Reverse Index to 2002 Community Development Code – February 2002

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48.26.720	50.70.025	Expansion of Non-Conforming Industrial or Commercial Uses or Structures
48.26.725	50.70.030	Repairs and Maintenance
48.26.730	50.69.005(3)	Uses Under Conditional Use Provisions Not Non-Conforming Uses
48.26.735	50.70.040	Non-Conforming Characteristics of Use
49.16.005	See 50.01.005	Title
49.16.010	50.01.010	Purpose
49.16.015	50.02.005	Definitions
49.16.020	50.03.005	Application of Code
49.16.025	50.01.020	Authority of City Manager
49.16.030	50.88.005	Fees and Deposits
49.16.035	Eliminated	See 50.03.005
49.16.040	50.01.025	Development Permits Restricted for Unlawful Uses
49.16.045	50.01.030	Development Restricted on Illegal Lot
49.16.055	See 50.90.015	Eliminated
49.16.050	50.90.010	Violations; abatement; injunction
49.16.060	50.04.010	City Manager Interpretations.
49.20.100	50.79.005	Exempt Development Classification
49.20.105	50.79.010	Ministerial Development Classification
49.20.110	50.79.020	Minor Development Classification
49.20.115	50.79.030	Major Development Classification
49.22.200	50.77.007	Burden of Proof
49.22.205	Eliminated	
49.22.210	50.79.015	Review Criteria for Ministerial Developments
49.22.215	50.79.025	Review Criteria for Minor Developments

49.22.220	50.79.035	Review Criteria for Major Developments
49.22.225	50.79.040	Conditions of Approval
	Article 50.84	**Overall Development Plan and Schedule**
49.26.300	50.71.005	Phasing of Major Development
49.26.305	50.71.010	Overall Development Plan and Schedule (ODPS).
49.26.310	50.71.015	Purpose of Overall Development Plan and Schedule
49.26.315	50.71.020	Density Bonus Within Phased Development
49.26.320	50.71.025	Application Procedure
49.26.325	50.71.030	Review of ODPS
49.26.330	50.71.035	Hearing Body Action
49.26.335	50.71.040	Content of the Approved Final Overall Development Plan and Schedule
49.26.340	50.71.045	Changes to the Overall Development Plan and Schedule
49.28.400	50.68.020	Procedure for Review and Approval of Variances
49.28.405	50.68.010	Variance Standards
49.30.500	50.77.010	Method of Application (Portion)
49.30.500	See 50.88.005	*Fees portion eliminated; see also 50.77.010 (portion)
49.30.505	50.77.015	Signature on Application
49.30.510	See 50.77.005	Eliminated
	Article 50.76	**Review of Ministerial Development Applications**
49.32.600	50.80.005	Review by City Manager
49.36.700	50.77.020	Preapplication Conference
49.36.705	50.77.025	Neighborhood Contact Required for Certain Applications
49.36.710	50.77.030	Filing an Application; Determination of Completeness
49.36.715	50.77.035	Extensions or Continuances
49.36.720	50.77.040	Withdrawing an Application
	Article 50.81	**Review of Minor Development Applications**
49.40.800	50.81.005	Review by City Manager
49.40.805	50.81.010	Notice of Minor Development Application
49.40.810	50.81.015	Final Decision
49.40.815	50.81.020	Notice of Final Decision
49.40.820	50.84.005	Appeal of Minor Development Decision
49.44.900	50.82.005	Review by Hearing Body
49.44.905	50.82.020	Jurisdiction of Hearing Body
49.44.910	50.82.010	Applicant's Evidence
49.44.915	50.82.015	Staff Report
49.44.920	50.82.020	Notice of Public Hearing

	Article 50.83	**Hearings Before a Hearing Body**
49.46.1000	50.83.005	Conduct of the Hearing
49.46.1005	50.83.010	Time Limits on Testimony
49.46.1010	50.83.015	Testimony, Exhibits and Other Evidence
49.46.1015	50.83.020	Objections
49.46.1020	50.83.025	Preservation of Order
49.46.1025	50.83.030	Continuances
49.46.1030	50.83.035	Decision of the Hearing Body
49.46.1035	50.83.040	Notice of Decision
49.50.1100	50.84.010	Filing an Appeal of a Hearing Body Decision
49.50.1105	50.84.015	Multiple Appeals; Consolidation
49.50.1110	50.84.020	Withdrawing an Appeal
49.50.1115	50.84.025	Preparation of Record and Staff Report; Transcript
49.50.1120	50.84.030	Notice of the Appeal Hearing
49.50.1125	50.84.035	Scope of Council Review
49.50.1130	50.84.040	Conduct of the Appeal Hearing
49.50.1135	50.84.045	Time Limits on Testimony
49.50.1140	50.84.050	Presenting Testimony
49.50.1145	50.84.055	Objections
49.50.1150	50.84.060	Preservation of Order
49.50.1155	50.84.065	Continuances
49.50.1160	50.84.070	Decision of the Council
49.50.1165	50.84.075	Notice of Decision
	Article 50.85	**Remands**
49.54.1200	50.85.005	Remands from the Council to the Hearing Body
49.54.1205	50.85.010	Remands from LUBA to the City Council
	Article 50.86	**Effect of Approval or Denial of Development Permit / Modification or Revocation of Permit**
49.56.1300	50.86.005	Effective Date of a Decision
49.56.1305	50.86.010	Effect of Decision to Approve
49.56.1310	50.86.020	Effect of Denial; Resubmittal
	Article 50.87	**Compliance with Approved Permit**
49.58.1400	50.87.005	Certificate of Occupancy
49.58.1405	50.87.010	Preparation and Submittal of Final Plan or Plat
49.58.1410	50.87.015	Review of the Final Plan or Plat, Filing Requirements
49.58.1415	50.87.020	Obligation to Construct Public Facilities; Security; Acceptance of Improvements
49.58.1420	50.87.025	Failure to Fulfill Obligation, Lien Created
49.58.1425	50.86.025	Modification of Approved Permit
49.58.1430	50.86.030	Revocation of Permit

	Article 50.75	**Legislative Decisions**
49.60.1500	50.75.005	Legislative Decisions Defined
49.60.1505	50.75.010	Criteria for a Legislative Decision
49.60.1510	50.75.015	Required Notice to DLCD
49.60.1515	50.75.020	Planning Commission Recommendation Required
49.60.1520	50.75.025	City Council Review and Decision
49.60.1525	50.75.030	Effective Date of Legislative Decision
49.62.1600	50.05.025	Comprehensive Plan Map Designations Automatically Applied Upon Annexations; Exceptions
	Article 50.45	**Building Design**
2.005	Eliminated	Title
2.010	50.45.005	Applicability
2.015	Eliminated	Definitions - there were none
2.020	50.45.010	Standards for Approval
2.025	50.45.015	Standards for Construction
2.030	50.45.020	Standards for Maintenance
2.035	50.45.025	Procedure
2.040	50.45.030	Miscellaneous Information
	Article 50.63	**Street (Pathway, Parking Lots) Lights**
5.005	Eliminated	
5.010	50.63.005	Applicability
5.015	See 50.02.005	Definitions
5.020	50.63.010	Standards for Approval
	Article 50.56	**Transit System**
6.005	Eliminated	Title
6.010	50.56.005	Applicability
6.015	See 50.02.005	Definitions
6.020	50.56.010	Standards for Approval
6.025	50.56.015	Standards for Construction
6.030	50.56.020	Procedures
6.040	50.56.025	Miscellaneous Information
	Article 50.55	**Parking Standards**
7.005	Eliminated	Title
7.010	50.55.005	Applicability
7.015	See 50.02.005	Definitions
7.020	50.55.010	Standards for Approval
7.025	50.55.015	Standards for Construction
7.030	50.55.020	Standards for Maintenance
7.040	50.55.025	Procedures

	Article 50.46	**Park and Open Space**
8.005	Eliminated	Title
8.010	50.46.005	Applicability
8.015	See 50.02.005	Definitions
8.020	50.46.010	Standards for Approval
8.025	50.46.015	Standards for Construction
8.030	50.46.020	Standards for Maintenance
8.035	50.46.025	Procedures
8.040	50.46.030	Miscellaneous Information
	Article 50.47	**Landscaping, Screening and Buffering**
9.005	Eliminated	Title
9.010	50.47.005	Applicability
9.015	Eliminated	Definitions – there were none
9.020	50.47.010	Standards for Approval
9.025	50.47.015	Standards for Installation and Construction
9.030	50.47.020	Standards for Maintenance
9.035	50.47.025	Procedures
9.040	50.47.030	Miscellaneous Information
	Article 50.41	**Drainage Standard for Major Development**
11.005	Eliminated	Title
11.010	50.41.005	Applicability
11.015	See 50.02.005	Definitions
11.020	50.41.020	Standards for Approval
11.025	50.41.025	Standards for Construction
11.030	50.41.030	Standards for Maintenance
11.035	50.41.035	Procedures
11.040	50.41.040	Miscellaneous Information
	Article 50.40	**Drainage Standard for Minor Development**
12.005	Eliminated	Title
12.010	50.40.005	Applicability
12.015	Eliminated	Definitions (referred to Major Drainage Std Definitions)
12.020	50.40.010	Standards for Approval
12.025	50.40.015	Standards for Construction
12.030	50.40.020	Standards for Maintenance
12.035	50.40.030	Procedures
12.040	50.40.035	Miscellaneous Information
	Article 50.42	**Weak Foundation Soils**
13.005	Eliminated	Title
13.010	50.42.005	Applicability
13.015	See 50.02.005	Definitions
13.020	50.42.010	Standards for Approval

13.025	50.42.015	Standards for Construction
13.030	50.42.020	Standards for Maintenance
13.035	50.42.025	Procedures
13.040	50.42.030	Miscellaneous Information
	Article 50.64	**Utility Standard**
14.005	Eliminated	
14.010	50.64.005	Applicability
14.015	50.64.010	Definitions
14.020	50.64.015	Standards for Approval
14.025	50.64.020	Standards for Construction
14.030	50.64.025	Standards for Maintenance
14.035	50.64.030	Procedures
14.040	50.64.035	Miscellaneous Information
	Article 50.43	**Hillside Protection**
16.000	Eliminated	Title
16.005	50.43.005	Applicability
16.010	50.43.010	Definitions
16.020	50.43.015	Approval Standards
16.025	50.43.020	Construction Standards
16.030	50.43.025	Standards for Maintenance
16.035	50.43.030	Procedure
16.040	50.43.035	Miscellaneous Information
	Article 50.44	**Flood Plain**
17.005	Eliminated	Title
17.010	50.44.005	Applicability
17.012	50.44.010	Purpose
17.013	50.44.015	Adoption of Flood Insurance Study
17.015	See 50.02.005	Definitions
17.020	50.44.020	Standards For Approval
17.025	50.44.025	Standards For Construction
17.030	50.44.030	Standards For Maintenance
17.035	50.44.035	Procedures
	Article 50.57	**Access**
18.005	Eliminated	Title
18.010	50.57.005	Applicability
18.015	50.57.010	Definitions
18.020	50.57.015	Standards for Approval
18.025	50.57.020	Standards for Construction
18.030	50.57.025	Standards for Maintenance
18.035	50.57.030	Procedures

18.040	50.57.035	Miscellaneous Information
	Article 50.58	**On-Site Circulation – Driveways and Fire Access Roads**
19.005	Eliminated	Title
19.010	50.58.005	Applicability
19.015	50.58.010	Definitions
19.020	50.58.015	Standards for Approval
19.025	50.58.020	Standards for Construction
19.030	50.58.025	Standards for Maintenance
19.035	50.58.030	Procedures
19.040	50.58.035	Miscellaneous Information
	Article 50.59	**On-Site Circulation Standards - Bikeway, Walkways and Accessways**
20.010	50.59.005	Applicability
20.020	50.59.010	Standards for Approval
20.025	50.59.015	Standards for Construction
20.030	50.59.020	Standards for Maintenance
20.035	50.59.025	Procedures
20.040	50.59.030	Miscellaneous Information
	Article 50.48	**Manufactured Homes**
22.005	Eliminated	Title
22.010	50.48.005	General Provisions
22.015	50.48.015	Manufactured Home Placement Standards
22.020	50.48.020	Placement Permit
22.030	50.48.025	Occupancy Certificate
	Article 50.65	**Downtown Redevelopment District Design Standards**
23.000	Eliminated	Title
23.005	50.65.005	Purpose
23.010	50.65.010	Applicability
23.015	50.65.015	Relationship to Other Development Standards
23.020	50.65.020	Definitions
23.105	50.65.025	Building Siting and Massing
23.110	50.65.030	Building Design
23.115	50.65.035	View Protection
23.205	50.65.040	SIGNS - Applicability
23.201	50.65.045	SIGN – Sign Regulations
23.305	50.65.050	LANDSCAPING AND SITE DESIGN - Landscaping and Site Design Requirements
23.405	50.65.055	PARKING - Parking Requirements
23.410	50.65.060	Parking Lot Design
23.415	50.65.065	Parking Structures

23.510	50.65.070	STREETS - Street, Alley and Sidewalk Design
23.605	50.65.075	EXCEPTION TO STANDARDS - Exceptions to Standards
	Article 50.66	**Old Town Building Design Standards**
24.005	Eliminated	Title
24.010	50.66.005	Purpose
24.015	50.66.010	Definitions
24.020	50.66.015	Applicability
24.025	50.66.020	Building Siting and Massing
24.030	50.66.025	Building Design and Materials
24.035	50.66.030	Fencing and Landscaping
24.040	50.66.035	Garages
24.045	50.66.040	Additional Requirements for Multiple Family Dwellings
	Article 50.67	**West Lake Grove Design District Standards**
25.005	Eliminated	Title
25.010	50.67.005	Purpose
25.015	50.67.010	Applicability
25.020	50.67.015	West Lake Grove Design Standards
25.025	50.67.020	Standards Applicable to the Entire District
25.030; 25.035	50.67.025	Design Standards for the Office Commercial/High Density Residential (OC/R-2.5) Zone
25.040; 25.045	50.67.030	Design Standards for the Neighborhood Commercial/Office Commercial (OC/NC) Zone
25.050; 25.055; 25.060	50.67.035	Design Standards for the Town Home Residential Zone (R 2.5).
25.065; 25.070	50.67.040	Design Standards for the R-2.5/W (Live/Work) Zone
	Article 50.60	**Local Street Connectivity**
26.005	Eliminated	Title
26.010	50.60.005	Applicability
26.012	50.60.010	Purpose and Intent
26.015	50.60.015	Definitions
26.020	50.60.020	Standards for Approval of Development Which Requires the Construction of a Street
26.025	50.60.025	Standards for Approval of Construction of Structures that Do Not Require Construction of a Street but are Located on a Parcel(s) Five Acres or Greater in Size
26.030	50.60.030	Procedures
26.035	50.60.035	Standards for Construction

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LODS Section	LOC Consolidation	Section Title
	Article 50.45	**Building Design**
2.005	Eliminated	Title
2.010	50.45.005	Applicability
2.015	Eliminated	Definitions – there were none
2.020	50.45.010	Standards for Approval
2.025	50.45.015	Standards for Construction
2.030	50.45.020	Standards for Maintenance
2.035	50.45.025	Procedure
2.040	50.45.030	Miscellaneous Information
	Article 50.63	**Street (Pathway, Parking Lots) Lights**
5.005	Eliminated	
5.010	50.63.005	Applicability
5.015	See 50.02.005	Definitions
5.020	50.63.010	Standards for Approval
	Article 50.56	**Transit System**
6.005	Eliminated	Title
6.010	50.56.005	Applicability
6.015	See 50.02.005	Definitions
6.020	50.56.010	Standards for Approval
6.025	50.56.015	Standards for Construction
6.030	50.56.020	Procedures
6.040	50.56.025	Miscellaneous Information
	Article 50.55	**Parking Standards**
7.005	Eliminated	Title
7.010	50.55.005	Applicability
7.015	See 50.02.005	Definitions
7.020	50.55.010	Standards for Approval
7.025	50.55.015	Standards for Construction
7.030	50.55.020	Standards for Maintenance
7.040	50.55.025	Procedures
	Article 50.46	**Park and Open Space**
8.005	Eliminated	Title
8.010	50.46.005	Applicability
8.015	See 50.02.005	Definitions
8.020	50.46.010	Standards for Approval
8.025	50.46.015	Standards for Construction

8.030	50.46.020	Standards for Maintenance
8.035	50.46.025	Procedures
8.040	50.46.030	Miscellaneous Information
	Article 50.47	**Landscaping, Screening and Buffering**
9.005	Eliminated	Title
9.010	50.47.005	Applicability
9.015	Eliminated	Definitions – there were none
9.020	50.47.010	Standards for Approval
9.025	50.47.015	Standards for Installation and Construction
9.030	50.47.020	Standards for Maintenance
9.035	50.47.025	Procedures
9.040	50.47.030	Miscellaneous Information
	Article 50.41	**Drainage Standard for Major Development**
11.005	Eliminated	Title
11.010	50.41.005	Applicability
11.015	See 50.02.005	Definitions
11.020	50.41.020	Standards for Approval
11.025	50.41.025	Standards for Construction
11.030	50.41.030	Standards for Maintenance
11.035	50.41.035	Procedures
11.040	50.41.040	Miscellaneous Information
	Article 50.40	**Drainage Standard for Minor Development**
12.005	Eliminated	Title
12.010	50.40.005	Applicability
12.015	Eliminated	Definitions (referred to Major Drainage Std Definitions)
12.020	50.40.010	Standards for Approval
12.025	50.40.015	Standards for Construction
12.030	50.40.020	Standards for Maintenance
12.035	50.40.030	Procedures
12.040	50.40.035	Miscellaneous Information
	Article 50.42	**Weak Foundation Soils**
13.005	Eliminated	Title
13.010	50.42.005	Applicability
13.015	See 50.02.005	Definitions
13.020	50.42.010	Standards for Approval
13.025	50.42.015	Standards for Construction
13.030	50.42.020	Standards for Maintenance
13.035	50.42.025	Procedures
13.040	50.42.030	Miscellaneous Information
	Article 50.64	**Utility Standard**
14.005	Eliminated	

14.010	50.64.005	Applicability
14.015	50.64.010	Definitions
14.020	50.64.015	Standards for Approval
14.025	50.64.020	Standards for Construction
14.030	50.64.025	Standards for Maintenance
14.035	50.64.030	Procedures
14.040	50.64.035	Miscellaneous Information
	Article 50.43	**Hillside Protection**
16.000	Eliminated	Title
16.005	50.43.005	Applicability
16.010	50.43.010	Definitions
16.020	50.43.015	Approval Standards
16.025	50.43.020	Construction Standards
16.030	50.43.025	Standards for Maintenance
16.035	50.43.030	Procedure
16.040	50.43.035	Miscellaneous Information
	Article 50.44	**Flood Plain**
17.005	Eliminated	Title
17.010	50.44.005	Applicability
17.012	50.44.010	Purpose
17.013	50.44.015	Adoption of Flood Insurance Study
17.015	See 50.02.005	Definitions
17.020	50.44.020	Standards For Approval
17.025	50.44.025	Standards For Construction
17.030	50.44.030	Standards For Maintenance
17.035	50.44.035	Procedures
	Article 50.57	**Access**
18.005	Eliminated	Title
18.010	50.57.005	Applicability
18.015	50.57.010	Definitions
18.020	50.57.015	Standards for Approval
18.025	50.57.020	Standards for Construction
18.030	50.57.025	Standards for Maintenance
18.035	50.57.030	Procedures
18.040	50.57.035	Miscellaneous Information
	Article 50.58	**On-Site Circulation – Driveways and Fire Access Roads**
19.005	Eliminated	Title
19.010	50.58.005	Applicability
19.015	50.58.010	Definitions
19.020	50.58.015	Standards for Approval
19.025	50.58.020	Standards for Construction

19.030	50.58.025	Standards for Maintenance
19.035	50.58.030	Procedures
19.040	50.58.035	Miscellaneous Information
	Article 50.59	**On-Site Circulation Standards - Bikeway, Walkways and Accessways**
20.010	50.59.005	Applicability
20.020	50.59.010	Standards for Approval
20.025	50.59.015	Standards for Construction
20.030	50.59.020	Standards for Maintenance
20.035	50.59.025	Procedures
20.040	50.59.030	Miscellaneous Information
	Article 50.48	**Manufactured Homes**
22.005	Eliminated	Title
22.010	50.48.005	General Provisions
22.015	50.48.015	Manufactured Home Placement Standards
22.020	50.48.020	Placement Permit
22.030	50.48.025	Occupancy Certificate
	Article 50.65	**Downtown Redevelopment District Design Standards**
23.000	Eliminated	Title
23.005	50.65.005	Purpose
23.010	50.65.010	Applicability
23.015	50.65.015	Relationship to Other Development Standards
23.020	50.65.020	Definitions
23.105	50.65.025	Building Siting and Massing
23.110	50.65.030	Building Design
23.115	50.65.035	View Protection
23.205	50.65.040	SIGNS - Applicability
23.201	50.65.045	SIGN – Sign Regulations
23.305	50.65.050	LANDSCAPING AND SITE DESIGN - Landscaping and Site Design Requirements
23.405	50.65.055	PARKING - Parking Requirements
23.410	50.65.060	Parking Lot Design
23.415	50.65.065	Parking Structures
23.510	50.65.070	STREETS - Street, Alley and Sidewalk Design
23.605	50.65.075	EXCEPTION TO STANDARDS - Exceptions to Standards
	Article 50.66	**Old Town Building Design Standards**
24.005	Eliminated	Title
24.010	50.66.005	Purpose
24.015	50.66.010	Definitions
24.020	50.66.015	Applicability

24.025	50.66.020	Building Siting and Massing
24.030	50.66.025	Building Design and Materials
24.035	50.66.030	Fencing and Landscaping
24.040	50.66.035	Garages
24.045	50.66.040	Additional Requirements for Multiple Family Dwellings
	Article 50.67	**West Lake Grove Design District Standards**
25.005	Eliminated	Title
25.010	50.67.005	Purpose
25.015	50.67.010	Applicability
25.020	50.67.015	West Lake Grove Design Standards
25.025	50.67.020	Standards Applicable to the Entire District
25.030; 25.035	50.67.025	Design Standards for the Office Commercial/High Density Residential (OC/R-2.5) Zone
25.040; 25.045	50.67.030	Design Standards for the Neighborhood Commercial/Office Commercial (OC/NC) Zone
25.050; 25.055; 25.060	50.67.035	Design Standards for the Town Home Residential Zone (R 2.5).
25.065; 25.070	50.67.040	Design Standards for the R-2.5/W (Live/Work) Zone
	Article 50.60	**Local Street Connectivity**
26.005	Eliminated	Title
26.010	50.60.005	Applicability
26.012	50.60.010	Purpose and Intent
26.015	50.60.015	Definitions
26.020	50.60.020	Standards for Approval of Development Which Requires the Construction of a Street
26.025	50.60.025	Standards for Approval of Construction of Structures that Do Not Require Construction of a Street but are Located on a Parcel(s) Five Acres or Greater in Size
26.030	50.60.030	Procedures
26.035	50.60.035	Standards for Construction

February 2002 (Final)

City of Lake Oswego
Community Development Code

An Administrative Consolidation of

LOC 48 – Zoning Code,
LOC 49 – Development Code,
and
LODS – Development Standards

A Project of Lake Oswego
Planning Department and City Attorney's Office

TITLE, PURPOSE AND AUTHORITY

Article 50.01

Section 50.01.005 Title.

This chapter may be referred to as "the Community Development Code of the City of Lake Oswego" and is referred to herein as "this Code.

Section 50.01.010 Purpose

This Code has been drafted in accordance with the policies set forth in the Comprehensive Plan for the City of Lake Oswego. It is the general purpose of this Code, therefore, to provide the principal means for the implementation of the Comprehensive Plan. To fulfill this general purpose this Code is intended to:

1. Protect and promote the public health, safety, convenience and general welfare.
1. Guide future land uses, growth and development in accordance with the Comprehensive Plan,
7. Provide for review of those uses determined to carry the potential for adverse impact on surrounding uses.
2. Assure prompt review of development applications for compliance with this Code's requirements, and the application of clear and specific standards,
3. Provide for public review and comment on development proposals which may have a significant impact on the community,
4. Guide public and private policy and action to assure provision of adequate water, sewerage, transportation, drainage, parks, open space and other public facilities and services for each development and to implement Comprehensive Plan policies concerning the distribution of costs of public facilities and services required to serve development, and coordinate the timing of development with the provision of adequate public facilities and services.
5. Provide the opportunity for a mixture of housing types which meet the needs of the City residents.
6. Establish procedures, standards, and review of uses assuring that the design of site improvements and building improvements are consistent with applicable standards and minimize adverse impacts on surrounding land uses, and yet allow for and encourage flexibility in the design and layout of site improvements and buildings, and innovation in design and construction,
7. Provide for review and approval of the relationship between land uses and traffic circulation in order to minimize congestion, with particular emphasis on not exceeding the planned capacity of residential streets to carry projected traffic; to provide for safe pedestrian and bicycle circulation; to provide for the proper location of street rights-of-way, easement and building lines; to assure provision of adequate internal vehicle circulation; parking, loading and pedestrian walkways,
8. Minimize pollution and damage to waterways and Oswego Lake; to assure the adequacy of drainage facilities and to protect the natural character and functions of waterways,
9. Provide standards to regulate the impacts of development upon soils, trees and vegetation, distinctive areas and other natural features,
10. Assure reasonable safety from fire, flood, landslide, erosion or other natural hazards,
11. Provide opportunities for economic development of the City, and

12. Protect the City's aesthetic beauty and character,
13. Promote the conservation of energy through site and building design and orientation, and
14. Protect historic buildings and sites.

Cross-Reference: Note: From time to time, new state and federal laws, regulations, or court decisions are issued. The reader is advised that federal or state law may be determined to supersede portions of this Community Development Code, either generally or as applied to a specific situation.

Section 50.01.015 Official Action.

All officials, departments, employees, and Commissions of the City vested with authority to issue permits or grant approvals shall adhere to and require conformance with this Code, and shall issue no permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Code.

Any permit or approval issued or granted in conflict with the provisions of this Code, whether intentional or otherwise, is void. It is the duty of the person receiving such permit to bring the structure or use subject to the permit into compliance with the terms of this Code immediately upon gaining knowledge that the permit is in conflict with the provisions of this Code.

Section 50.01.020 Authority of City Manager.

The City Manager shall have the authority to interpret, implement and enforce the requirements of this Code, subject to review by the hearing body and/or the City Council pursuant to this Code. The City Manager may adopt administrative rules to aid in implementing this Code.

Section 50.01.025 Development Permits Restricted for Unlawful Uses.

No development permit shall be issued for a development or use of land in violation of this code, unless the violation is rectified as part of the development.

Section 50.01.030 Development Restricted on Illegal Lot.

1. No development permit shall be issued for the development or use of an illegal lot unless the lot is made legal pursuant to the applicable requirements for creation of a lot in effect at the time of application. The applicant shall demonstrate conformance with applicable legal requirements. This restriction applies regardless of whether the applicant was responsible for creation of the illegal lot.

2. If an illegal lot cannot be made legal pursuant to subsection 1 of this section because it does not comply with lot area or dimensional requirements in effect at the time of application, an application for the creation of the lot shall be exempted from compliance from such lot area or dimensional requirements if the applicant demonstrates that the lot would have complied with lot area and dimensional requirements applicable at the time of creation.

3. If an illegal lot cannot be made legal pursuant to subsections (1) or (2) of this section because it does not comply with applicable lot area or dimensional requirements at the time of application and did not comply with applicable lot area or dimensional requirements at the time of creation, an application for the creation of the lot shall be exempted from compliance with

such lot area and dimensional requirements if the applicant demonstrates that development that would be allowed by legal creation of the lot will not have a significant negative impact on the neighborhood in terms of scale, noise, traffic, parking, loss of privacy, obstruction of views, or buffers from existing properties. In determining the degree of impact, the City shall consider the consistency of potential development on a lot with the existing development pattern in the vicinity. The City may impose conditions on development of the lot in order to ensure that legalization of the lot does not have a significant negative impact on the neighborhood. Public notice of an application to legalize a lot pursuant to this subsection shall contain a map of the property illustrating the building envelope. If the lot proposed to be made legal pursuant to this subsection has a lot area or dimension which is less than 65 percent of the size or length required by the zone at the time of application, the application to create the legal parcel shall be referred to the Development Review Commission for public hearing.

Cross-Reference: See LOC 50.79.020(2)(h) for minor partition process.

Article 50.02

Definitions
Terms used other than in the specific section.

Section 50.02.005 Definitions.

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

100-Year Flood: See "base flood".

Abut. Contiguous to; for example, two lots with a common property line. However, "abut" does not apply to buildings, uses, or properties separated by public right-of-way, rivers or canals.

Abutting parcels: Parcels of land that share a common boundary.

Access. The place, means or way by which pedestrians or vehicles have ingress to and/or egress from a lot or use. [But see Access definition for purposes of Access Development Standard, LOC 50.57.010.]

Accessways: A strip of land intended for use by pedestrians and bicyclists that provides a direct route where the use of public roads would significantly add to the travel time and/or distance.

Accessory Building. Any detached building the use of which is subordinate and consistent with that of the main building and which is consistent with the buildings and uses allowed in the zone in which it is located.

Adjacent. Touching; across a public right-of-way from; across an easement from; across a small stream or creek from.

Aerial. A privately owned and operated antenna for non commercial uses subject to height limitations as specified in Section 50.22.015. For the purposes of this Code, "aerial" includes ham radio antennae and is not a "telecommunications facility".

Alley. Public right-of-way which provides a secondary means of access to abutting property.

Alter. To change or modify the construction or occupancy of a building or structure or use of land.

Applicant. The owner of land, a representative designated in writing by the owner, a contract purchaser, City representative or other person requesting some action under the terms of this Code.

AASHTO: American Association of State Highway and Transportation Officials.

Average Daily Trip (ADT). The estimated or known trip average of the number of one-way trips generated by a particular use during a 24 hour period.

Average Daily Traffic. The known average of the number of vehicles which pass a given point in a 24 hour period.

Backfill: The material placed in a trench over a sewer or water pipe, or other utility structure.

Base Flood. See "Flood, Base" definition.

Bikeway: Any road, path, or way which is open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other

transportation modes.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building Envelope. The area within the setback lines required by this Code for any lot.

Building - Main. A building within which the principal use of a lot is conducted.

Building Regulations. The specialty codes as adopted by LOC Chapter 45.

Boat Dock. A structure built along the shore of a river, lake, canal or navigable stream for use by boats for moorage and loading and unloading passengers and materials.

Boat House. A roofed structure built along the shore of a river, lake, canal or stream for the purpose of storing a boat or other water craft and accessories.

Buffer Area (Resource). An area adjacent to a designated RP District resource where development is limited in order to enhance resource functions and values by providing insulation from human disturbances and domestic animals.

By-Pass: A drainage system to carry storm water runoff around or through a specific area.

Cabana. Waterfront single family dwelling or cluster development on pilings.

Carpool: A group of two or more commuters, including the driver, who share the ride to and from work or other designation on a regularly scheduled basis.

Cemetery. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematories, mausoleums and mortuaries.

Certified Arborist. An arborist who has passed the International Society of Arboriculture Certification Exam.

Cluster Development. A development in which the buildings are placed in groups on lots containing less area per dwelling unit than the minimum required by the zone.

City. The City of Lake Oswego; its officers, employees and agents.

City Manager or Manager. The person holding the position of City Manager or any officer or employee of the City of Lake Oswego.

Closed-end street: A street that has only one connection to any other existing through street or planned through street. Cul-de-sacs and dead-end streets are examples of closed-end streets.

Cleanout: A vertical opening providing equipment access to the end of a sanitary sewer line for purposes of flushing or cleaning the line.

Commission. The City of Lake Oswego Development Review Commission or Planning Commission, depending on context.

Comprehensive Plan. Volume I of the Comprehensive Plan adopted by the City of Lake Oswego July, 1978 as it now exists or is hereafter amended.

Conflicting Uses. A conflicting use is one which, if allowed, could negatively impact a Statewide Planning Goal 5 resource site.

Congregate Care Facility. Special use housing provided with common dining facilities and housekeeping services.

Convent. A local community or house of a religious order or congregation.

"Cornice" means the horizontal element in the elevation of a building demarcating the difference between the pedestrian oriented level on the street (characterized by entrances, shops, service space, loading areas and lobbies) and office/residential uses on levels above.

Creek. A natural stream of water typically smaller than and often tributary to a stream or a river.

Crown Cover. The area directly beneath the crown and within the drip line of a tree or shrub. The crown consists of the above ground branches, stems, and leaves.

Deck. A non-enclosed platform (excluding above-grade entry walkways) constructed on or

above the ground and attached to the main dwelling.

Delineated Resource: An RP District stream corridor or wetland or an RC District tree grove delineated pursuant to LOC 50.16.035.

Delineation (Resource). An analysis of a resource by a qualified professional that determines its boundary to plus or minus 2 feet. A resource delineation includes a survey map of the resource prepared by a professional surveyor or engineer.

Density Transfer Acre/Acreage. Potentially hazardous or resource areas within which development may occur or from which density may be transferred to buildable portions of the site, only after it has been demonstrated by the applicant that development can occur in compliance with criteria established by this Code, including the Development Standards. Density Transfer Acre includes the following:

a. Area within the floodway and the floodway fringe as shown on U.S. Army Corp of Engineers flood maps,

b. Area of over 25% slope,

c. Area in known landslide areas or in areas shown to have potential for severe or moderate landslide hazard,

d. Area in the RC or RP Districts pursuant to LOC 50.16.045, stream buffer areas of major stream corridors, wetlands and Distinctive Natural Areas,

e. Area in public open space and parks.

Detention: The act of detaining or storing storm water runoff for a short period of time during and after a storm.

Development: Any man-made change to improved or unimproved real property, including, but not limited to, construction, installation or alteration of a building or other structure, change of use, land division, establishment or termination of a right of access, storage on the land, grading, clearing, removal or placement of soil, paving, dredging, filling, excavation, drilling or removal of trees.

Development Permit. Written authorization for a development to proceed as described in an application, such authorization having been given in accordance with this Code.

Development Standards. Articles 50.40 – 50.67, inclusive, of this Community Development Code.

Drainage: A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied herein to surface water.

Drainageway. An open linear depression, whether constructed or natural, which functions for the collection and drainage of surface water. It may be permanently or temporarily inundated.

Drainage Pattern: The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales, and ponds, whether of an intermittent or continuous nature, and the man-made element which includes culverts, ditches, channels, retention or detention facilities, and the storm sewer system.

Dripline. The outer limit of a tree*s branches, projected to the ground. The point where water dripping off the canopy will hit the ground.

Driveway: A vehicular accessway that has, as its primary purpose, the provision of a driveable connection between a structure or parking area on private property and the public street system. "Driveway" may include private easement roads or ways, common areas used for vehicular access, parking pads, turnaround areas, and parking lot aisles.

Driveway approach: That portion of the driveway that is situated in the public right of

way.

Driveway grade: The ratio of the change in elevation to the change in horizontal distance traveled, measured along the steepest 10 foot increment along the centerline of the traveled way. Grades are expressed in percent.

Duplex. A building on a lot designed to contain two dwelling units and used for residential purposes.

Dwelling, Multiple. A building on one or more lots designed to contain three or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multiple dwelling includes structures commonly called garden apartments, apartments and condominiums.

Dwelling, Single-Family. A detached dwelling unit designed and used for that purpose or an attached dwelling unit, located on its own lot, that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall shall consist of a structural wall which shared for at least 25 percent of the length of the side of the dwelling. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a rowhouse, townhouse, or a common-wall house.

Dwelling Unit. One or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with housekeeping facilities for living, sleeping, sanitary facilities, cooking and eating.

Dwelling, Zero Lot Line. A building providing two dwelling units on two separate lots and used for residential purposes.

Easement. A grant of the right to use designated land for specific purposes.

ESEE Process Analysis. The Economic, Social, Environmental, and Energy Analysis required under Statewide Land Use Planning Goal 5. The purpose of the ESEE analysis is to balance the relative value of an inventoried natural resource against conflicting uses and thereby determine an appropriate level of protection through land use regulations. The ESEE Analysis that formed the factual basis for the Sensitive Lands Program (LOC Article 50.16) and was used initially to designate properties for protection under the program is the Lake Oswego Resource Areas Report and ESEE Analysis, dated April 1, 1997, as revised on July 15, 1997.

Exchange Carrier. A provider of telecommunications services.

Facade. All the wall planes of a structure as seen from the one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.

Family. An individual or two or more persons related by blood, marriage, legal adoption, or associated by guardianship, conservatorship or a foster care relationship, or a group of not more than five persons not so related or associated living together in a dwelling unit as a single housekeeping unit.

Family Day Care Facility. A day care facility which regularly accommodates 12 or fewer children regardless of full-time or part-time status, in the day care provider's home, including the children of the day care provider.

Fenestration. Doors and/or windows.

Filling (fill). A deposit of earth by artificial means.

Fish and Wildlife Habitat. Lands that contain significant food, water, or cover for native terrestrial and/or aquatic species of animals. Examples include forests, fields, riparian areas, wetlands, and water bodies.

Fire code. The Uniform Fire Code as adopted or amended by LOC Chapter 15, and any

other applicable provisions of LOC Chapter 15.

Fire Department/delivery vehicle turnaround. An area providing space for the maneuvering of fire fighting vehicle or other design vehicle (in the case of a delivery or loading area) consistent with LOC Chapter 15 (Uniform Fire Code Adopted).

Flag Lot. A lot located behind another lot that has normal street frontage, and where access is provided to the rear lot via a narrow "flag pole" (i.e. driveway), or where access is provided via an easement. There are two distinct parts of a flag lot; the flag which comprises the actual building site located behind another lot, and the pole which provides access from the street to the flag. A flag lot results from the division of a large lot with the required area and depth for more than one lot, but which has insufficient width to locate all lots on the street frontage.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land area from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood, Base. The flood having a one percent chance of being equal led or exceeded in any given year. The "Base Flood" is also known as the "100-year flood".

Flood Hazard, Areas of Special: The land in the flood plain subject to a one percent or greater chance of flooding in any given year.

Flood Proofing: To make a structure watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Floodway. The area within the floodplain which includes the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodplain (or flood plain). The area bordering a watercourse encompassing both the floodway fringe and the floodway inundated during the 100 year flood, also referred to as the base flood, as defined in the flood insurance study adopted in Section 50.44.015.
. In addition to the above definition, for purposes of LOC 50.41 (Drainage Standard for Major Development), floodplain shall include the land areas adjoining all streams, lakes, ponds, or wetlands that are subject to inundation by a 100-year frequency storm.

Floodway Fringe. The area of the floodplain lying outside the floodway.

Floor Area. The combined floor area of all stories of a building excluding vent shafts, court yards, enclosed or covered parking areas, allowable projections, decks, patios, uncovered exit stairs and uncovered, above-grade driveways.

Floor Area Ratio (FAR). The ratio of the floor area to the net buildable area. The greater the ratio, the greater the density. For example, a building occupying one-fourth of the net site areas has a FAR of 0.25 : 1, or 0.25; adding a second floor to the same building increases the FAR to 0.50 : 1, or 0.5.

Foundation Soil, Potential Weak: A generalized map of locations of potential Weak Foundation Soils is maintained at the Public Works Department, City Hall. However, the actual condition of the site will determine whether such soils exist.

Foundation Soils, Weak: Those which may cause overall settlement or differential settlement resulting in damage to structures not designed to accommodate movements. Weak Foundation Soils have one or more of the following characteristics: low strength, compressibility, high organic material content, high shrink-swell ratio or elasticity, or slow

percolation and wetness.

Functions and Values (Resource). Functions and values are the benefits provided by resources. The benefits may be physical, environmental aesthetic, scenic, educational, or some other nonphysical function, or a combination of these. For example, the functions and values of a wetland can include its ability to provide stormwater detention for *"x"* units of water draining *"y"* acres, and its ability to provide food and shelter for *"z"* varieties of migrating waterfowl. In addition, an unusual native species of plant in a natural resource Area could be of educational, heritage, and scientific value. Most natural resources have multiple functions and values.

Garage, Private. A structure having one or more stories, used for the parking of motor vehicles belonging to tenants, employees or owners of the property for which the parking spaces contained in or on said garage are required by Chapter 49 and are not open for use by the general public.

Garage, Public. A publicly or privately owned structure having one or more stories, used for the parking of motor vehicles, and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons or clients which are required by this Code, provided said parking spaces are clearly identified as parking space(s) for the building or use.

Garage, Repair. A building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul, and incidental parking of vehicles.

Garage Wall Area. The garage wall area includes the entire area on the specified side of a structure between the ceiling, floor, and walls of the garage, including the garage door.

Glare: The effect of brightness or brightness difference within the visual field sufficiently high to cause annoyance, discomfort, or loss in visual performance.

Grade. The ground surface next to a structure that is constructed to the earth (example: building with foundation) or next to a tree when the height of the tree is at issue, or under a structure that is not constructed to the earth (example: decking).

Gross Floor Area (G.F.A.): The area included within the surrounding exterior walls of a building or portions thereof excluding allowable projections, decks, patios, uncovered exit stairways or uncovered above-grade driveways.

Group Care Home. Any private or public institution maintained and operated for the care, boarding, housing or training of five or fewer physically, mentally or socially handicapped or delinquent, elderly or dependent persons by any person who is not the parent or guardian of, and who is not related by blood, marriage or legal adoption to such persons and excluding foster care of children.

Gully. A long, narrow channel worn by the action of water, particularly on a hillside. It is much smaller than a ravine. Several gullies often lead to a ravine.

Guest House. An accessory structure of less than 400 square feet with no cooking or kitchen facilities.

HAS (Habitat Assessment Score). The numerical ranking applied in an ESEE Inventory which represents the relative wildlife habitat values of a given natural resource site in comparison with other sites in the City. Six features are evaluated to determine the total Wildlife Habitat Assessment Score:

1. Water
2. Food
3. Cover

4. Disturbance
5. Linkage
6. Unique Features

Each feature receives a "High, Medium, or Low" description and a numeric ranking as shown in the HAS rankings sheet in the Appendix 50.16-A to the SL District. The maximum possible score is 124. A minimum score of 35 is necessary for a site to be considered significant for wildlife values. See the City of Lake Oswego 1994/95 Natural Resource Inventory and ESEE Analysis (on file in the Planning Department) for a detailed explanation of the methodology used in applying the HAS rankings.

Hazardous Substances. Any substance listed or described in ORS Chapter 453 (Hazardous Substances). Hazardous substances are toxic, corrosive, irritants, strong sensitizers, flammable, combustible, or generate pressure through decomposition, heat or other means. Hazardous substances or mixture of substances may cause substantial personal injury or illness during, or as a proximate result of any customary or reasonably foreseeable handling or use.

Hearing Body. The Lake Oswego Development Review Commission, Planning Commission or City Council.

Height of Building. The vertical distance above a reference point measured to the coping of a flat roof or to the deck line of a mansard roof or to the average height of the gable of a pitched or hipped roof above such point.

The reference points are determined as follows:

a. On Flat Lots: The elevation of any ground surface at the exterior wall of the building.

b. On Sloped Lots: The elevation of any ground surface at the exterior wall of the building prior to construction of any structure which artificially elevates the ground surface.

Home Occupation. A lawful use conducted in a residential zone in or on the premises of a dwelling unit, said use being secondary to the use of the dwelling for dwelling purposes.

Hotel, Motel. A building or group of buildings used for transient residential purposes containing rental units which are designed to be used, or which are used, rented or hired out for sleeping purposes.

Hydraulic Characteristics: The features of a watercourse which determine its water conveyance capacity. They include the watercourse cross-section, alignment, width from bank to bank, profile, and the location and types of vegetation within the watercourse.

Hydrophytic Vegetation. Plant life growing in water or in soil that is at least periodically deficient in oxygen as a result of excessive water content.

Illumination, Uniformity of The ratio of average illumination level on the roadway to the minimum illumination at any point on the roadway.

Impermeable Surface. Any surface which prevents absorption of water into the ground.

Incidental Retail Uses. Retail uses within an Industrial Park (IP) zone that are outright permitted retail uses in the Neighborhood Commercial (NC) zone, when such uses are directly related to the sales of products manufactured, processed, or assembled on the IP zoned site.

In-kind Vegetation. Vegetation similar to vegetation found in the impacted resource or resource buffer in type and size.

Institutional Use. Private educational, cultural, religious or social welfare facilities.

Invasive Plants. Vegetation that displaces or dominates natural plant communities, such as Himalayan blackberry, English ivy, reed canary grass, scotch broom, etc. A list of such plants shall be maintained on file in the Planning Department.

Irregular Lot. A lot in which the front and rear lot lines are not parallel.

"Lake Oswego Style" means A building design that borrows from the City's historic architectural traditions including the Arts and Crafts, English Tudor and the Oregon Rustic Styles. Buildings which use complex massing, asymmetrical composition and natural materials exemplify this style (See photos and descriptions in Appendix 50.65-A). Adherence to the "Lake Oswego Style" is not intended to require historical replication. Modern designs interpreting, quoting or utilizing the above noted stylistic forms are also encompassed within the definition.

Land. Includes water surface and the land under water.

Large Animal. Horses, cattle, sheep, goats, swine or any other animal which customarily weighs more than 45 pounds at maturity, excluding dogs.

LORA. The Lake Oswego Redevelopment Agency, an urban renewal agency created by the City pursuant to ORS Chapter 457.

Lot. A unit of land created in compliance with all legal requirements in effect and applicable at the time of creation.

Lot Coverage. The ratio of A to B where A is the area of the polygon formed by the surrounding exterior walls of all buildings or portions thereof including structures which are over 30" in height with or without exterior walls, but exclusive of vent shafts and courtyards; and B is the gross acreage of the site excluding area in street right-of-way, private streets and access easements pursuant to "Net Buildable Acre". Boat houses shall not be included in lot coverage calculations.

Lot Depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, except for a flag lot, which shall be measured from the mid-point at the front lot line of the flag area.

Lot, Flat. A lot where the proposed highest finished ground surface at the exterior wall of a building or proposed building is not more than ten feet above the lowest such surface.

Lot Frontage. That portion of a lot nearest a street. For the purpose of determining yard requirements, all sides of a lot abutting a street shall be considered frontage.

Lot Illegal. A unit of land created in violation of one or more legal requirements in effect and applicable at the time of creation.

Lot, Interior. A lot other than a corner lot, with frontage on only one street.

Lot, Platted. A lot described and identified within a recorded subdivision or partition and remaining the same in size and shape as it was when the subdivision or partition was recorded.

Lot of Record. A lot shown as part of a recorded subdivision, partition, or any lot described by metes and bounds in a recorded deed, record of survey or other appropriate document recorded with the county; except that no lot or parcel of land created without compliance with the subdivision or partition requirements in effect and applicable at the time of the lot creation shall be considered a lot of record.

Lot, Sloped. A lot where the highest natural or unaltered ground surface at the exterior wall of a building or proposed building is more than ten feet above the lowest natural or unaltered ground surface at the time of building permit application. For the purposes of determining building height, natural or unaltered ground surface shall mean: The elevation of the existing ground surface or the existing ground surface resulting from a prior approved planned development at the time of building permit application.

Lot Line. Boundary lines of a lot.

Lot Line, Front. In the case of an interior lot, the lot line separating the lot from the street. In the case of a corner lot, the lot line designated pursuant to LOC 50.06.045(7), 50.08.030(4), 50.09.025(6) or 50.13.035(4).

Lot Line, Rear. A lot line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular, or other shaped lot a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line. In the case of a through lot there is no rear lot line, the frontage on each street is a front lot line.

Lot, Corner. A lot abutting two intersecting streets, provided that the streets do not intersect on an angle greater than 135 degrees.

Lot, Through; Double Frontage Lot. A lot other than a corner lot with frontage on more than one street.

Lot Line, Side. Any lot line not a front or rear lot line.

Lot Line, Side Street. On a corner lot, the street lot line that is the longer of the two street lot lines.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement areas, is not considered a building's lowest floor, provided that such enclosure is built to comply with the design requirements for such areas in LOC 50.44.

Luminaire: A complete lighting device consisting of a light source together with its direct appurtenances, such as globe, reflector, refractor, housing and such support as is integral with the housing. The pole, post or bracket is not considered a part of the luminaire.

Manhole: A vertical opening providing human access to a sanitary sewer or storm drain line, provided with a heavy cover at the ground or street surface.

Manufactured Homes. A multi-sectional dwelling unit with a Department of Housing and Urban Development (HUD) label, of not less than 1,000 square feet constructed in an off-site manufacturing facility on or after June 15, 1976, to the standards and requirements of the National Manufactured Home Construction and Safety Standards Act of 1974, and designed to be used with a foundation as a dwelling unit on a year-round basis with approved connections to water, sewer and electric utility systems.

Notwithstanding the above, for the purpose of LOC 50.44, a manufactured home is a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Marina. A facility providing moorage for boats and related repair and supply services.

Masonry. A quarried stone, brick, rusticated stone or emboss worked wall.

Mean Sea Level. Mean sea level and other references to elevations are based on the National Geodetic Vertical Datum of 1929.

Mechanical Equipment. Heating, ventilating and air conditioning systems, transformers, generators, utility meters, connection boxes, satellite dishes, antennas, tanks and other similar features.

Mitigation. To rectify, repair or compensate for adverse impacts to a resource or resource functions and values caused by development.

Mitigation Methods (for Wetlands):

a. Wetland Creation: The conversion of a non-wetland area into a wetland.
b. Wetland Enhancement: Alteration of an existing wetland to develop new functions or to

improve existing conditions

c. Wetland Restoration: Re-establishment of lost or impaired functions in a degraded wetland or in a former wetland that no longer functions as a wetland.

Mitigation Ratio (for Wetlands). The ratio of the amount of wetland to be created, restored or enhanced compared to the amount of wetland lost due to development.

Mixed Use. A development consisting of more than one broad category of use (e.g. commercial, industrial, residential or institutional).

Mobile Home. A unit or units built between January, 1969 and June 15, 1976 in conformance with the American National Standards Institute requirements adopted by the State of Oregon in 1969 and having an Oregon insignia of compliance issued by the Oregon Department of Commerce, Building Codes Division, or a unit built after June, 1976 in conformance with the 1976 HUD requirements. All units shall have a minimum of 900 square feet of living area.

The following definitions apply only to mobile homes:

a. Accessory structure: An attached or unattached structural addition to a mobile home or mobile home space including, but not limited to: cabanas, awnings, carports, garages, covered porches, storage structures and covered patios.

b. Accessway: An unobstructed way of specified width containing a drive or roadway which provides vehicular access within a mobile home park and connects to a public street.

c. Awning: A stationary structure used in conjunction with a mobile home, other than a window awning or ramada for the purpose of providing shelter from the sun and rain for patios, porches or yard areas, and having a roof with supports and not more than one wall.

d. Cabana: A stationary structure which may be prefabricated or demountable, with two or more walls, used adjacent to and in conjunction with a mobile home, to provide additional living space designed to be moved with the mobile home.

e. Carport: A stationary structure consisting of a roof with its supports which is entirely open on two or more sides and is used for sheltering a motor vehicle.

f. Mobile Home Park: A parcel of land under common ownership on which two or more mobile homes are occupied as residences and which conforms to the regulations of this article.

g. Mobile Home Subdivision: A subdivision designed for sale of lots for residential occupancy by mobile homes.

h. Mobile Home Space or Lot: A plot of ground within a mobile home park or subdivision designed for the accommodation of one mobile home, its accessory structures, parking spaces and required yard areas.

i. Stand: A hard surfaced area within a mobile home space or lot designed for placement of a mobile home.

Motor Vehicle and Recreational Vehicle Sales Area. A lot used for display, sale or rental of new or used motor vehicles, recreational vehicles or trailers where no repair work is done except minor, incidental repairs or cleaning of motor vehicles, recreational vehicles or trailers to be displayed, sold or rented for use off the premises.

Mounting Height: The vertical distance between the roadway surface and the center of the apparent light source of the luminaire.

Natural Area. An area of land and/or water that has a predominantly undeveloped character. Natural areas may be pristine, or may have been affected by human activity such as vegetation removal, agriculture, grading or drainage if such areas retain significant natural characteristics,

or have recovered to the extent that they contribute to the City's natural systems including hydrology, vegetation, or wildlife habitat.

Natural Resource Areas, Non-designated: "Natural areas" that have not been included in an RP or RC District pursuant to LOC Article 50.16.

Net Buildable Acre. The residentially designated land remaining in a gross acre of 43,560 square feet after the following areas have been deducted:

a. Area in street right-of-way or access easements. For public streets, use the actual acreage if known or 20% of the gross site area. For private streets use actual acreage if known or 40 feet right-of-way. For access easements use actual acreage of easement.

b. Acreage in 100 year floodplain as shown on U.S. Army Corp of Engineers flood maps.

c. Acreage of over 25% slope.

d. Acreage in known landslide areas.

e. Acreage in stream buffer area of major stream corridors including wetlands located therein.

f. Acreage in public open space and parks.

Net Developable Acre. Gross acreage (at 43,560 square feet per acre) of residentially designated land, including Density Transfer Acreage, , less the area in street right-of-way or access easements. For public streets, use the actual acreage if known or 20% of the gross acreage. For private streets use actual acreage if known or 40 foot right-of-way. For access easements use actual acreage of easement.

Net Loss (Wetland). A permanent loss of wetland area, functions, or values resulting from a development action after accounting for mitigation measures.

New Construction.

a. Construction of a new structure; or

b. Alteration of an existing structure which increases the building footprint by more than 25% or height by more than 10%. For the purposes of this section, an "existing structure" is a structure as it exists on May 7, 1992. For the purposes of this section, "alteration" includes a determination of the cumulative effect on footprint and height of all alterations to an existing structure which occur after May 7, 1992.

Non-Profit Use. A use operated by an organization, corporation or association that distributes no part of its income to its members, directors or officers.

Nursing or Convalescent Homes. A home, place or institution which operates and maintains facilities providing convalescent or chronic care, or both, for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but not need be limited to, the procedures commonly employed in nursing and caring for the sick.

Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile abutment, excavation, bridge, conduit, pole, culvert, building, wire, fence, fill, or projection into a floodplain, watercourse, or drainage system

Occupancy Classification. As defined in Section 501 of the Uniform Building Code, adopted pursuant to LOC Chapter 45.

Open Space. Land to remain in natural or landscaped condition for the purpose of providing a scenic, aesthetic appearance and/or protecting natural processes, providing passive recreational uses, and/or maintaining natural vegetation. Open space shall be permanently reserved by common ownership among the owners of a development, dedicated to the public, or by other

appropriate means committed to use for the general public.

Owner. Where used in relationship to real property, "owner" means the legal owner of record or, where there is a recorded land sales contract in effect, the purchaser thereunder.

Parking Area, Private. Property, other than streets and alleys, unless subject to such parking use by grant of a revocable permit by the City, on which parking spaces are defined, designated or otherwise identified for use by the tenants, employees, patrons or owners of the property for which the parking area is required or allowed by Chapter 49 and not open for use by the general public.

Parking Area, Public. Property other than streets or alleys on which parking spaces are defined, designated or otherwise identified for use by the general public, either free or for remuneration. Public parking areas may include parking lots which may be required for retail customers, patrons and clients.

Park Land. Public or private land providing for the active recreational needs of the community.

Parking District: A district established for the purpose of planning and development of shared parking facilities which serve the whole district.

Parking, Tandem. The parking of a vehicle in front of or behind another vehicle which requires one of the vehicles to be moved in order for the other vehicle to enter or exit. Also called stacked parking.

Partition. To divide an area or tract of land into two or three lots within a calendar year when such land exists as a unit or contiguous units of land under common ownership at the beginning of such year. "Partition" does not include adjustments of lot lines by relocation of a common boundary where no additional lots are created, and the resulting lots satisfy the minimum lot size allowed by this Code, nor foreclosure proceedings or sales exempted by the definition of "partition" in ORS Chapter 92.

a. Major Partition: A partition which includes the creation of a street.

b. Minor Partition: A partition that does not include the creation of a street.

Pathway. A public or private right-of-way for pedestrian or non-motorized traffic.

Patio. An impervious surface on the ground, excluding parking areas and pathways of five feet or less in width adjacent to the main dwelling.

Pavement, paving. As used in this standard, "Pavement" means Portland cement concrete, asphaltic concrete, and modular masonry pavement systems. "Pavement" also includes pervious pavement systems such as those known by the proprietary names of Grasscrete or Geoweb, provided that the cells are filled with an aggregate material or vegetation.

Pedestrian/Bicycle Access, Convenient. Hard surfaced pedestrian/bicycle path.

Pedestrian Density. The ratio of pedestrians to sidewalk area is intended to encourage increased pedestrian density in order to promote retail use and provide community interaction.

Person. A natural person, his heirs, executors, administrators, or assigns; a firm, partnership, or corporation, association or legal entity, its or their successors or assigns; and any agent, employee or representative of any of the above mentioned.

Plat. A map, containing all the descriptions, locations, specifications, dedications, provisions or other information concerning a subdivision.

Practicable. Capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Profile. A "sideview" of a proposed utility pipe or street showing grade, changes in grade,

depth of pipe and vertical curves of streets.

Public Facilities. Any and all onsite and offsite improvements to be accepted for ownership, maintenance and operation by the City, including but not limited to sanitary sewers, pump stations, water lines and hydrants, storm drain systems, streets, alleys, street lights, street name signs and traffic control signs and devices.

Public Facility, Major. Any public service improvement or structure developed by or for a public agency that is not defined as a minor public facility.

Public Facility, Minor. The following public service improvements or structures developed by or for a public agency:

a. Minor utility structures, except substations, but including poles, lines, pipes, telecommunications facilities or other such facilities.

b. Sewer, storm drainage, or water system structures except treatment plants, reservoirs, or trunk lines, but including reconstruction of existing facilities, pump stations, manholes, valves, hydrants or other portions of the collection, treatment and distribution systems located within public property.

c. Street improvements within existing development including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.

d. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right of way or on public property.

e. School improvements which will not increase the capacity of the school nor create additional traffic or other impact on the surrounding neighborhood.

f. Park improvements which will not create additional motor or foot traffic impact on the surrounding neighborhood.

Public Service. Any service provided by a public agency including but not limited to power, water, streets, sewers, parks, recreation facilities, schools, police and fire protection. This term includes utilities provided by regulated utility companies such as telephone, gas and electric power.

Public Transportation Facilities. Those facilities that are associated with a transportation system, such as bridges, bus stops, transit centers, light rail, and similar facilities, but excluding public or private streets.

Qualified Professional. An individual who has proven expertise and vocational experience in a given natural resource field, as determined by the City Manager. A qualified professional may either be a consultant or a member of the City staff. The following types of expertise are applicable:

a. Streams. An individual such as a hydrologist or an engineer who has expertise in analyzing water quality and/or delineating stream corridor boundaries.

b. Tree Grove. An individual who has expertise in delineating or surveying tree grove driplines such as a Certified Arborist, professional forester, engineer, architect, landscape architect, surveyor, or similarly qualified person.

c. Wetlands. An individual such as a wetland biologist or ecologist who has expertise in applying Federal and/or State-approved methods for wetland delineations and value assessments.

Ravine. A small, narrow valley with steep sides that is usually worn by running water. A ravine is larger than a gully.

Recreational Vehicles. Towed or self-propelled vehicles such as motor homes, pickup campers and tent trailer campers, travel trailers, intended for human occupancy for vacation and recreational purposes.

Recreational Facilities.

1. Active Use Recreational Facilities: Facilities for recreational uses that tend to be more organized and/or that require a greater degree of site development and conversion of natural area, including sports fields, playground equipment, group picnic shelters, hard surfaced pathways, permanent restrooms, accessory parking lots and similar facilities.

2. Passive Use Recreational Facilities: Facilities for recreational uses related to the functions and values of a natural area that require limited and low impact site improvement, including soft-surface trails, signs, pedestrian bridges, seating, viewing blinds, observation decks, handicapped facilities, drinking fountains, picnic tables, interpretive facilities, and similar facilities.

Reserved Area. Land to be kept free of buildings or other structures as a condition of development approval.

Residential Accessway: A strip of land intended for use by pedestrians and bicyclists that provides a direct route through single family residential development where the use of public roads would significantly add to the travel time and/or distance.

Residential turnaround. An area providing space for the maneuvering of a "P" (passenger) design vehicle in which the vehicle can make a 180 degree change in direction with a continuous forward movement, or no more than one backing movement.

Resource Conservation (RC) District Resource: A tree grove protected by an RC District Overlay Zone pursuant to LOC Article 50.16.

Resource Conservation Protection Area: The portion of an RC District resource identified pursuant to LOC 50.16.055.

Resource Enhancement. The modification of a resource or its functions and values to improve the quality or quantity of the resource. It can include actions that result in increased animal and plant species, increased numbers of types of natural habitat, and/or increased amount of area devoted to natural habitat. It may also include improvements in scenic views and sites, increased capacity for stormwater detention and surface water management, changes in water quantity or quality, or similar improvements. A resource enhancement project must result in no loss of any resource functions or values, and the gain of at least one.

Resource Protection (RP) District Resource: A wetland or stream corridor protected by a RP District overlay zone pursuant to LOC Article 50.16.

Restoration Plant List. A list of plants appropriate for landscaping in resource areas that maintain the natural function and character of resource areas, provide food and shelter for native wildlife, are adapted to local soils and growing conditions, do not require fertilizers or pesticides that may be detrimental to the resource, or do not require long-term irrigation which can increase erosion and sedimentation. The Restoration Plant List shall be kept on file in the Planning Department.

Retention: The act of retaining or storing storm water, runoff permanently or for a considerable length of time for some use, or until it percolates into the ground or evaporates.

Riparian Areas. Lands adjacent to rivers, streams, lakes, ponds, and other water bodies that are transitional between aquatic and upland zones and contain elements of both aquatic and terrestrial ecosystems. Such lands are characterized by high water tables, soils made up largely of water-carried sediments, and vegetation that requires free (unbound) water or conditions that are more moist than normal.

Reversed Frontage Lot. A lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area.

Road. *See* "Street".

Sanitary Sewer System. A system consisting of pipes, house service lines, manholes, cleanouts and other appurtenant structures provided for the conveyance of sewage to a place of treatment.

Secondary Dwelling Unit. A second dwelling unit, either attached or separate, located on a lot already containing a dwelling unit, which complies with LOC 50.30.010.

Security. A means of guaranteeing the performance of terms and conditions of a development permit.

Sedimentation: Deposition of boils, debris, or other materials suspended and transported by storm water runoff.

Sensitive Lands. Lands containing natural resources that have environmental significance within the Lake Oswego planning area (Urban Service Boundary) including wetlands, stream corridors, and tree groves. Such lands are more sensitive or easily damaged by development impacts than non-resource lands.

Service Lateral: A sewer pipe extending from a sewer line to the property line to provide service for the structure on that property.

Service Station. A commercial establishment which provides retail sale of motor fuel and oil for motor or marine vehicles, services batteries, furnishes repair and service, excluding painting, body work, steam cleaning, tire recapping and mechanical car washing equipment capable of washing more than one car at a time, and at which accessory sales or incidental services are conducted.

Setback Line. The innermost line of any required yard or reserved area on a lot.

Shelters, Waiting An area providing protection from weather, and visual access and physical proximity to arriving transit vehicles; may be as simple as an extended overhang or protected entry or as elaborate as a separate structure complete with furniture.

Grade, Utility or Street. The slope, measured in percent, of a street, pipe, or conduit as part of a utility system.

Special Use Housing. Housing occupied by 7 or more persons who are 1) 60 years of age, or 2) socially, physically or mentally handicapped, or 3) persons needing personal care services or any combination thereof.

Special Flood Hazard, Areas of. See "Flood Hazard, Areas of Special" definition.

Specimen Tree: Particularly fine or unusual example of any tree specie, including smaller trees such as dogwood, cherry, or Japanese maple

Standard Details. The set of detail drawings contained in the City of Lake Oswego's "Standard Construction Specifications and Drawings".

Storefront. The entrance facade of a building typically facing the street.

Storm Water Runoff: Water that results from precipitation which is not absorbed by the soil or plant material.

Storm Water Storage Area: A facility used for detention and/or retention of storm water runoff.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than 6 feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

Stream. Flowing surface waters that produce a definable channel or bed. Stream flows can be perennial, intermittent, or ephemeral. Streams do not include ditches, storm drains, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction or have come to function as natural water courses, thus contributing to the quality of an area's overall natural systems.

Notwithstanding the above "stream" definition, for purposes of LOC 50.41 (Drainage Standard for Major Development), stream shall mean a natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.

Stream Channel. A definable channel that demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds, and vegetated swales. A stream channel may be a bed with sloping banks or may be a swale with gradually sloping sides. In most cases there is a distinct grade break at the edge of the stream channel.

Stream Corridor. A stream corridor is an area of land that includes a stream and a set of natural features generally associated with the stream. These natural features include, stream channels, flood plains, wetlands, riparian vegetation, associated vegetation, steep slopes, and habitat features. A stream corridor generally includes the following:

a. Hydrological Characteristics. Physical features that affect stream flow capacity, rates of channel erosion and patterns of sedimentation including but not limited to stream alignment, cross section and profile, roughness of channel and banks, and drainage patterns.

b. Plant Communities and Wildlife Habitat. The association of trees, shrubs, ground cover, and aquatic plants that affects the hydrological characteristics of a stream corridor, reduces runoff turbidity, provides shade which lessens thermal pollution, filters out nutrients carried by runoff, protects stream corridor soils and slopes from erosion, and provides habitat for fish, wildlife and aquatic organisms.

c. Soils with Potential for Severe Erosion. Soils within stream corridors tend to be very erosion-prone by nature. This feature affects channel erosion rates, patterns of sedimentation downstream, and potential for hazards to property within and adjacent to the stream corridor.

d. Ravines and Steep Slopes. Lake Oswego steam corridors frequently include ravines and steep slopes.

e. Associated Aquatic Elements. Floodplains and wetlands may be adjacent to or associated with the stream.

Stream Corridor Functions and Values: The beneficial characteristics of stream corridors, including, but not limited to:

* Protection of wildlife habitat and travel corridors;
* Protection of riparian vegetation;
* Erosion control;
* Flood and storm water control;
* Water quality enhancement;
* Open space, passive recreation, and visual enjoyment, and;
* Cultural, social, education and research values.

Street. The entire width between the right-of-way lines of a public way capable of providing the principal means of access to abutting property.

Structure. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Structure, Viable Existing.

a. An existing structure that complies with Article 50.65;
b. A designated historic resource; or
c. A structure that is not likely to be redeveloped due to use, size, recent construction or other similar factors (e.g. City Hall, Main Fire Station, Bank Building at 4th and A, Oregon Pioneer Building at 2nd and B).

Structural Alteration. A change to the supporting members of a structure including, but not limited to, foundation, bearing walls or partitions, columns, beams, girders or the roof.

Subdivide. To divide an area or tract of land into four or more lots within a calendar year, when such land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. For the purpose of computing the number of lots created, each lot created shall be counted as a separate lot notwithstanding the fact they are held in common ownership.

Substantial Improvement: For the purpose of LOC 50.44, a substantial improvement is any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

a. before the improvement or repair is started, or
b. before the damage occurred if the structure has been damaged and is being restored. A "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not include either:

a. any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
b. any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Swale. A swale is a depression, sometimes swampy, in the midst of generally level land that conducts surface water.

Telecommunications Facilities. Facilities designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices. The following definitions apply to the regulation of telecommunications facilities:

a. Abandoned Facility. A transmission tower and/or ancillary facilities whose use has been discontinued for a period of at least six months.

b. Ancillary Facilities. The structures and equipment required for operation of the telecommunication equipment, including but not limited to antennae, repeaters, equipment housing structure, and ventilation and other mechanical equipment.

c. Antenna(e). An electrical conductor or group of electrical conductors that transmit or receive radio waves.

d. Attachment. An antenna or other piece of related equipment affixed to a transmission tower.

e. Collocated Facility. A new attachment, antenna, or tower placed on existing suitable structures or rebuilt transmission towers or facilities or the addition of new ancillary facilities to an existing transmission tower facility site.

f. New Facility. The installation of a new transmission tower. New attachments are not new facilities.

g. Pre-existing Towers and Pre-existing Antennas. Any tower or antenna constructed or approved pursuant to City standards in effect prior to the effective date of this ordinance.

h. Service Area. The vicinity around a telecommunications facility site that effectively receives signals from and transmits signals to the facility at the strength of signal required by the Federal Communications Commission.

i. Shadow. A geographic area that has less than adequate telecommunication service coverage.

i. Tower Footprint. The area described at the base of a transmission tower as the perimeter of the transmission tower including the transmission tower foundation and any attached or overhanging equipment, attachments, or structural members but excluding ancillary facilities and guy wires and anchors.

k. Tower Pad. The area that encompasses the tower footprint, ancillary facilities, fencing and screening.

l. Tower Height. The vertical distance measured from the highest point on the transmission tower or other structure, including any antennae, to the original grade of the ground directly below this point.

m. Transmission Tower. The guyed tower, lattice tower, monopole, or similar structure on which transmitting or receiving antennae are located. For purposes of this Code, ham radio transmission facilities are considered "aerials" and not "transmission towers".

i. Guyed Tower. A tower which is supported by the use of cables (guy wires) which are permanently anchored.

ii. Lattice Tower. A tower characterized by an open framework of lateral cross members which stabilize the tower.

iii. Monopole. A single upright pole, engineered to be self supporting and does not require lateral cross supports or guys.

Transit Facilities. Includes, but are not limited to, transit streets, transit stops, park and ride stations, multi-modal exchange stations, bus pullout lanes, multiple-passenger transit waiting shelters and furniture, and transit information stations.

Transit-Oriented Features: Features to support a high level of transit use, such as sidewalks, accessways, bikeways, pedestrian and bicycle amenities, and walkways within developments.

Transit Oriented Development (TOD): A mix of residential, retail and office uses and a supporting network of roads, bicycle and pedestrian ways focused on a major transit stop designed to support a high level of transit use.

Transit Service, Protected. Service which will be established within a 1/4 mile radius within five years after completion of development.

Transit Street: All streets designated by the Lake Oswego Comprehensive Plan as an arterial street and any street designated by Tri-Met as a bus route.

Tree Grove: A stand of three or more trees (of the same species or a mixture) which form a visual and biological unit, including the area between the forest floor and the canopy, including skyline trees, and including any understory vegetation existing within the canopied area. A stand of trees must be at least 15' in height and must have a contiguous crown width of at least 120' to qualify as a tree grove.

a. Associated Tree Grove: A tree grove that is contiguous with the boundaries of a designated stream corridor or wetland and contributes to the resource value of the riparian area

by extending and operating in conjunction with the habitat of the riparian area and providing flood control and water quality enhancement. Such tree groves are located within the buffer areas of a wetland or stream corridor but may extend beyond the buffer.

b. Isolated Tree Grove: A grove of trees that is not associated with a stream corridor or wetland as described in subsection a of this definition.

Temporary Structure. A structure used for one year or less.

Uplands (or upland forests): The non-riparian portions of tree groves lying outside of stream corridors, wetlands, and their respective buffers.

Use, Accessory. Any use incidental, subordinate and consistent with the primary use on the same lot or in the same building, and which is consistent with the uses allowed in the zone in which it is located.

Use, Change of. A change of the activity on a site which results in a change in the number of parking spaces required by the parking and loading standard.

Use; Principal. The main or primary purpose for which land or a structure is arranged, designed or intended, or for which either land or a structure is, or may be, occupied or maintained.

Utility. For purposes of this Code, a utility is any person (as defined in this section) who is a local exchange carrier or an electric, gas, water, or other public utility, and who owns or controls poles, ducts, conduits, or rights of way used, in whole or in part, for any wire or cable communication.

Vanpool: A group of from seven to fifteen commuters, including the driver, who share the ride to and from work or other destination on a regularly scheduled basis.

Vegetation: All plant growth, especially trees, shrubs, mosses and grasses.

Walkway: A surfaced strip of land, legally accessible to the public, improved to accommodate pedestrian traffic, including persons in wheelchairs.

Walls, Exterior. Any wall or element of a wall, or group of members, which defines the exterior boundaries or courts of a building and which has a slope of 60 degree or greater with the horizontal plane.

Water Bodies: Permanently or temporarily flooded lands which may lie below the deep water boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live, whether or not they are attached to the bottom. The bottom may sometimes be considered non-soil or the water may be too deep or otherwise unable to support emergent vegetation. Water bodies include rivers, streams, creeks, sloughs, drainageways, lakes, and ponds.

Water Conveyance Capacity: The capacity of a watercourse to convey a particular volume of water per unit of time at a particular water surface elevation at any particular point on the watercourse.

Water Courses: Water courses are defined as ephemeral, intermittent, and perennial drainageways which exhibit defined channels:

a: Ephemeral means water courses which convey water associated with rainfall events.

b. Intermittent means water courses whose conveyance of water is seasonal in nature.

c. Perennial means water courses which convey water year-round.

Water courses also include perennial springs. They may be either the result of natural processes or human-made features such as canals, mill races, and open drainageways which are either historic in nature, or have come to function as natural water courses, thus contributing to the quality of an Area's overall natural systems including hydrology, vegetation, wildlife habitat.

(See "watercourse" for purposes of LOC 50.41 (Drainage Standard for Major Development) and 50.44 (Flood Plain).

Watercourse: A natural or artificial channel which conveys storm water runoff.

Notwithstanding the above definition, for purposes of LOC 50.44, watercourse means a bed or channel of a waterway.

Water Distribution System: A system consisting of underground pipes, house service lines, valves, hydrants, and other appurtenant structures provided for the transmission of potable water to its point of use.

Wetland: An Area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. Wetlands generally include but are not limited to swamps, marshes, bogs, and similar Areas.

a. Isolated Wetland: A wetland that is not linked or connected to an adjacent stream corridor, wetland, tree grove, or other wooded Area.

Wetland Functions and Values: The beneficial characteristics of wetlands, including but not limited to:

a. Wildlife and plant habitat protection
b. Protection of sensitive, threatened and endangered species
c. Erosion control
d. Flood and storm water storage
e. Water quality enhancement
f. Ground water recharge
g. Open space, passive recreation, and visual enjoyment
h. Cultural, social, educational, and research values

Wrecking Yard. Any premises used for the storage, dismantling or sale of either inoperable motor vehicles, trailers, machinery and/or building materials, or parts of such items.

Yard. An open, unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this Code, on the lot on which a building is situated.

Yard, Front. A yard, the front of which is the front lot line measuring at right angles toward the building the required distance or to the front exterior wall of the building.

Yard, Required. The area of land and space between a lot line and a setback line, whether the setback line is established by the terms of this Code or by an approval granted pursuant to this Code.

Yard, Side. A yard, measured at right angles from the side lot line toward the building, the required distance.

Yard, Rear. A yard, measured at right angles from the rear lot line toward the building, the required distance.

Cross-Reference:

Access (Access Development Standard): See 50.57.010
Capacity (Utility Development Standard): See 50.61.010
Cut or Excavation: See LOC 50.43.010
Design vehicle: See LOC 50.58.010
Erosion. See LOC 50.43.010
Fill: See LOC 50.43.010

Increased use (On-Site Circulation Development Standard): See LOC 50.58.010
Mulch: See LOC 50.43.010
Old Town Styles: See 50.66.010
Potential Severe Erosion Hazard Area: See LOC 50.43.010
Potential Severe Landslide Hazard Area: See LOC 50.43.010
Sediment: See LOC 50.43.010
Stripping: See LOC 50.43.010
Village Character: See LOC 50.65.020:

Section 50.02.050 Allowable Density and Density Transfer.

1. Except as provided in subsection 2. of this section, this section explains the method for computation of the number of units allowed for each site in the DD, WR, R-0, R-3, R-5, R-7.5, R-10 and R-15 zones, except in mixed use zones.

a. Compute the area of Net Developable Acre by subtracting from gross acreage (at 43,560 sq.ft. per acre) of residentially designated land the area required for street right-of-way. For public streets, use the actual acreage if known or 20% of the gross acreage. For private streets, use actual acreage if known or 40 foot right-of-way.

b. For all residential zones except the R-0 zone if there are existing dwellings on the site that will remain as a part of the development, subtract from the area calculated in A, an area amount equal to the minimum lot area per unit required in the zone. For the R-0 zone subtract an area amount equal to 1.2 times the floor area for the existing dwellings.

c. Compute the area of Density Transfer Acre by adding together the area of the components listed below.

i. Area within the floodway and the floodway fringe as shown on U. S. Army Corps of Engineers' flood maps.

ii. Area over 25% slope.

iii. Area in known landslide areas or in areas shown to have potential for severe or moderate landslide hazard.

iv. Area in public open space and parks.

d. Subtract the area of the Density Transfer Acre from the difference obtained after performing the calculation described in subsection 1.b., or if there are no existing dwellings on the site that will remain, from the area of the Net Developable Acre.

e. For zones, other than the R-0 zone, calculate the base number of units by dividing the result of the calculation from subsection 1.d. by the minimum lot area per unit allowed in the zone. For the R-0 zone, there is no base number of units. The base allowable FAR is 1.2 times the result of the calculation from subsection 1.d..

f. The area of the Density Transfer Acre may be added to the area of Net Developable Acre for the purpose of density calculation to the extent that the applicant has demonstrated by site specific information (in specified cases by an engineer's report) that the requirements of the Development Standards will be met for all units proposed to be built. The number of units allocated to the Density Transfer Acreage is computed in the same manner as the base number of units or FAR is calculated pursuant to subsection 1.e., less any units which cannot be placed due to failure to comply with the requirements of the Development Standards.

g. To determine the total number of units or FAR allowed on the site, add to the result of the calculation in subsection 1.e. the result of the calculation in subsection 1.f..

h. The hearing body will review the above calculations as part of the hearing process on the application. LOC 50.06.025(1)(b), 50.08.020(1)(b) and 50.09.020(3)(b) provide that the hearing body will approve the total number of units calculated in subsection 1.g. above if the facts presented by the applicant demonstrate that the resulting density can occur within requirements set forth in the Development Standards.

2. LOC 50.06.010, 50.06.020(2), 50.08.010, 50.08.020(2), 50.09.010, and LOC Article 50.16. provide for density bonuses under specified circumstances. The maximum number of units will not exceed the numbers allowed by those sections.

Applicability of Community Development Code

Article 50.03

50.03.005 Application of Code.

Development of real property within the corporate limits of the City of Lake Oswego shall be governed by this Code. All provisions in other sections of the Lake Oswego Code which conflict with applicable provisions of this Code are hereby superseded.

Section 50.03.010 Compliance.

Except as otherwise specifically provided by this Code, no building or other structure shall be constructed, reconstructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the City be commenced or changed, nor shall any condition of or upon real property be caused or maintained after December 16, 1982, except in conformity with the requirements prescribed for each of the several zones and general regulations established hereunder. It shall be unlawful for any person to erect, construct, reconstruct, establish, occupy, alter, enlarge or use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this Code contrary to the provisions of this Code. Where this Code imposes greater restrictions than those imposed or required by other rules or regulations or Code provisions, the provisions of this Code shall control.

Section 50.03.015 Maintenance of Minimum Ordinance Requirements.

No lot area, yard, or other open space, existing on or after December 16, 1982 shall be reduced in area, dimension, or size below the minimum required by this Code, nor shall any lot area, yard, or other open space which is required by this Code for one use be used as the lot area, yard, or other open space requirement for any other use, except as provided in this Code.

Section 50.03.020 Relationship to Other Laws and Private Agreements; Prior Approvals and Conditions of Approval.

1. It is not an intent of this Code to interfere with, abrogate or annul any easement, covenant or agreement between parties; provided, however, that where this Code imposes a greater restriction upon the use of buildings, and premises, upon height of buildings, or requires larger open spaces or similar restrictions than are imposed or required by private agreements, easements and covenants, the provisions of this Code shall govern.

2. Planned unit developments approvals, conditional use permits, variances and Development Review Commission approvals, and conditions attached to those approvals, and conditions attached to zone change approvals, granted prior to December 16, 1982 shall remain in effect until specifically amended or deleted by action pursuant to this Code. A request to amend approvals or delete or amend conditions of approvals is classified as a request to amend

the zoning map and shall be considered as such unless the subject matter of the request is regulated by LOC 50.86.025 (Modification of Approved Permits) in which case the request will be processed pursuant to the provisions of LOC 50.86.025. Those conditions imposed or approvals granted by ordinance under the prior Zoning Code may be amended or deleted by order of the hearing body, or, on appeal, by order of the City Council, without the necessity of adopting an amending ordinance.

3. For the time periods stated below, construction may occur pursuant to the listed types of approvals granted under the prior Zoning Code:

a. Conditional use permit - two years from the date of the order granting approval.

b. Variances - six months from the date of the order granting approval.

c. Planned unit developments - the time period stated in the approved development schedule, unless that schedule is modified pursuant to subsection 2 of this section. The time for filing plats must comply with LOC 50.87.010.

If 15% of the structural construction is not complete within the time periods stated, the approval shall be reviewed as a new application pursuant to the applicable City Code provisions. This subsection applies to uses which conform, to the use requirements of this Code. If a conditional use permit, variance or PUD is a non-conforming use under the terms of this Code it is subject to the provisions of LOC 50.70.015 and not this subsection.

Rules of Interpretation

Article 50.04

Section 50.04.005 Interpretation, Regulations and Procedures, Delegation.

1. The City Manager has the initial authority and responsibility to interpret all terms, provisions and requirements of this Code. A request for an interpretation of this Code shall be made in writing and the interpretation given may be appealed to the Planning Commission pursuant to the provisions of LOC 50.04.010.

2. The City Manager may develop regulations and procedures to aid in the implementation and interpretation of the provisions of this Code.

3. The City Manager may delegate any authority or responsibility identified in this Code to any suitable person.

Section 50.04.010 City Manager Interpretations.

A person may request an interpretation of the City Comprehensive Plan or land use regulations from the City Manager. Such an interpretation may be formal or informal, as follows:

1. Formal Interpretation: An applicant may request a formal interpretation as it relates to the proposed development of a specific property owned by the applicant or by a person for whom the applicant is the agent. The application shall be in writing and shall set forth the issues the applicant desires interpreted. A fee set by resolution of the City Council may be charged for an application for a formal interpretation. Notice of a request for a formal interpretation shall be sent in the manner provided for a minor development pursuant to LOC 50.81.010, and notice of the interpretation shall be sent in the same manner as notice of a decision on a minor development pursuant to LOC 50.81.020. A formal interpretation may be appealed in the same manner as a minor development pursuant to LOC 50.84.005. Once a formal interpretation becomes final, it shall be binding on the City as it applies to a future application for development of the subject property unless the provision that is the subject of the interpretation is amended, repealed or construed differently by LUBA or a court of competent jurisdiction prior to the filing of the application for development. Such an interpretation shall not be binding as it relates to development of other properties.

2. Informal Interpretation: Any person may request the planning staff or the City Attorney for an informal interpretation. Such a request may either be oral or in writing, and is not subject to notice, appeal or a fee. Such an interpretation is not a final land use decision, however, and is not binding on City staff or City appellate authorities as it applies to future land use applications on the subject property or in general.

Section 50.04.015 Authorization for Similar Uses.

The City Manager may authorize that a use, not specifically named in the permitted, conditional or prohibited uses of a district be included among the allowed uses, if the use 1) is similar to and of the same general type as the uses specifically allowed; 2) is consistent with the Comprehensive Plan; and 3) has similar intensity, density, off-site impacts and impacts on community facilities as uses permitted in the zone. However, the City Manager may not authorize a use already specifically permitted in any other zoning district. A person disagreeing with the City Manager's decision may appeal that decision to the Planning Commission pursuant to LOC 50.84.005.

Section 50.05.005 Zoning Districts.

The City is divided into the following zoning designations:

Residential	Map Designation
Residential - Low Density	R-15
Residential - Low Density	R-10
Residential - Low Density	R-7.5
Residential - Medium Density (FAN)	R-6
Residential - Medium Density	R-5
Residential - High Density	R-3
Residential – High Density (WLG)	R-2.5
Residential - High Density	R-2
Residential - High Density	R-0
Water Front Cabanas	WR
Design District (Old Town)	DD

Mixed Residential / Commercial	
Residential – High Density (WLG)	R-2.5/W
WLG Office Commercial/Town Home Residential	OC/R-2.5
WLG Office Commercial / Neighborhood Commercial	OC/NC

Commercial	Map Designation
Neighborhood Commercial	NC
General Commercial	GC
Highway Commercial	HC
Office Campus	OC
East End General Commercial	EC
Campus Institutional	CI
Campus Research & Development	CR&D
Mixed Commerce	MC

Industrial	
Industrial	I
Industrial Park	IP

Overlays	
Planned Development	PD

Resource Conservation	RC
Resource Protection	RP
Willamette River Greenway	GM

Section 50.05.010 Zoning Map.

1. The boundaries of the zoning districts established in this Code are indicated on the City zoning map.

2. Amendments to the City zoning map may be made pursuant to LOC 50.75.005. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without change, together with the adopting document, on file in the office of the City Recorder.

3. The City Manager shall maintain an up-to-date copy of the City zoning map to be revised from time to time so that it accurately portrays changes of zone boundaries. A separate map shall also be maintained and show the location of conditional use permits, planned developments and variances. The City Manager shall index on the appropriate map adjacent to such zone change, conditional use, cluster development or variance, the file number of the document authorizing the same.

Section 50.05.015 Interpretation of District Boundaries.

1. Except as provided in subsection 2. below, where due to the scale, lack of detail or illegibility of the City zoning map or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of any district boundary, the exact location of district boundary lines shall be determined by the City Manager in accordance with the following guidelines:

a. Street Lines. Where district boundaries are indicated as approximately following the centerline or right-of-way line of streets, such lines shall be construed to be such district boundaries.

b. Street Vacations. Whenever any street is lawfully vacated, and the lands within the boundaries thereof attach to and become a part of lands adjoining such street, the lands formerly within the vacated street shall automatically be subject to the same zoning district designation that is applicable to lands to which same attaches.

c. Lot Lines. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. If a district boundary divides a lot into two or more districts, the entire lot shall be placed in the district that accounts for the greater area of the lot by the adjustment of the district boundary, provided that the boundary adjustment is for a distance of less than 20 feet. If an adjustment of more than 20 feet is required, the change in the district boundary shall be treated as a change of zone.

d. Water Courses. District boundary lines are intended to follow the centerlines of water courses and the shore line of Oswego Lake unless such boundary lines are otherwise fixed on the City zoning map.

2. The boundaries of an RP or RC District shall be determined as provided in LOC Article 50.16.

Section 50.05.020 Zoning of Annexed Areas.

1. Zoning designations on newly annexed territories shall be imposed as provided in LOC 50.05.025.

2. The City may consider the zoning for any area considered for annexation at the same time the question of annexation for the area is considered. The notice and hearing procedures shall be the same as if the area in question were located within the City limits. The zoning decision shall not be a final decision for the purposes of judicial review until the date that the approval of the annexation of the area has become effective, or the date of the zoning order if that date is later in time.

Section 50.05.025 Comprehensive Plan Map Designations Automatically Applied Upon Annexations; Exceptions.

1. The Lake Oswego Comprehensive Plan Map provides for the future City zoning of all property within the City's Urban Service Boundary. In cases where the Comprehensive Plan Map requires a specific Zoning Map Designation to be placed on territory annexed to the City of Lake Oswego, such a zoning designation shall automatically be imposed on territory as of the effective date of the ordinance annexing such territory to the City. The City Manager shall modify the zoning map accordingly. In cases where the Comprehensive Plan Map does not require a specific Zoning Map Designation to be place on territory annexed to the City, the City Manager shall prepare an application and recommend a specific Zoning Map Designation to the Planning Commission with all due speed following the effective date of an ordinance annexing such territory to the City of Lake Oswego. The Planning Commission shall hear the application pursuant to LOC 50.75.005.

2. Where the Comprehensive Plan Map indicates an RP or RC District Designation on territory proposed for annexation, the City shall notify the owners of the annexing territory that they have 15 days from the date of the annexation to request a hearing on the designation pursuant to LOC Article 50.16. No fee shall be charged for such review. If following review, the decision maker determines the property was improperly designated, the RP or RC designation shall be removed.

3. When evidence indicates that a resource that potentially qualifies for an RP or RC District Designation exists on territory to be annexed, the City may conduct an ESEE Analysis and determine whether such a zone should be imposed pursuant to LOC Article 50.16. City staff may request a delay in the effective date of annexation to complete review.

Residential Zones

Article 50.06

Residential – Medium and High Density R-0, R-2, R-3, R-5, WR Zones.

[**Cross-Reference**: See West Lake Grove Design District for West Lake Grove WLG: OC/R-2.5; OC/NC, R2.5 and R-2.5/W zones]

Section 50.06.005 Purpose

(Reserved)

Section 50.06.010 Permitted Uses; R-0, R-2, R-3, and R-5 Zones.

Uses permitted in the R-0, R-2, R-3, and R-5 zones are as follows:

1. a. Except in the R-2 zone, any type of dwelling unit.
   b. In the R-2 Zone, the following types of dwelling unit are permitted:
      i. Single family detached dwellings.
      ii. Row house dwellings.
      iii. Zero lot line dwellings.
      iv. Duplexes.
   c. Single family detached dwellings and accessory structures associated with such dwellings located within the boundaries of the First Addition Neighborhood Association, as they now exist or hereafter may be amended by ordinance of the City Council, shall be developed and altered pursuant to the standards for such dwellings contained in LOC 50.07.025(2) and (4), 50.07.040, 50.07.045, and 50.07.065.
2. Non-Profit social, recreational, educational or cultural facilities and uses such as open space, recreational sites, view points, community centers, swimming pools, tennis courts, and similar uses associated with a planned development, designed and intended for use by residents of the development.
3. Minor public facilities, including collocated telecommunications facilities but excluding new telecommunications facilities.
4. Home occupations.
5. Cluster developments.
6. Group care facilities.
7. Mobile home parks and subdivisions.
8. Secondary dwelling unit (associated with detached single-family dwelling unit only).
9. Special use housing.
10. Family Day Care Facility.

[**Cross Reference**: Accessory Structures in R-6 Zone – 50.07.045]

Section 50.06.010 Conditional Uses: R-0, R-2, R-3, R-5 Zones.

Conditional uses in the R-0, R-2, R-3 and R-5 zones are as follows:

1. Request for up to a 25% density bonus for public agency rental housing projects (not special use housing or secondary dwelling units).
2. Major public facilities.
3. Nursing and convalescent homes.
4. Institutional uses.
5. Social, recreational, or cultural facilities, such as swimming pools, recreation centers, or community centers, operated by a non-profit organization made up of a homeowners association or associations, neighborhood groups or an association of such groups or neighbors.
6. New telecommunications facilities.
7. Non-profit office uses in structures on the City's Historical Landmarks List which are located on arterial streets. For the purposes of this section, "office uses" include business and management services, except for medical or dental offices.

[**Cross Reference**: Specific Standards for Conditional Uses in the R-2 Zone – 50.69.090]

Section 50.06.015 Permitted Uses in WR Zone.

The only uses permitted in the WR zone are single-family dwellings or cluster developments erected on piling over the water of Lake Oswego.

Section 50.06.020 Maximum Density, Density Bonus.

1. (a) The maximum density for each site in the R-0, R-2, R-3, R-5 and WR zones, expressed in number of dwelling units per net developable acre is computed by dividing the net developable acreage by the minimum lot area per unit and rounding down to the nearest whole number.

(b) The actual density allowed on a site will be determined at the time of development review. Maximum density will be allowed to the extent that facts presented to the hearings body show that development at that density can occur within requirements set forth in the Development Standards.

2. The maximum density in the R-0, R-2, R-3, R-5 and WR zones may be increased if specifically allowed by the terms of this Code. The maximum density bonus will be determined by the specific applicable Code provision. However, the total number of allowable units shall not exceed by more than 25% the number of units allowed in the zone, or allowed by the special use housing provisions. (LOC 48.22.595

Section 50.06.025 Minimum Density.

When lots are created through a partition or subdivision, a minimum density of 80% of the maximum density permitted by the zone is required on parcels of one-half acre or larger in the R-3 and R-5 zones. For purposes of this section, the number of lots required shall be determined by multiplying the maximum density, exclusive of potentially allowable density transfer, by .8. The result shall be rounded up for any product with a fraction of .5 or greater and rounded down for

any product with a fraction of less than .5.

Section 50.06.030 Lot Size, Density Transfer.

1. The minimum lot area for each dwelling unit is as follows:

Zone	Area
R-0	no minimum, FAR not to exceed 1.2 : 1.
R-2	no minimum, FAR not to exceed 1.2 : 1.
R-3	3,375 sq. ft.
R-5	5,000 sq. ft.
WR	3,375 sq. ft.

2. For projects in all five zones which are reviewed for approval as planned developments, pursuant to LOC 48.18.470 to 48.18.485, there is no required minimum lot area. Units may be placed on any portion of the site as long as the project complies with other requirements of this Code and LOC Chapters 45 and 49.

3. For projects on properties subject to an RP or RC District Designation, lot areas may be modified as provided in LOC 50.16.045.

Section 50.06.035 Lot Coverage.

Maximum lot coverage for buildings and required parking are as follows:

Zone		
R-0	60%	
R-2	35%	single family detached (excluding parking)
	55%	row house (excluding parking)
	55%	duplex (excluding parking)
R-3	50%	
R-5	50%	attached
	30%	detached new construction (excluding parking)
	35%	detached other than new construction
WR	100%	subject to compliance with LOC Chapter 45 Building Regulation Requirements

Section 50.06.040 Unified Site Plan Required.

All development in the R-0, R-2, R-3, and WR zones and attached development in the R-5 zone will be developed under a unified site plan. The site plan will identify circulation patterns, method of the provision of public services and general placement of lots and structures. Proposals with multiple ownerships shall include a written agreement of all owners that development of the site will occur pursuant to the site plan approved.

Section 50.06.045 Setbacks, Buffers.

1. a. Except as otherwise provided in this section, LOC 50.16.040, LOC 50.22.010, 50.22.025, 50.22.030, or 50.22.035, the following setbacks are required for new construction in the R-0, R-3 and R-5 zones:

Dwelling Type	Front	Side	Rear
Attached	10'	10' (exterior wall) 0' (attached wall)	10'
Detached	20'	10'	20'

b. Except as otherwise provided in this section or LOC 50.22.010, 50.22.025, 50.22.030 or 50.22.035, the required setback in the R-0, R-3 and R-5 zones for alteration that does not qualify as new construction is 10 feet.

c. Except as otherwise provided in this section or LOC 50.22.010, 50.22.025, 50.22.030, or 50.22.035, the following setbacks are required in the R-2 zone:

Dwelling Type	Front	Side	Rear
Duplex	10'	7' (exterior wall) 0' (attached wall)	10'
Zero-lot line	10'	7' (exterior wall) 0' (attached wall)	10'
Row house	10'	7' (exterior wall) 0' (attached wall)	10'
Detached	20'	[see subsection 1(d)]	20'

d. Side yard Setbacks for Detached Structures in R-2 Zone:

i. Single story structures 5 feet

ii. Multi-story structures 15 feet cumulative, 5 feet minimum on a side [but see subsection 1(e)].

e. A multi-story detached structure in the R-2 Zone may have a smaller cumulative side yard setback than required in subsection 1(d)(ii) where the ground floor is setback a minimum of 5 feet and the remainder of the structure is stepped back from the side building line by at least four feet on each side.

2. Structures shall be setback from a street right-of-way line a minimum of 10 feet, or such greater distance not to exceed the height of the principal structure necessary to accommodate off street parking or provide visual or sound buffering from arterial and collector streets.

3. The Development Review Commission may increase required setbacks as necessary to achieve compliance with the Development Standards.

4. a. Where a lot zoned R-0, 3 or 5 abuts a lot with a zone other than R-0, 3 or 5, a setback shall be established on the lot zoned R-0, 3 or 5 of a depth of at least the height of the principal building on the lot zoned R-0, 3 or 5.

b. Where a lot zoned R-2 abuts a lot in the R-6, R-7.5, R-10 or R-15 zone, the setback of

the abutting yard on the lot zoned R-2 shall be the setback required for such yard in the abutting lower density zone.

5. When a new development or the expansion or reconstruction of an existing development occurs in a R-0, 3 or 5 zone which abuts an existing less intensive residential use, a setback shall be established on the lot zoned R-0, 3 or 5 of a depth of at least the height of the principal building on the lot zoned R-0, 3 or 5.

6. There are no setbacks required in the WR zone, subject to compliance with LOC Ch. 45 Building Regulation requirements.

7. Front lot lines on corner lots may face either street. The City Manager shall determine the front lot line after taking into consideration the orientation of structures on the site and nearby lots, the ability to meet setbacks without variances and physical site or solar access limitations. Street access should be local streets.

8. Setbacks required by this section may be reduced pursuant to the provisions of LOC 57.06.090 without the need to receive a variance pursuant to this Code.

Section 50.06.050 Height of Structures.

1. a. On a lot or lots being developed as one project of 1/2 acre or greater in total area for the R-0 and R-3 zones and attached development in the R-5 zone, the structure height may average 40 feet over the entire site with no individual structure exceeding 50 feet.

b. On a lot or lots being developed as one project of 1/2 acre or greater in total area for the R-2 zone, the structure height may average 32 feet over the entire site with no individual structure exceeding 35 feet.

2. a. On lots of less than 1/2 acre, or for detached residential structures in the R-0, R-3 and R-5 zones, the height of a structure which qualifies as new construction shall not exceed 28 feet on flat lots or 35 feet on sloped lots. The height of an alteration that does not qualify as new construction shall not exceed 35 feet on flat or sloped lots.

b. On lots less than 1/2 acre, or for detached residential structures in the R-2 zone, the height of a structure shall not exceed 28 feet on flat lots or 35 feet on slopped lots.

3. A structure that qualifies as new construction shall not exceed a height of 28 feet on flat lots or 35 feet on sloped lots on any lot in the R-0, 3 or 5 zones if the structure is closer than 60 feet to a lot carrying a residential designation other than R-0, 3 or 5. The height of alteration that does not qualify as new construction shall not exceed 35 feet on flat or sloped lots in the same circumstance.

4. No structure in the WR zone can exceed 24 feet in height. Height is measured from the surface of the water.

[Cross-Reference:

Height Limitation: see also 50.45.010(1)(a) for non-single-family dwellings

Height Measure: See also 50.18.005 and 50.18.010 for First Addition and the Lake Grove Building Height and Roof Pitch Overlay

Article 50.07

Residential - First Addition Zoning District (R-6).

Section 50.07.005 Purpose.

The FAN R-6 Zone is intended to implement the land use policies of the First Addition Neighborhood Plan. The purpose of this Zone is to ensure the design quality of proposed development in the neighborhood by:

1. Ensuring that proposed building designs are visually compatible with the character of existing structures, maintain adequate light and air between structures, and complement the neighborhood's architectural character.
2. Minimizing the visual impact of garages from the street, and to continue established alley uses and functions such as access to garages, off-street parking and trash removal.
3. Encouraging compatible and sensitive remodeling and renovation of existing residences.
4. Preserving the small-town character of the existing streetscape by allowing single family development that is human scale and pedestrian oriented.
5. Enhancing the natural environment of the neighborhood as one of its dominant characteristics.
6. Preserving FAN's historical and architectural character by encouraging infill development that is compatible in design character to Landmark structures on abutting lots.

Section 50.07.010 Permitted Uses.

Uses permitted in the R-6 zone are as follows:

1. One single family dwelling per lot.
2. Zero lot line dwellings.
3. Raising of produce provided no sales office is maintained on the lot.
4. Animals kept for owner's use with no commercial activity allowed.
5. Home occupations.
6. Minor public facilities, including collocated telecommunications facilities but excluding new telecommunications facilities.
7. Cluster developments.
8. Group care facilities.
9. One secondary dwelling unit per lot.
10. Special use housing.
11. Family day care facility.

Section 50.07.015 Conditional Uses.

Uses Allowed. Conditional uses in the R-6 zone are as follows:

1. Institutional uses.
2. Major public facilities.
3. Private recreational uses that are predominately of an open space character, such as golf courses, hunt clubs, or other similar uses.
4. New telecommunications facilities.
5. Non-profit office uses in structures on the City's Historical Landmarks List which are located on arterial streets. For the purposes of this section, "office uses" include business and management services, except for medical or dental offices.

Cross Reference: Specific Standards for Conditional Uses in the R-6 Zone – 50.69.090]

Section 50.07.020 Lot Size, Lot Dimensions, Density Transfer.

1. Except as otherwise provided in this section, the minimum lot size and dimensions in the R-6 Zone are as follows:
   a. Minimum lot area per single family unit: 6,000 sq. ft.
   b. Minimum lot width at the building line: 50 feet
   c. Minimum lot depth: 100 feet.
2. Lot sizes and dimensions may be reduced for projects reviewed as planned developments, pursuant to Article 50.17, and as provided by subsection (3) of this section. However, the overall density allowed on the site may not be exceeded except as allowed by LOC 50.08.020(2) and subsection (3) of this section.
3. Up to a 25% reduction in minimum required lot area for each dwelling unit shall be allowed in the R-6 zone to permit the relocation of a designated historic landmark, when relocation has been approved by the designated hearing body in conformance with the provisions of LOC Chapter 58.
4. For projects on properties subject to an RP or RC designation, lot areas may be modified as provided in LOC 50.16.045.

Section 50.07.025 Setbacks.

1. Except as otherwise provided in this section, LOC 50.16.040, 50.22.010, 50.22.025, 50.22.030, or 50.22.035, the following minimum setbacks are required for development in the R-6 zone.

   a. Front Yard: 20 feet.
   b. Side Yard Adjacent to a Street:
      20 feet on arterials and collectors.
      10 feet on local streets.
   c. Other Side Yards:
      i. Single Story Structures: 5 feet.
      ii. Multi-Story Structures:
      15 feet cumulative, 5 feet minimum on a

side, except as provide in subsection 3 of this section.

d. Rear Yards: 20 feet.

2. A projecting covered front porch may extend into the front yard setback up to 6 feet.

3. A multi-story structure may have a smaller side yard setback than required in subsection 1(c)(ii) of this section where the ground floor is setback a minimum of 5 feet and the remainder of the structure is stepped back from the side building line by at least four feet on each side.

4. Eaves, bay windows, chimneys and other decorative features that do not expand the plane of the primary exterior wall may extend into the setback areas as long as minimum fire code distances are met.

Section 50.07.030 Height of Primary Structures.

Primary Structures shall not exceed 28 feet in height.

Cross Reference: Height Measure: See also 50.18.005 and 50.18.010 for First Addition and the Lake Grove Building Height and Roof Pitch Overlay

Section 50.07.035 Lot Coverage/Floor Area Ratios.

1. Structures on lots of 6,000 square feet or less shall not exceed 35 percent in total lot coverage and shall not exceed a 0.5 : 1 Floor Area Ratio (FAR).

2. For lots from 6001 square feet to 15,000 square feet, the percentage of allowable lot coverage shall be reduced by 1% and the allowable total FAR shall be reduced by .02 : 1. for each 1-1000 square foot increment that the lot exceeds 6,000 square feet.

3. For lots larger than 15,000 square feet, maximum allowable lot coverage shall be 25% and the maximum allowable FAR shall be .3 : 1..

4. Decks less than 5 feet above grade, stairs, pergolas, trellises or other landscaping structures, and concrete slabs shall be exempt from lot coverage and FAR calculations.

5. No more than 60% of the lot may be covered with impervious surfaces.

Section 50.07.040 Single Family Dwelling Design.

1. Roof Design. The minimum roof pitch for primary roof forms of a single family dwelling shall be 6:12. Shed type and flat roofs are not permitted as primary roof forms on single family dwellings. Secondary roof forms, such as sunrooms, balconies, dormers, porticos, or bays may be flat or shed roof types (See Appendix 50.07-A).

2. Front Porch Required. All new dwellings shall include a projecting covered front porch a minimum width of 50% of the building width at the front building line and six feet deep. Porch supports shall be provided and shall be wood or masonry or a solid material with the appearance of wood or masonry.

Cross Reference: Roof Pitch: See also 50.18.005 and 50.18.010 for First Addition and the

Section 50.07.045 Accessory Structures

1. In General:

a. Floor Area: A single accessory building shall not exceed 600 sq. ft. in ground floor area or the square footage of the ground floor area of the primary structure, whichever is less.

b. Height: The maximum height of an accessory structure shall be 24*, except that no accessory structure shall be taller than the primary structure.

c. Setbacks: The side and rear setbacks for an accessory structure no more than 15 feet tall shall be 5 feet. Taller accessory structures shall meet the setback requirements of the primary structure. Accessory structures on abutting lots may not be built with common party walls.

d. Roof: Roof pitch on an accessory structure shall either match the pitch of the primary structure or be a minimum pitch of 6:12.

2. Garages. In addition to compliance with subsection 1 of this section, a garage shall comply with the following requirements.

a. Garages shall be accessed from an alley, if available.

b. For interior lots, garages shall be located so that the side of the garage facing the street is set back a minimum of 15 feet behind the front building line of the house (excluding a porch). (See Appendix 50.07-B).

c. Detached garages may be set back a minimum of 5 feet from alleys.

3. This section shall not apply to secondary dwelling units, which shall be governed by the requirements for the primary structure and LOC 50.30.010.

Section 50.07.050 Parking.

1. Required off street parking spaces shall be paved with concrete, masonry, asphalt, gravel, grasscrete products or a combination of listed materials.

2. Defined parking areas may be created anywhere between the abutting property line and 3 feet from the edge of the existing paved travel lane, except that a designated parking area shall not conflict with an existing pedestrian walkway. If this area is currently paved with asphalt or other hard surface material, it may remain hard surfaced. Otherwise, on street parking shall be paved with gravel.

Section 50.07.055 Alleys.

Alleys shall be surfaced in the following manner:

1. Alleys that serve single family residences only shall be paved with gravel or permeable material.

2. Alleys that serve commercial, multi-family, town house, row house, or duplex development or institutional uses shall be paved with asphalt or concrete.

Section 50.07.060 Street Trees.

Two (2) street trees for every 50 feet of street frontage are required as a condition of approval of a new structure. Existing street trees can be counted in order to comply with this requirement, as long as the type, location and viability of the existing trees are sufficient to provide a full streetscape of trees.

Section 50.07.065 Administrative Modification.

1. Notwithstanding LOC Article 50.68 (Variances), the City Manager may grant an administrative modification to the lot coverage, height, front, rear and side yard setback requirements of the underlying zone, in the following amounts:

a. Lot coverage: Up to 200 sq. ft.
b. Front Yard Setback: Up to 2 feet.
c. Garage front yard setback: Up to 10 feet

2. The granting authority may grant an administrative modification pursuant to 1(a), (b) or (c), above, if:

a. The proposed development makes desirable visual linkages between surrounding buildings by repeating or incorporating similar ridge lines, eaves, window and door openings; or

b. The requested modification results in a development that is designed more compatibly with the topography and/or physical limitations of the site; or

c. The requested modification will enhance or better protect a significant natural feature(s) on the site (RC or RP Overlay districts); or

d. The proposed development provides visual continuity and cohesiveness with any abutting historic landmarks through the incorporation of style features, proportions and massing of the landmark structure.

3. An administrative modification shall be processed as a minor development pursuant to the review procedures for minor development contained in Article 50.79.

Section 50.07.070 FAN Advisory Opinion.

The City Manager may request an advisory opinion from the First Addition Neighborhood Association regarding interpretation or application of standards and requirements of the R-6 zone.

Article 50.08

Residential-
Low Density R-7.5, R-10, R-15 Zones.

50.08.005 Purpose (Reserved)

50.08.010

Section 48.06.195 Permitted Uses; R-7.5, R-10, R-15 Zones.

Uses permitted in the R-7.5, R-10 and R-15 zones are as follows:

1. One single family dwelling per lot. Single family detached dwellings and accessory structures associated with such dwellings located within the boundaries of the First Addition Neighborhood Association, as they now exist or hereafter may be amended by ordinance of the City Council, shall be developed and altered pursuant to the standards for such dwellings contained in LOC 50.07.025(2) and (4), 50.07.040, 50.07.045, and 50.07.065.
2. Zero lot line dwellings.
3. Raising of produce, provided no sales office is maintained on the lot.
4. Animals kept for owner's use with no commercial activity allowed. Large animals are permitted only in the R-10, R-15 zones and only under the following conditions:
   a. 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 square feet per animal over the age of six months.
   b. Animal runs or barns shall not be closer than 70 feet from the front property line and not closer than 35 feet from a side or rear property line.
   c. 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.
5. Home occupation.
6. Minor public facilities, including collocated telecommunications facilities but excluding new telecommunications facilities.
7. Cluster developments.
8. Group care facilities.
9. One secondary dwelling unit per lot.
10. Special use housing.
11. Family day care facility.

Section 50.08.015 Conditional Uses; R-7.5, R-10, R-15 Zones.

Conditional uses in the R-7.5, R-10 and R-15 zones are as follows:

1. Institutional uses.
2. Golf course, hunt club, or other similar open land private recreational uses.
3. Major public facilities.
4. New Telecommunications Facilities.
5. Non-profit office uses in structures on the City's Historical Landmarks List which are located on arterial streets. For the purposes of this section, "office uses" include business and

management services, except for medical or dental offices.

50.08.020 Maximum Density, Density Bonus.

1. (a) The maximum density for each site in the R-7.5, R-10, and R-15 zones, expressed in number of dwelling units per net developable acre is computed by dividing the net developable acreage by the minimum lot area per unit and rounding down to the nearest whole number.

(b) The actual density allowed on a site will be determined at the time of development review. Maximum, density will be allowed to the extent that facts presented to the hearings body show that development at that density can occur within requirements set forth in the Development Standards.

2. The maximum density in the R-7.5, R-10 and R-15 zones may be increased if specifically allowed by the terms of this Code. The maximum density bonus will be determined by the specific applicable Code provision. However, the total number of allowable units shall not exceed by more than 25% the number of units allowed in the zone, or allowed by the special use housing provisions

50.08.025 Lot Size; Lot Dimensions; Density Transfer.

1. Except as otherwise provided in this section, the minimum lot area for each dwelling unit and minimum lot dimensions for each zone are as follows:

Zone	Lot Area Lot Area	Lot Width at Building Line	Lot Depth
R-7.5	7,500 sq. ft.	50'	100'
R-10	10,000 sq. ft.	65'	100'
R-15	15,000 sq. ft.	80'	100'

2. Lot sizes and dimensions may be reduced for projects reviewed as planned developments, pursuant to Article 50.17, and as provided by subsection (3) of this section. However, the overall density allowed on the site may not be exceeded except as allowed by LOC 50.08.020(2) and subsection (3) of this section.

3. Up to a 25% reduction in minimum required lot area for each dwelling unit shall be allowed in the R-7.5, R-10 and R-15 zones to permit the relocation of a designated historic landmark, when relocation has been approved by the designated hearing body in conformance with the provisions of LOC Ch. 58.

4. For projects on properties subject to an RP or RC designation, lot areas may be modified as provided in LOC 50.16.045.

50.08.030

Section 48.06.215 Setbacks.

1. a. Except as otherwise provided in this section, LOC 50.16.040 , 50.22.010, 50.22.025, 50.22.030, or 50.22.035, the following setbacks are required for new construction in each zone:

Zone	Front	Yard Adjacent to a Street
R-7.5	25 feet	20' on arterial and collector
		10' on local streets
R-10	25 feet	20' on arterial and collector
		15' on local streets
R-15	25 feet	20' on arterial and collector
		15' on local streets

Zone	Other Side Yards	Rear Yards
R-7.5	10 feet	30 feet
R-10	15 feet	30 feet
R-15	15 feet	30 feet

b. Except as otherwise provided in this section, or LOC 50.22.010, 50.22.025, 50.22.030 or 50.22.035, the following setbacks are required for in each zone for an alteration that does not qualify as new construction:

Zone	Front	Yard Adjacent to a Street
R-7.5	25 feet	20' on arterial and collector
		10' on local streets
R-10	25 feet	20' on arterial and collector
		10' on local streets
R-15	25 feet	20' on arterial and collector
		10' on local streets

Zone	Other Side Yards	Rear Yards
R-7.5	5 ft. minimum width, total combined width 15 feet	25 feet
R-10	10 feet	25 feet
R-15	10 feet	25 feet

2. Zone lot line units must comply with all required setbacks except for the area of the common wall or walls.

3. Setbacks for a planned development will be determined at the time of review pursuant to

Article 50.17. The maximum setback that can be required by the Board is 35'.

4. Front lot lines on corner lots may face either street. The City Manager shall determine the front lot line after taking into consideration the orientation of structures on the site and nearby lots, the ability to meet setbacks without variances, and physical site or solar access limitations. Street access should be to local streets.

5. Setbacks required by this section may be reduced pursuant to the provisions of LOC 57.06.090 without the need to receive a variance pursuant to this Code.

50.08.035 Height Limits.

1. R-7.5: New construction shall not exceed 28 feet in height on a flat lot or 35 feet on a sloped lot. An alteration that does not qualify as new construction shall not exceed 35 feet in height on a flat or a sloped lot.

2. R-10: New construction shall not exceed 30 feet in height on a flat lot or 35 feet on a sloped lot. An alteration that does not qualify as new construction shall not exceed 35 feet on a flat or a sloped lot.

3. R-15: New construction shall not exceed 35 feet in height on a flat lot or a sloped lot. An alteration that does not qualify as new construction shall not exceed 35 feet on a flat lot or a sloped lot.

Cross Reference: Height Measure: See also 50.18.005 and 50.18.010 for First Addition and the Lake Grove Building Height and Roof Pitch Overlay

50.08.040 Lot Coverage.

1. Lot coverage shall not exceed the following maximums:

Zone	% Coverage
R-7.5	New Construction: 25% Alteration that does not qualify as new construction: 35% for interior lot, 40% for corner lot.
R-10	New Construction: 25% Alteration that does not qualify as new construction: 30%
R-15	New Construction: 25% Alteration that does not qualify as new construction: 30%

2. In cluster developments, lot coverage requirements may be applied with reference to the project as a whole and not on a lot by lot basis.

Article 50.09

Residential - Old Town Design District Zone.

Section 50.09.005 Purpose.

1. The purpose of this zone is to assure that single-family homes are protected from noise, light, glare and reduction in privacy to the maximum extent possible during the area's transition to higher density residential use, to facilitate good architectural design and site planning which maintains residential choices of unit size, cost and other amenities and supports the economic feasibility of new construction and development, and to assure protection and compatibility of all land uses, including commercial, residential, park, open space and historic sites.

2. The DD zone is intended for use in low density residential districts which are undergoing transition to increased densities, and which have scenic, historic, natural or residential features which should be preserved and integrated with the new development.

Section 50.09.010 Permitted uses.

Uses permitted in the DD zone are as follows:

1. Single-family dwelling.
2. Zero lot line dwelling.
3. Duplex.
4. Multiple dwelling.
5. Raising of vegetables and produce, provided no sales office is maintained on the premises.
6. Home occupations.
7. Minor public facilities, including collocated telecommunications facilities but excluding new telecommunications facilities.
8. Request for up to a 25% density bonus for public agency rental housing projects (not special use housing or secondary dwelling units.)
9. Cluster developments.
10. Group care facilities.
11. One secondary dwelling unit per lot.
12. Special use housing.

Section 50.09.015 Conditional Uses.

Conditional uses in the DD zone are as follows:

1. Institutional uses.
2. Major public facilities.
3. Nursing and convalescent homes.
4. New Telecommunications Facilities.
5. Non-profit office uses in structures on the City's Historical Landmarks List which are located on arterial streets. For the purposes of this section, "office uses" include business and management services, except for medical or dental offices.

Section 50.09.020 Lot Size, Lot Dimensions, Density.

1. The minimum lot area shall be 5,000 sq.ft. for single-family dwellings or duplexes.

2. Except for structures which have been determined by the State or the National Register of Historic Places as being of historic significance, the minimum lot area for a multiple dwelling development shall be 15,000 sq.ft.

3. (a) The maximum density for each site in the Old Town Design District Zone, expressed in number of dwelling units per net developable acre is computed by dividing the net developable acreage by 2,000 sq.ft. and rounding down to the nearest whole number.

(b) The actual density allowed on a site will be determined at the time of development review. Maximum density will be allowed to the extent that facts presented to the hearings body show that development at that density can occur within requirements set forth in the Development Standards.

4. For projects on properties subject to an RP or RC designation, lot areas may be modified as provided in LOC 50.16.045.

Section 50.09.025 Setback Requirements, Buffers.

1. Except as otherwise provided in this section or LOC 50.22.010, 50.22.025, 50.22.030, or 50.22.035, the required setback in the DD zone is 10 feet.

2. Structures shall be setback from a street right-of-way line a minimum of 10 feet, or such greater distance required to accommodate off street parking. Exception: On lots abutting Durham Street, front yard setbacks for new structures may be reduced to 3 feet for up to 50% of the building facade along Durham Street. The remaining 50% of the building may be between 5 feet and 10 feet from the front property line. The design of new structures along Durham Street must be compatible with LOC 50.56 (Old Town Design Standards).

3. The Development Review Commission may increase required setbacks as necessary to achieve compliance with the Development Standards.

4. Where a lot zoned DD abuts a lot zone EC or R0-EC, a setback shall be established on the lot zoned DD of a depth equal to the setback required for the abutting yard in the abutting zone. On the lot zoned DD, a landscaped buffer a minimum of 5 feet in width is required in the setback area abutting the EC or R0-EC zone. The purpose of the landscaped area is to provide a vegetative screen. Plan material used for screening and buffering shall be of a size that will achieve sufficient height within three years of the date of planting to provide adequate screening.

5. a. When a new multi-family development or the expansion or reconstruction of an existing multi-family development occurs in a DD zone subject to DRC review as provided in LOC 50.79.020(2)(a)(ii) which abuts an existing less intensive residential use, the proposed multifamily structure shall be set back from the boundary of the less intensive use by at least the amount of feet equal to the height of the multi-family structure.

b. A setback of 15 feet will be required for new duplex development, or the expansion or reconstruction of an existing duplex development in the DD zone subject to DRC review as provided in LOC 50.79.020(2)(a)(ii), when the proposed development:

1) is greater than 28 feet in height, and

2) abuts an existing, less intensive residential use.

c. Developments subject to subsection 5(a) or 5(b) of this section shall provide a landscaped area at least five feet wide within the setback area abutting the less intensive use. The purpose of the landscaped area is to provide a vegetative screen. Plant material used for

screening and buffering shall be of a size that will achieve sufficient height within 3 years of the date of planting to provide adequate screening.

6. Front lot lines on corner lots may face either street. The City Manager shall determine the front lot line after taking into consideration the orientation of structures on the site and nearby lots, the ability to meet setbacks without variances, and physical site or solar access limitations. Street access should be to local streets.

7. Setbacks required by this section may be reduced pursuant to the provisions of LOC 57.06.090 without the need to receive a variance pursuant to this Code.

Section 50.09.030 Height of Structure.

1. On a lot or lots being developed as one project of 1/2 acre or greater in total area, structures shall not exceed 35 feet in height. Exception: Structure height may average 40 feet over the entire site, with no individual structure exceeding 50 feet in the following circumstances:

a. 25% or more of the gross site area is constrained by steep slopes, floodplain or mapped sensitive lands; or

b. the development is for a Special Use Housing Project; and

c. Structures taller than 35 feet are set back at least 50 feet from a public street.

2. On lots of less than 1/2 acre, the height of a structure shall not exceed 35 feet.

3. No structure shall exceed 35 feet on any lot in the DD zone which is closer than 60 feet to a lot carrying a residential zone other than DD, R-0, 3 or 5.

Cross-Reference: Height Limitation: see also 50.45.010(1)(a)
Height Measure: See also 50.18.005 and 50.18.010 for First Addition and the Lake Grove Building Height and Roof Pitch Overlay

Section 50.09.035 Lot Coverage.

1. Maximum lot coverage for single family, detached dwellings in the DD zone is 35%.

2. Maximum lot coverage (including parking areas) for duplex or zero lot line developments in the DD zone is 60%.

3. The following maximum amounts of impervious surface coverage shall be permitted in the DD zone:

Dwelling Type	Maximum Impermeable Surface Allowed:
Single Family Detached	60%
Duplex, zero lot line	65%
Multi-family and rowhouse	70%

Section 50.09.045 Old Town Advisory Opinion.

The City Manager may request an advisory opinion from the Old Town Neighborhood Association regarding interpretation or application of standards and requirements of the DD zone.

Article 50.10

West Lake Grove Design District Zones.

Section 50.10.005 Purpose.

1. The purpose of the West Lake Grove Design District is to implement the Design District Plan by specifying the zones, permitted land uses, and site development limitations. This article applies to all lands within the boundaries of the Design District (see Article 50.67 - Figure 1).

2. The purposes of this Design District shall be accomplished through the following zones: West Lake Grove Design District Zoning Designations; Office-Commercial/Town Home Residential (OC/R-2.5); Office-Commercial/Neighborhood Commercial (OC/NC); and Town Home Residential (R-2.5) and Live/Work Residential (R-2.5/W).

Section 50.10.010 Office-Commercial/Town Home Residential (OC/R-2.5).

Uses permitted in the OC/ R-2.5 zone area are as follows.

a. Residential uses at a net site density of 2,500 square feet/lot area per unit are allowed in conjunction with office uses in the same building.

b. Attached, residential town-home uses, subject to the following conditions, in addition to the other provisions of this Code:

i. The minimum net density area for attached town-home housing is 2,500 square feet/lot area per unit.

ii. The minimum required lot width shall be 17 feet. The maximum lot coverage shall be 60%, excluding parking.

iii. Each unit of attached town-home housing shall be constructed on a separate lot.

When a combination of Office-Commercial and attached town-home 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 the parcel which is most proximate to the surrounding residential zoning districts.

c. Professional Offices. 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.

d. Services. Elder care, special use housing, assisted and convalescent care.

e. Site Development Limitations.

i. A single building which provides for any of the permitted uses shall be limited to a total floor area of 8,000 square feet in a multi-story building, with no more than 5,000 square feet on any floor.

ii. Setbacks.

A. Office Commercial and Office Commercial/Residential structures:

Setbacks of structures abutting
residential zones 25 ft.

Structures shall be set back at least six feet from the meandering pathway or

sidewalk along Boones Ferry Road (see Article 50.67 (Figure 2(c)).

B. Attached Town Homes Front Setbacks. The following exterior wall setbacks from the property line shall be required:

Front (from property line)	10 ft.
Rear (abutting a single family residential district)	25 ft.
Rear (not abutting a single family residential district)	10 ft.
Side (abutting a single family residential district)	25 ft.
Side (not abutting a single family residential district)	10 ft.
iii. Height of Structures (Measured from grade at the exterior wall of the building to the ridge of the roofline)	35 ft.

Cross-Reference: Height Limitation: see also 50.45.010(1)(a) for non-single-family dwellings

Section 50.10.015 Office Commercial/Neighborhood Commercial (OC/NC).

Uses permitted in the Office Commercial/Neighborhood Commercial(OC/NC) Zone are as follows:

a. Professional-Office:

i. 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, engineers, or other design businesses, research, software development, corporate offices, medical testing laboratories, specialty medical services.

ii. A single building which provides for any of the permitted uses shall be limited to a maximum building footprint of 5,000 square feet.

b. Services - Educational and Care - limited to 5,000 square feet or less in area:

i. Day care, kindergartens, preschools and other private or public educational institutions.

ii. Other educational uses associated with private or public institutions.

c. Retail Sales - Food, Restaurants and Drinking Places:

i. Restaurants - with or without associated lounge: Service of food and beverages shall be primarily to persons seated within the building and designated outdoor areas. The total size of seating area , both in-doors and outdoors, of any restaurant allowed in this zone shall be limited to 1,500 square feet.

ii. Delicatessen – with no table service and minimal on-site cooking of food.

iii. Bakery – where baked foods manufactured elsewhere or on-site baked goods are sold on the premises. Consumption may also be allowed on site provided the seating area is 700 square feet or less.

iv. Specialty food stores such as a coffee shop or juice bar.

d. Retail Sales - General Merchandise.

General retail sales under 5,000 square feet such as apparel and accessories, small hardware store, nursery, florist, furniture and appliance stores and office supplies.

e. Personal Services - Limited to 1,000 square feet or less in area, such as hair salons and personal care such as massage, pedicure and manicure.

f. Specialty Retail - Limited to 5,000 square feet or less in area, such as:

i. Antique stores.

ii. Art galleries.

iii. Jewelers.

g. Site Development Limitations.

i. Setbacks.

A. Buildings shall be set back at least six feet from the sidewalk along Boones Ferry Road (see Appendix 50.67-A, Fig. 2(c)).

ii. Height of Structures.

A. The maximum height of any structure shall not exceed 35 feet, measured from grade at the exterior wall of the building to the ridge of the roofline. The maximum height of the wall plane shall be no greater than 30 feet measured from grade at the exterior wall of the building to the gutter line.

Cross-Reference: Height Limitation: see also 50.45.010(1)(a) for non-single-family dwellings

Section 50.10.020 Town Home Residential (R-2.5).

Uses permitted in the R-2.5 zone are as follows.

a. Attached for-sale residential town-homes subject to the following special conditions, in addition to the other provisions of this Code:

i. The minimum allowed density is 2,500 square feet/lot area per unit.

ii. The minimum required lot width shall be 17 feet. The maximum lot coverage shall be 60%, excluding parking.

iii. Each unit of housing shall be constructed on a separate lot.

b. Site Development Limitations.

i. Setbacks. The following exterior wall setbacks shall be required in the R-2.5 zone:

Front (from property line)	10 ft.
Rear (abutting a single family residential district)	25 ft.
Rear (not abutting a single family residential district)	10 ft.
Side (abutting a single family residential district)	25 ft.
Side (not abutting a single family residential district)	10 ft.

ii. Height of Structures. The maximum height of any structure in the R-2.5 zone shall not exceed 35 feet as measured from grade at the exterior wall of the building to the ridge of the roofline.

Cross-Reference:

Height Limitation: see also 50.45.010(1)(a) for non-single-family dwellings

Section 50.10.025 Live/Work Zone (R-2.5/W).

Uses permitted in the R-2.5/W Zone are as follows:

a. Attached for-sale residential town-homes that meet the following standards:

i. The required density shall be 1,700 square feet of lot area per unit.

ii. The minimum required lot width shall be 17 feet. The maximum lot coverage shall be 75%, excluding parking.

iii. Each unit shall be constructed on a separate lot.

b. Professional-Office.

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 art, advertising, architects, landscape architects, engineers, or other design businesses, computer software development and information technology services.

c. Personal Services, such as hair salons and personal care.

d. Specialty Retail, such as:

i. Antique Stores.

ii. Art galleries.

iii. Jewelers.

e. Conditions for Commercial Use.

i. A person who conducts business within the R-2.5/W zone must also reside within the same building. No more than one additional employee is allowed.

ii. The business must be conducted in a specifically delineated area on the first floor of the structure and occupy no more than 700 square feet.

f. Site Development Limitations.

i. Setbacks. The following exterior wall setbacks are required within the R-2.5 zone:

Front (from property line)	10 ft.
Rear (abutting a single family residential district)	25 ft.
Rear (not abutting a single family residential district)	10 ft.
Side (abutting a single family residential district)	25 ft.
Side (not abutting a single family residential district)	10 ft.

ii. Height of Structures as measured from grade at the exterior wall of the building to the ridge of the roofline, 35 ft.

Cross-Reference: Height Limitation: see also 50.45.010(1)(a)

Article 50.11

Commercial Zones.

Section 50.11.005 Purpose.

1. Neighborhood Commercial - to provide land near or within residential areas for commercial activities. The uses listed for the Neighborhood Commercial zone in LOC 50.11.010 and 50.11.020(6), (7) have been determined to implement the Neighborhood Commercial policies of the Comprehensive Plan.

2. General Commercial - to provide lands for commercial activities supplying a broad range of goods and services to a market area which includes the planning area identified in the Comprehensive Plan.

3. Highway Commercial - to provide lands for commercial activities which meet the needs of the traveling public as well as other highway-oriented retail uses which require access to a market area larger than the general commercial zone. This district is not intended for regional shopping centers.

4. Office Campus - to provide lands for major concentrations of regionally oriented offices and employment opportunities for a market area larger than the planning area.

5. East End General Commercial - to implement comprehensive plan policies directing revitalization of the East End Business District. The district should guide and encourage development and redevelopment of the East End Business District.

6. Campus Research & Development - to provide a mix of clean, employee-intensive industries, offices and high-density housing with associated services and retail commercial uses in locations supportive of mass transit and the regional transportation network.

7. Mixed Commerce - to provide for a mix of uses requiring highway access and which provide a strong visual identity. Intended uses include local and regional convention type facilities, office uses and supporting retail uses. Supporting retail uses shall be limited to less than 60,000 square feet of gross leasable area per building or business in the MC Zone.

Section 50.11.010 Uses.

Uses:	P	C	X
	Permitte uses.	Uses permitted upon the grant approval of a conditional use permit.	Uses specifical prohibite

[**Cross-reference**: See 55.12.010-.025 for Campus Institutional uses]

1. Residential:

A. Special Uses.

Uses:	C	X
	NC, GC, EC	HC, OC, CR&D, and MC

B. Residential use at R-0, R-3, and R-5 density except as specifically allowed in LOC 50.11.020. Use not allowed on ground floor in GC zones.

Uses:	P	C	X
	GC, HC, OC, CR & D	NC	EC (see subsection (D)) below) MC

C. Residential use at R-7.5, R-10 and R-15 density. Use not allowed on ground floor in GC zones.

Uses:	P	X
	NC, GC, HC, OC	EC (see subsection (D)), CR&D, MC

D. Residential use at R-0 density with a maximum 3.0 : 1. FAR (4 unit minimum) on parcels greater than 6,000 square feet in size. For parcels 6,000 square feet in size or smaller, there is no minimum unit requirement when residential development is proposed. Use not allowed on ground floor in EC zone south of "B" Avenue or east of "2nd" Street.

Uses:	P	X
	EC	NC, GC, HC, OC, MC, and CR&D

2. Retail Sales - Food:

A. Markets, over 25,000 sq. ft.

Uses:	P	X
	GC, HC, EC, MC (In the MC Zone, any retail uses shall be limited to less than 60,000 square feet of gross leasable area per building or business)	NC, OC and CR&D

B. Markets under 25,000 sq. ft.

Uses:	P	X
	NC, GC, HC, EC, MC	OC,

C. Delicatessen, no table service.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

D. Specialized food stores.

Uses:	P	X
	NC, GC, HC, EC, MC	OC, CR&D

E. Bakery - where baked foods manufactured elsewhere are sold on the premises.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

F. Bakery, manufacturing - where on-site baked foods are sold on the premises (less than 5,000 sq. ft. of gross floor area).

Uses:	P	X
	NC, GC, HC, EC, CR&D and MC	OC

G. Bakery, manufacturing - where on-site baked foods are sold on the premises (5,000 sq.ft. or more gross floor area).

Uses:	P	X
	GC, EC	NC, HC, OC, CR&D and MC

3. Retail Sales - General Merchandise:

A. Over 20,000 sq. ft., including apparel and accessory, department stores, building supply, garden, sporting goods, furniture, etc.

Uses:	P	X
	GC, EC, MC (In the MC Zone, any retail uses shall be limited to less than 60,000 square feet of gross leasable area per building or business)	NC, HC, OC and CR&D

B. 10,000 - 20,000 sq. ft., including apparel and accessory, department stores, building supply, garden, sporting goods, furniture, etc.

Uses:	P	X
	GC, HC, EC, CR&D and MC	NC, OC

C. Under 10,000 sq. ft., including apparel and accessory, department stores, building supply, garden, sporting goods, furniture, etc.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

D. Auto sales.

Uses:	P	X
	GC, EC	NC, HC, OC, CR&D and MC

4. Retail Sales - Restaurants, Drinking Places:

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

B. Restaurants - take out only; or which include a drive-in window.

Uses:	P	X	C
	HC	NC, OC, EC,CR&D and MC	GC

C. Bar or cocktail lounge not associated with restaurant; use with retail malt beverage license.

Uses:	P	X
	GC, HC, EC, MC	NC, OC, and CR&D

5. Services - Personal:

A. Laundries & cleaning places.

Uses:	P	X
	NC, GC, HC, EC,CR&D and MC	OC

B. Tailor shops & related services.

Uses:	P	X
	NC, GC, EC, CR&D and MC	HC, OC

C. Barber & beauty shop, personal care.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

D. Clothing rental.

Uses:	P	X
	NC, GC, EC	HC, OC, CR&D and MC

E. Mortuaries.

Uses:	P	X
	GC, EC	NC, HC, OC, CR&D and MC

F. Upholstery shop.

Uses:	P	X
	NC, GC, EC	HC, OC, CR&D and MC

G. Radio & television repair shop.

Uses:	P	X
	NC, GC, EC	HC, OC, CR&D and MC

H. Home appliance repair shop.

Uses:	P	X
	NC, GC, EC	HC, OC, CR&D and MC

6. Services - Business:

A. Sign shop.

Uses:	P	X
	GC, EC	NC, HC, OC, CR&D and MC

B. Adjustment & collection agencies.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

C. Advertising agencies, including commercial artists.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

D. Truck & trailer rental and sales of accessories.

Uses:	P	X
	HC	NC, GC, OC, EC, CR&D and MC

E. Auto rental (vehicle storage off site in CR&D, MC, EC and GC zones).

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

F. Business and management services.

Uses:	P
	NC, GC, HC, OC, EC, CR&D, and MC

G. Car wash.

Uses:	P	C	X
	HC	GC, EC	NC, OC, CR&D, and MC

H. Credit agencies.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

I. Duplicating, addressing, blueprinting, photocopying, mailing & stenographic services.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

J. Employment agencies.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

K. Office equipment rental & repair agencies.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

L. Equipment rental.

Uses:	P	X
	GC	NC, HC, OC, EC, CR&D and MC

M. Equipment service & repair places, appliance small engine.

Uses:	P	X
	GC, EC	NC, HC, OC, CR&D and MC

N. Offices housing personnel who provide special services to businesses.

Uses:	P
	NC, GC, HC, OC, EC, CR&D, and MC

O. Private off-street parking facilities (sole use on site, parking garages, etc.).

Uses:	P	X
	GC, EC, CR&D, MC	NC, HC, OC

P. Services to buildings (including dwellings), cleaning & exterminating.

Uses:	P	X
	GC, HC, EC, MC	NC, OC, CR&D

Q. Telephone answering service.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

R. Miscellaneous business services, including auctioneers, bondsmen, drafting, detective agencies, notary public & other like services.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

S. Vehicle repair shops (located entirely within an enclosed building).

Uses:	C	X
	GC, EC	NC, HC, OC, CR&D, MC

T. Auto service stations (primary use only).

Uses:	P	C	X
	GC, HC, EC	NC	OC, CR&D, MC

U. Accounting, auditing & bookkeeping.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

V. Computer services.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

W. Printing, publishing & lithographic shop.

Uses:	P	C
	GC, HC, OC, EC, CR&D and MC	NC

X. Commercial photographic studios.

Uses:	P
	NC, GC, HC, OC, EC CR&D and MC

Y. Research and testing facilities.

Uses:	P	C
	GC, HC, OC, EC, CR&D and MC	NC

7. Services - Finance, Insurance and Real Estate:

A. Financial and banking institutions.

Uses:	P	C
	GC, HC, OC, EC, CR&D and MC	NC

B. Insurance and bond carriers, agents, brokers and services.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

C. Real estate brokers, agents & services.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

8. Services Lodging Places:

A. Hotels, motels and associated retail uses located within the hotel or motel that are intended to serve the guests.

Uses:	P	X
	GC, HC, EC, MC	NC, OC, CR&D

9. Services - Medical & Health:

A. Hospitals.

Uses:	P	X
	GC, EC	NC, HC, OC, CR&D, MC

B. Clinic, outpatient.

Uses:	P	X
	NC, GC, EC, CR&D, MC	HC, OC

C. Medical and dental laboratories.

Uses:	P	X
	GC, OC, EC, CR&D, MC	NC, HC

D. Orthopedic equipment & supplies, rental, sale & service.

Uses:	P	X
	GC, EC, CR&D, MC	NC, HC,OC

E. Veterinarian's facilities, totally enclosed.

Uses:	P	X
	GC, EC	NC, HC,OC, CR&D, MC

F. Other veterinarian facilities.

Uses:	P	X
	GC	NC, HC,OC, EC, CR&D, and MC

G. Ambulance service.

Uses:	P	X
	NC, GC, EC	HC, OC, CR&D, MC

10. Services - Professional Offices:

A. Architectural.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

B. Artists studios.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

C. Engineering, including surveying.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

D. Law.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

E. Landscape architecture.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

F. Professionals, other.

Uses:	P
	NC, GC, HC, OC,EC, CR&D and MC

G. Regional offices & corporate headquarters.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

11. Services - Amusement:

A. Art galleries.

Uses:	P	C	X
	GC, EC, MC	NC	HC, OC, CR&D

B. Billiard and pool parlors.

Uses:	P	C	X
	GC, EC	NC	HC, OC, CR&D, MC

C. Bowling alleys.

Uses:	P	X
	GC, EC	NC, HC, OC, CR&D, MC

D. Dance studios and dance schools.

Uses:	P	C	X
	GC, EC	NC	HC, OC, CR&D, MC

E. Skating rinks, ice and/or roller.

Uses:	P	X
	GC, EC	NC, HC, OC, CR&D, MC

F. Racquet clubs, health clubs (within building, except paths and tennis courts allowed).

Uses:	P	C	X
	GC, EC, CR&D, MC	NC	HC, OC

G. Theaters, indoor.

Uses:	P	X
	GC, HC, EC, MC	NC, OC, CR&D

H. Recreation facility/indoor or outdoor pool, athletic fields.

Uses:	P	X
	CR&D	NC, GC, HC,OC, EC, MC

I. Outdoor commercial amusement.

Uses:	P	X
	MC	NC, GC, HC, OC, EC and CR&D

12. Services - Educational:

A. Nursery, day care centers.

Uses:	P
	NC, GC, OC, EC, CR&D and MC

B. Private or public educational institutions.

Uses:	P	C	X
	GC, EC	NC	HC, OC, CR&D, MC

C. Vocational schools.

Uses:	P	C	X
	GC, EC	NC	HC, OC, CR&D, MC

D. Music schools.

Uses:	P	C	X
	GC, EC	NC	HC, OC, CR&D, MC

13. Services - Membership Organizations, Officers:

A. Business and professional.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

B. Civil, social and fraternal.

Uses:	P	X
	GC, HC, EC, CR&D and MC	NC, OC

C. Charitable.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

D. Labor.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

E. Political.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

F. Religious, not including churches.

Uses:	P	X
	GC, HC, OC, EC, CR&D and MC	NC

14. Public Service & Facilities:

A. Major public facilities.

Uses:	C	P
	NC	GC, HC, OC, EC, CR&D and MC

B. Minor public facilities.

Uses:	P
	NC, GC, HC, OC, EC, CR&D and MC

15. Alterations or expansions of non-conforming uses:

Uses:	C
	NC, GC, HC, OC, EC, CR&D and MC

16. Light Manufacturing, Processing or Assembly of Product:

Uses:	P	X
	CR&D	NC, GC, HC, OC, EC, MC

17. Manufacturing:

Uses:	P	X
	CR&D	NC, GC, HC, OC, EC, MC

Section 50.11.015 Site Development Limitations.

(1) Except as modified by LOC 50.11.020 the following site development limitations apply in each zone:

1. Required Yard Adjacent to residential zone:

From a Structure	25 feet	NC, GC, HC, OC, and EC zones
From a parking lot	10 feet	
From a vehicular accessway	5 feet	

An accessway shared by property zoned commercial and residential is not subject to the yard requirement.

2. FAR Maximum
   NC = 0.25 : 1. (except as determined by the Comprehensive Plan)(see Appendix 50.11-A)
   OC = 0.30 : 1.
   EC = 3.0 : 1.

3. Lot coverage:

NC	None
GC	50%
HC	50%
OC	25%
EC	None

4. Vehicle Trip Max:
OC = 10.2/1000 sq. ft. floor area

5. Height*

NC, GC, HC, OC	Structures placed closer than 60' to the property line of a lot which carries any residential zone designation	Maximum height of 40' minus one foot for each foot less than 60' the structure is from the residential zone.
	All other circumstances	NC - 35 feet
		GC - 45 feet
		HC - 60 feet
		OC - 45 feet
EC	Lot Abuts DD zone	40 feet
	Lot is within 120 feet of a lot zoned R-6 or R-7.5	35 feet
	Lot is within 120 feet and 240 feet of a lot zoned R-6 or R-7.5	45 feet
	All other lots	60 feet

* The measured distance is exclusive of intervening public right-of-way if any exists. This paragraph applies to LOC 50.11.020.

If a dimension or requirement is not shown it means there is no minimum or maximum, but that a requirement may be established at the time of Development Review Commission review.

(2) CR&D Zone.

A. Required yards

Minimum Perimeter Setback: Fifteen (15) feet.

(1) The following uses may be allowed within a perimeter setback area which fronts

on a public road:

a. landscaping
b. bikeways, trails, pedestrian walks and plazas
c. access driveways
d. bus shelters and other pedestrian amenities, and,
e. identification signs.

(2) The following uses may be allowed within perimeter setback areas which are adjacent to other site areas:

a. landscaping
b. bikeways, trails, pedestrian walks,

patios, courts

c. on-site directional signs
d. coordinate joint-use circulation drives, parking, loading, recreational activity areas, plazas, and
e. coordinated joint-use structures, subject to provisions of the Uniform Building Code.

B. [reserved].

C. Lot Coverage. The maximum lot coverage for all structures shall be fifty-five (55) percent of the net site area, after any required dedications for roadway purposes. A minimum of twenty-five (25) percent of the developed site area shall be used for landscaping, natural areas or outdoor recreational use areas.

D. Height.

(1) For each CR&D zone the average height of all structures shall not exceed 78'. One structure is allowed a maximum structure height of 158'. No other structure shall exceed 104'. For the purpose of applying these height restrictions, all adjacent lots with a Comprehensive Plan designation of CR&D, regardless of ownership, shall be considered as being located in one CR&D zone.

(2) Within 120' of property zoned R-7.5, R-10 or R-15 no structure shall exceed 60'.

E. Access. No direct access from a lot shall be allowed to Kruse Way or to Kruse Woods Drive.

F. [reserved].

G. No major trees (a tree with a trunk diameter of at least 8" at 24" above grade) located within 30' of the Kruse Way right-of-way may be removed.

(3) MC Zone

A. Required Yards

(1) Minimum Front Yard Setback: Fifteen (15) feet. Structures on corner lots shall observe the minimum setback on both streets.

(2) Minimum Rear Yard Setback: None required except when rear yard abuts a more restrictive zone. When rear yard abuts a more restrictive zone setbacks shall be fifteen (15) feet. Ten (10) feet shall be added to the rear yard setback for each ten (10) foot increment in building height over thirty-five (35) feet.

(3) Minimum Side Yard Setback: None required except when side yard abuts a more restrictive zone. When side yard abuts a more restrictive zone, setbacks shall be fifteen (15) feet. Ten (10) feet shall be added to the side yard setback for each ten (10) foot increment in building height over thirty-five (35) feet.

B. [reserved].

C. Lot Coverage - no limit.

D. Height. 95' maximum, except in the MC zone located south of Kruse Way and east of Bangy Road, within which zone for no more than two structures the maximum allowable height is 175'. For the purpose of applying these height restrictions all adjacent lots zoned MC, regardless of ownership, shall be considered as being located in one MC zone.

E. Access. No direct access from a lot shall be allowed to Kruse Way or to Kruse Woods Drive.

F. [reserved].

G. No major trees (a tree with a trunk diameter of at least 8" at 24" above grade) located within 30' of the Kruse Way right-of-way may be removed.

Cross-Reference: In EC zone, see also Downtown Redevelopment District Design Standards, LOC Article 50.65.]
Height Limitation: see also 50.45.010(1)(a)

Section 50.11.020 Special Requirements.

1. All business, service, repair, processing, storage or merchandise displayed on property abutting or adjacent to a residential zone shall be conducted wholly within an enclosed building unless screened from the residential zone by a buffer area planted with year-around sight obscuring landscaping at 6 feet high.

2. Motor vehicle, recreational vehicles, boat or trailer rental or sales lots shall be drained and surfaced with pavement except in those portions of the lot maintained as landscaped areas.

3. Development of any site in the office campus zone requires an overall Development Plan and Schedule, pursuant to Article 50.71, showing the distribution of the proposed use(s), the general circulation pattern within all lots included in the site and general utility and drainage provisions. The site may be developed in phases, based on the overall site plan.

4. All development in any commercial zone will be developed under a unified site plan. The site plan will identify circulation patterns and access points, method of provision of public services and general placement of lots and structures, general area and type of uses. Proposals with multiple ownerships shall include a written agreement of all owners that development of the site will occur pursuant to the site plan approved.

5. Each commercial area identified on the City's Comprehensive Plan Map also is described in Appendix 50.11-A. The specific conditions for each area, other than those areas identified in subsections 6, 7 and 8 of this section, are by this reference made a part of this Code. and are conditions and limitations of each zone.

6. Mountain Park Town Center Site. A maximum of 40,000 sq. ft. of retail and service use building area are allowed on the 32-acre site for the uses. The building height limitation is 45 ft. and lot coverage is 50%. There are no floor area ratio (FAR) requirements. The uses allowed are those allowed in the NC zone plus the following: adjustments and collection agencies; advertising agencies (including commercial artists); credit agencies; duplicating, addressing, blueprinting, photocopying, mailing and stenographic services; employment agencies; office equipment rental and repair, equipment service and repair places (appliance, small engine); services to building (cleaning, exterminating); financial and banking (no more than 3,500 sq. ft.); regional offices, corporate headquarters; offices of all types of service and membership organizations. A maximum of 492 dwelling units are permitted at a density equal to that allowed

in the R-0 zone. A maximum of 3.55 acres on the site will be allowed for church parking facilities. The requirements of the R-0 zone apply to the residential use.

7. Monroe/Boones Ferry Site. A maximum of 131,535 sq. ft. of retail, service uses and office uses are allowed on the 13 acre site. Retail uses shall not exceed 60,000 sq. ft. The uses allowed are those allowed in the NC zone, plus the retail, service and office uses listed in (6) above, and a totally enclosed veterinarian facility. Building height limitation is 45 ft., lot coverage is 50%. There are no floor area ratio (FAR) requirements.

8. I-5/Kruse Way Highway Commercial Site. A maximum of 20 acres of the 35 acre site may be developed. A minimum of 15 acres of the site, including stream corridors and associated wetlands, shall be retained as open space. As a part of the development process, floor area maximums shall be placed upon the development. The site shall be developed by methods that insures that the traffic generated by the 35 acre site will not exceed the capacity of the intersection of the site with Kruse Way. The City Manager may require traffic management plans in conjunction with any development request for this site in order to preserve the capacity of Kruse Way.

The maximum building height on the site is 75 feet with the overall average building height on the 35 acre site not to exceed 60 feet. Buildings which exceed 60 feet in height shall be located no closer than 120 feet to the boundary of the site. The boundary of the site is defined as the centerline of Kruse Oaks Boulevard on the east, the Kruse Way right-of-way boundary on the south, the State of Oregon right-of-way boundary on the west and the centerline of Bull Creek on the north. The traffic management provisions of subsection 10 of this section apply to this site.

9. Development on the block located in the EC district bounded by A Avenue, Second Street, Evergreen Road and Third Street is not subject to the height limitation stated in LOC 50.11.015 if the following conditions are satisfied;

a. The use of the structure is a mixed use containing dwelling units.

b. The street level commercial uses are designed to provide a "village atmosphere" by the use of landscaping, emphasis on pedestrian access and small scale retail uses.

c. The structure contains parking areas made available to the public and other uses in the area.

10. The following traffic management requirements apply to all uses in the CR&D, MC, OC, GC and HC zones located in the Kruse Way Corridor (the area north of Bonita Road, south of Melrose-Carman, west of Boones Ferry Road and east of I-5, including the S.W. Quadrant of the Kruse Way/Boones Ferry intersection and the property located between Kruse Way and Galewood Drive).

A. It is the purpose of these transportation management provisions to require that traffic generation limitations will be placed on all development in order to assure the functioning of Kruse Way and the adjacent street system within Service Level "D" at p.m. peaks.

An ODPS, revised ODPS, planned development or any phase of a development shall not be approved if the traffic volumes, after development consistent with the approval occurs, are projected to exceed the maximum access volumes planned for each intersection identified on Figure A-5, page 77 of the 1983 Buttke Traffic Study.

B. A Traffic Management Program (TMP) shall be submitted with each initial or revised development application. The program may include, but is not limited to, the following TM mechanisms: physical site controls on existing traffic, p.m. peak hour exiting traffic limitations; traffic monitoring, restrictions on the number of parking spaces, flextime, staggered working hours, transit ridership programs, car and van pools, and similar ride share programs.

C. At the time of review of any phase of a development, the developer will provide information from a registered traffic engineer on the then current p.m. peak service level status and volume to capacity ratio of the intersections identified in Figure A-5, page 77 of the Buttke Traffic Study that the City identifies as being affected by the development, and also provide information on the p.m. peak traffic that will be generated by the proposed phase of the development and the total development constructed to date.

D. Owners and employers shall be encouraged to implement TMP's at time of approval. However, when the traffic at an affected intersection consistently exceeds "C" level of service, the TMP must be implemented.

E. A Traffic Management Plan Task Force will be formed, including a representative of each major complex within the Kruse Way Corridor, employers of more than 50 employees, major landowners, representatives of City, Tri-Met and any other person identified by the City. The task force will have authority to review TMP's of members and recommend TM when appropriate.

F. Notwithstanding the traffic management achievements reached by implementation of the provisions of paragraphs A-E, as development increases along the Corridor and the traffic flow on the street system, with the improvements identified in the 1983 Buttke Study, exceeds "C" level of service, the City may assert its authority to regulate the use of land to assure all affected property owners, as well as through traffic, are allowed their appropriate share of the traffic capacity.

The 1983 Buttke Study, together with any subsequent study adopted by the City Council, will be the guide in assigning appropriate shares of the highway capacity to through traffic and to affected property landowners (jointly). Necessary measures will be taken to assure a functioning traffic system at Service Level "D" or better and may include, but are not limited to:

a. Green time regulation to facilitate through traffic.
b. Access fees.
c. Fines related to access volumes exceeding allocations.

11. [reserved].

12. a. For the 8 acre site bounded by Kruse Way, Kruse Way Place and Boones Ferry Road and zoned Office Campus, the maximum FAR of 0.30 : 1. is allowed if development consists of a maximum of 20,255 square feet of retail commercial use and the balance of the allowable square footage is in non-retail commercial use;

For every square foot of reduction of retail use there results a proportional increase in the allowable FAR to a maximum of 0.38 : 1. as described in the following chart. SEE Appendix 50.11-A (Floor Area Ratio Graph).

b. The allowable FAR will be fixed at the time a development permit approval is given by the Development Review Commission.

c. Each property owner is entitled to a pro rata share of the allowable retail and non-retail commercial square footage based on each owner's percentage ownership of the entire 8 acre parcel. The allocation to each property owner is transferable to another property owner.

d. The lot coverage of building and parking areas shall not exceed 70%. There shall be a 20' setback from the property line along the site's frontage on Kruse Way and Boones Ferry Road.

e. No access will be allowed from Boones Ferry Road. The main access shall be from Kruse Way Place. A 'right-in, right-out' access on Kruse Way may be used only as a secondary access to the site.

13. Boones Ferry Road/Jean Road Site: The following restrictions and requirements shall apply to the approximately 4.45 acre parcel located at the intersection of Boones Ferry Road and Jean Road (Tax Lot 2400 of Tax Map 2 1E 18BD). The intent of these restrictions and requirements is to create an aesthetically pleasing entry into Lake Oswego. The site and building design shall create an aesthetically pleasing entry by creating a distinct design with features that celebrate entry to the community. The design elements should signal the transition from the city of Tualatin and shall create a sense of separation. Building design elements and landscaping shall communicate a sense of quality, vitality and community. This may be accomplished through the use of visually identifying elements such as building shapes and features, colors, kiosks, flagpoles, signs, landscaping, parking and other design details. Berms and mature trees (such as fir and cedar) shall be incorporated into the design.

The following specific restrictions and requirements shall apply to the site:

a. The uses allowed shall be those allowed in the NC zone, plus the following: adjustment and collection agencies; advertising agencies (including commercial artists); credit agencies; duplicating, addressing, blueprinting, photocopying, mailing and stenographic services; employment agencies; office equipment rental and repair; equipment services and repair places (appliances, small engines); services to building (cleaning, exterminating); financial and banking; regional offices, corporate headquarters; offices of all types of service and membership organizations.

b. The retail use building area to be located on the east side of Jean Road (i.e., on the parcel consisting of approximately 1.9 acres) shall not exceed 23,000 square feet. The retail use building area to be located on the west side of Jean Road (i.e., on the parcel consisting of approximately 2.5 acres) shall not exceed 31,000 square feet, and no one user shall exceed 26,500 square feet.

c. No building or parking shall be located within 25 feet of Boones Ferry Road right-of-way or within 15 feet of the Jean Road right-of-way. In addition, any loading area located to the west of Jean Road shall not be located within 10 feet of Jean Road.

d. Signs shall be limited to monument and wall signs (excluding signs on awnings) only. Monument signs may be located within the 25 foot setback along Boones Ferry Road and within the 15 foot setback along Jean Road.

e. A minimum of 20% of the net buildable area shall be devoted to landscaping.

f. All utilities shall be located underground.

g. The main access points for the site shall be from Jean Road. A "right-in" only secondary access may be provided from Boones Ferry Road for the west portion of the site (i.e., the approximately 2.5 acre parcel).

h. Any fir or cedar tree with a trunk diameter of more than 5 inches which is removed pursuant to development of the site shall be replaced by a specimen tree of the same variety. The replacement tree shall be of similar size as the tree removed. If a replacement tree of the size of the tree cut is not reasonably available on the local market or would not be viable, replacement may be provided with more than one tree with no individual tree less than 4 inches in diameter. The number of replacement trees required shall be determined by dividing the caliper of the tree cut by the caliper of viable replacement trees.

14. Jean Way Site: The following restrictions and requirements shall apply to the approximately .34 acre parcel and the approximately 0.65 acre parcel located at the northeast corner of the intersection of Jean Road and Jean Way. The intent of these restrictions and requirements is to create an aesthetically pleasing entry into Lake Oswego. The sites and

building designs shall create an aesthetically pleasing entry by creating a distinct design with features that celebrate entry to the community. The design elements should signal the transition from the city of Tualatin and shall communicate a sense of quality, vitality and community. This may be accomplished through the use of visually identifying elements such as building shapes and features, colors, kiosks, flagpoles, signs, landscaping, parking and other design details. Berms and mature trees (such as fir and cedar) shall be incorporated into the design.

The following specific restrictions and requirements shall apply to the sites:

a. The uses allowed shall be those allowed in the NC zone, plus the following: adjustment and collection agencies; advertising agencies (including commercial artists); credit agencies; duplicating, addressing, blueprinting, photocopying, mailing and stenographic services; employment agencies; office equipment rental and repair; equipment services and repair places (appliances, small engines); financial and banking; regional offices, corporate headquarters; offices of all types of service and membership organizations.

b. The retail use building area to be located on Jean Way shall not exceed 4,200 square feet for each parcel, or a combined 8,400 square feet for development contained on both parcels.

c. No building or parking shall be located within 15 feet of the Jean Way right-of-way.

d. Signs shall be limited to monument and wall signs (excluding signs on awnings) only. Monument signs may be located within the 15 foot setback along Jean Way.

e. A minimum of 20% of the net buildable area shall be devoted to landscaping.

f. All utilities shall be located underground.

g. Regardless of the sequence of development of the 0.34 acre or 0.65 parcels, vehicular connectivity shall be provided between the 1.9 acre site to the north, and the development on the 0.34 acre and 0.65 acre parcels. A single, shared point of access shall be provided from Jean Way to serve the 0.34 acre and 0.65 acre parcels.

h. Any fir or cedar tree with a trunk diameter of more than 5 inches which is removed pursuant to the development of the site shall be replaced by a specimen tree of the same variety. The replacement tree shall be of similar size as the tree removed. If a replacement tree of the size of the tree cut is not reasonably available on the local market or would not be viable, replacement may be provided with more than one tree with no individual tree less than 4 inches in diameter. The number of replacement trees required shall be determined by dividing the caliper of the tree cut by the caliper of viable replacement trees.

15. Boones Ferry Road/Opposite Jean Way Site: The following restrictions and requirements shall apply to the approximately 2.84 acre parcel located at the intersection of Boones Ferry Road and Jean Way (Tax Lot 600 of Tax Map 21E18BD). The intent of these restrictions and requirements is to create an aesthetically pleasing entry into Lake Oswego. The site and building design shall create an aesthetically pleasing entry by creating a distinct design with features that celebrate entry to the community. The design elements should signal the transition from the city of Tualatin and shall communicate a sense of separation. Building design elements and landscaping shall communicate a sense of quality, vitality and community. This may be accomplished through the use of visually identifying elements such as building materials and feature, colors, flagpoles, signs, landscaping, parking and other design details. Trees (such as fir and cedar) may be incorporated into the design.

The following specific restrictions and requirements shall apply to the site:

a. The uses allowed shall be those allowed in the NC zone, plus the following: adjustment and collection agencies; advertising agencies (including commercial artists); credit agencies; duplicating, addressing, blueprinting, photocopying, mailing and stenographic services;

employment agencies; office equipment rental and repair; equipment services and repair places (appliances, small engines); services to building (cleaning, exterminating); financial and banking; regional offices, corporate headquarters; offices of all types of service and membership organizations.

b. The total building area to be located on the site shall not exceed 21,850 square feet.

c. No building or parking shall be located within 25 feet of the Boones Ferry Road right-of-way.

d. Signs shall be limited to monument and wall signs (excluding signs on awnings). Monument signs may be located within the 25 foot setback along Boones Ferry Road.

e. A minimum of 20% of the net buildable area shall be devoted to landscaping.

f. All utilities serving any new on-site development shall be located underground.

g. There shall be two main access points for the site from Boones Ferry Road. One shall be directly across from Jean Way and the other shall be northeast of the wetland. The northeast access may be a shared access with the adjacent property. An applicant for development of the northeast portion shall make a good faith effort to obtain a joint access prior to proposing a separate access. If such an effort is unsuccessful, however, a separate access may be approved.

h. Any fir or cedar tree with a trunk diameter of more than 5 inches which is removed pursuant to the development of the site shall be replaced by a specimen tree of the same variety. The replacement tree shall be of similar size as the tree removed. If a replacement tree of the size of the tree cut is not reasonably available on the local market or would not be viable, replacement may be provided with more than one tree with no individual tree less than 4 inches in diameter. The number of replacement trees required shall be determined by dividing the caliper of the tree cut by the caliper of viable replacement trees.

i. The approximate .068 acre wetland and the 25 foot setback from the perimeter shall not be developed and remain in its natural state. The one exception to this is where the sidewalk adjacent to Boones Ferry Road encroaches into the 25 foot setback area.

Cross-Reference: In EC zone, see also Downtown Redevelopment District Design Standards, LOC Article 50.65]
Height Limitation: see also 50.45.010(1)(a)

Article 50.12

Campus Institutional Zone.

Section 50.12.010 Purpose

The purpose of the CI zone is to provide zoning regulations for the Marylhurst Campus in order to provide land were public or institutional uses can be provided for in a unified campus setting.

Section 50.12.015 Permitted Uses.

1. Educational agency structures and related accessory uses.
2. Religious agency structures and related accessory uses.
3. Private social service agency structures and related accessory uses.
4. Facilities for residence and care of the socially, mentally or physically handicapped or other special care needs.
5. Special use housing.
6. Agricultural use.
7. Retail and personal service establishments which directly and primarily provide goods and services to persons employed in the zone.
8. Commercial office space in buildings existing on December 16, 1982.
9. Minor public facilities.

Section 50.12.020 Conditional Uses.

1. Major public facilities.
2. Studios and offices for use in conjunction with authorized on-site radio transmission and receiving towers and earth stations.

Section 50.12.025 Site Development Limitations.

1. Required yards are those established by LOC Chapter 45. Greater required yards may be required to maintain the appearance and character of the Marylhurst Campus.
2. There are no minimum lot area or dimensions.
3. Maximum height of a structure is 45 feet.

Section 50.12.030 Special Requirements.

The approved plan for the Marylhurst Campus Institutional Area is contained in Appendix 50.12-A. The land use designations and conditions of that portion of the Plan are by this reference made a part of this Code. And are conditions and limitations of the zone.

Article 50.13

Industrial Zones.

Section 50.13.005 Purpose.

1. Industrial district - the purpose of the industrial district is to provide land where general industrial development can he located.

2. Industrial park - to provide lands where primarily light industrial and accessory uses can occur in a campus-like setting under controls to make activities mutually compatible and also compatible with existing uses bordering the district.

Section 50.13.010 Permitted Uses; Industrial Zone.

1. Manufacturing, repairing, compounding, processing or storage and accessory office use.
2. Dwelling for a caretaker or watchman working on the property.
3. Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots.
4. Wholesale distributor or outlet.
5. Commercial uses which require large land areas for display or storage is such as lumber yards, nursery stock production and sale, transportation facilities, equipment rental agencies, car washes, hospitals and vehicle and boat sales.
6. Major and minor public facilities.
7. Commercial recreational facility wholly conducted within an enclosed structure.
8. Recreational vehicle storage.
9. Truck and trailer rental.

Section 50.13.015 Conditional uses; Industrial Zone.

1. Alterations or expansion of non-conforming uses.
2. Animal boarding facilities.

Section 50.13.020 Permitted Uses; Industrial Park Zone.

1. Research facilities, testing laboratories.
2. Facilities for the manufacturing, processing or assembling of products.
3. Offices accessory to manufacturing, warehousing or research uses.
4. Vocational schools.
5. A dwelling for caretaker or watchman.
6. Recreational vehicle storage.
7. Major and minor public facilities.
8. Professional office space not to exceed 15% of gross site area.
9. Remanufacturing or repair of vehicle engines and electrical systems provided that:
   a. The use is limited to 18 or less service bays.
   b. The use is located in an enclosed building.

c. No outdoor storage of parts, materials, or partially or totally dismantled vehicles is allowed.

d. The provisions of LOC 50.13.040(4) are met.

10. Incidental retail uses.

Section 50.13.025 Conditional Uses; Industrial Park Zone.

1. Professional office space which meets the Industrial Park guidelines in Appendix 50.12-A.
2. Retail establishments which directly and primarily provide goods and services to employees and businesses in the industrial park.
3. Commercial transportation facilities.
4. Commercial recreational facilities.
5. Animal boarding facilities.
6. Alteration or expansion of non-conforming uses.
7. Retail sales of tires, batteries and motor vehicle accessories.

Section 50.13.030 Prohibited Uses; Any Industrial Zone.

Uses whose primary function is the storing, utilizing or manufacturing of explosive materials.

Section 50.13.035 Site Development Limitations.

1. Required yards:
   I = Determined by LOC Chapter 45 (20' minimum setback adjacent to residential zone)
   Front; any yard with street frontage: **IP** = 20'
   Side: **IP** = 10'
   Rear: **IP** = 10'
2. FAR Maximum: **I** = 1.0 : 1.
3. *Height: **I** = 60', **IP** = 45'

*Structures placed closer than 60' from the property line of a lot which carries any residential zone designation shall have a maximum height of 40' minus one foot for each foot less than 60 feet the structure is from the residential zone.

4. Front lot lines on corner lots may face either street. The City Manager shall determine the front lot line after taking into consideration the orientation of structures on the site and nearby lots, the ability to meet setbacks without variances, and physical site or solar access limitations. Street access should be to local streets.

If a dimension or requirement is not shown it means there is no minimum or maximum, but that the requirements may be established by the Development Review Commission at the time of review.

Section 50.13.040 Special Requirements.

1. Each industrial area identified on the City's Comprehensive Plan Map also is described in Appendix 50.12-A.. The specific conditions for each area are by this reference made a part of this Code. and are conditions and limitations of each zone.

2. There is a maximum floor area ratio of 1.0 : 1 in the Lake Grove Industrial Park. The area of the Lake Grove Industrial Park is described in the Comprehensive Plan.

3. Manufacturing, repairing, compounding, processing or storage uses permitted in the I zone shall operate in continuing compliance with the requirements of Oregon Administrative Rules Chapter 340 and City Codes and regulations.

4. Research facilities, testing laboratories, manufacturing, processing or assembling of products, and incidental retail uses in the IP zone shall not emit noise, smoke, glare, vibration, fumes or other environmental effects which adversely affect people, property or uses beyond the property lines of the IP site.

5. Incidental retail uses in the IP sites shall not exceed a total of 3,000 square feet for all such uses on site. In addition, incidental retail uses are considered part of the manufacturing business and are not allowed additional signage.

6. The creation of an incidental retail use within an existing structure shall be processed as a change of use pursuant to LOC 50.79.020(2)(j).

7. Incidental retail uses in IP sites within 200 feet of residentially zoned property may be open from 8:00 a.m. to 10:00 p.m. Sunday through Thursday and 8:00 a.m. to 12:00 a.m. on Friday and Saturday.

Article 50.14

Section 50.14.005

Section 48.20.505 Accessory Uses.

1. Accessory uses are allowed in conjunction with the principal use and shall comply with the requirements of this section and all requirements for the principal use, except where specifically modified by this Code.

2. A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

3. A guesthouse may be maintained accessory to a dwelling provided there is no kitchen space or cooking facilities in the guesthouse and the square footage is less than 400 square feet.

4. Pool covers shall not exceed 15 feet in height.

5. A side or rear yard setback may be reduced to three feet for an accessory structure in a residential zone if the structure complies with the following three criteria:

a. The accessory structure is erected more than sixty-five feet from any street. For the purposes of this section, an alley shall not be considered a street. The side and rear setbacks for a detached garage obtaining access from an alley may be reduced to 3 feet or to the degree the garage maintains access that provides an outside front wheel turning radius of at least 25 feet, whichever is greater.

b. The accessory structure is detached from other buildings by five feet or more.

c. The accessory structure does not exceed a height of ten feet nor an area of six hundred square feet.

The setback exception authorized by this subsection does not apply to setbacks required by LOC 50.22.035 (Special Setbacks). The setback exception also does not apply to noise producing accessory structures such as heat pumps, swimming pool motors, etc.

Flag Lots. The setback exception authorized by this subsection does not apply to flag lots. However, a side or rear yard accessory structure setback may be reduced to six feet on a flag lot when the above criteria (a-c) are met.

6. "Dish" type antenna may only be placed in rear yards, on the ground, and must be screened by landscaping.

7. Except as provided in LOC Article 50.16, boat houses and docks along Oswego Lake and its canals may be placed on a property line.

Cross Reference: Accessory Structures in R-6 Zone – 50.07.045

Section 50.14.010 Temporary Structures, Uses.

Temporary structures and uses are permitted only as follows:

1. In any zone:

a. Temporary structures and use of recreational vehicles for temporary shelter for relief of victims of a disaster or emergency;

b. One temporary construction office not to exceed 1,000 square feet located on the construction site. This use does not include real estate sales or promotion;

c. Structures in conjunction with installation or maintenance of utilities.

d. Temporary structures for public or non-profit education, fund-raising, athletic or other program uses. Such use shall not exceed 1,200 square feet or remain for more than 30 days unless approval is granted by the Commission. "Weekend fair" type of events occurring between a Friday and the next following Monday are exempt from square foot restrictions.

2. In commercial and industrial zones:

a. A tent, trailer or other portable structure for sales, promotional or educational events; such use not exceed two consecutive weeks and a total of 14 days in any six month period.

b. Seasonal retail sales as detailed below:

i. Christmas tree sales from November 26 to December 31.

ii. Outdoor restaurant uses in conjunction with an existing indoor year-round restaurant. No additional parking is required for the outdoor use.

iii. "Pushcart" vendors in the EC and GC zones. Food vendors will have all required Health Department licenses and certificates. Such uses limited to food and flowers.

iv. "Saturday Market" type sales of produce from temporary sales shelters (including vehicles) from 8:00 a.m. to 4:00 p.m. on Saturdays and 1:00 p.m. to 5:00 p.m. on Sundays. Such sales may locate in only one location each in the East End and West End Commercial Districts and Lake Grove Industrial Park District and shall have sufficient parking on-site or shall arrange to utilize the parking areas of an adjacent business which does not normally operate on weekends.

v. In the GC and EC zones, one sidewalk sale each calendar quarter when located in area abutting the seller's permanent business.

All produce, shelters and debris will be removed at the end of the business day. Business licenses are required for all the above temporary commercial activities.

3. In residential zones:

a. Overnight use of tent or similar structure, but not a trailer or recreational vehicle, for family use within the rear yard of a dwelling.

Section 50.14.015 Use of Recreational Vehicle as a Dwelling Unit Prohibited.

A recreational vehicle shall not be used as a dwelling unit. This section prohibits any use of such facilities for dwelling purposes for more than 72 hours in any seven day period.

Article 50.15

Greenway Management Overlay District

Section 50.15.005 Purpose, Application.

1. The purpose of the Greenway Management Overlay District (GM) is the following:

a. To protect the natural, scenic and recreational qualities of lands along the Willamette River in Lake Oswego,

b. To preserve and allow for the restoration of historical sites, structures, and facilities along the Willamette River,

c. To implement the goals and policies of the State of Oregon's Willamette River Greenway Program,

d. To implement the goals and policies of the Lake Oswego Comprehensive Plan Greenway Element,

e. To establish standards and requirements for the use of lands within the Willamette River Greenway Compatibility Review Boundary in Lake Oswego, and

f. To provide for the review of any intensification of use, change of use, or development on properties located within the GM Overlay as indicated on the official zoning map. Uses of the land and water not compatible with the Greenway and not provided for in this Code. shall be prohibited within the GM Overlay.

2. This Overlay district establishes the Greenway Compatibility Review Boundary and is intended to superimpose additional protection and regulation upon property which may alter the requirements of the underlying zone. The boundary extends 150' shoreward from the ordinary low waterline of the Willamette River and to those areas within the river that are within the Lake Oswego City limits.

3. The provisions of this Article shall apply to lands in the Willamette River Greenway Compatibility Review Boundaries in Lake Oswego in addition to any standards and requirements of the primary zoning district to which this designation may apply. Nothing in this Article shall be construed to constitute a waiver or suspension of the provisions of any zoning district within the GM Overlay. In the case of any conflict between the provisions of this section and the provisions of any other section of this Code., the more restrictive provisions shall apply.

Section 50.15.010 Development Review.

1. All development within the GM Overlay District shall be reviewed pursuant to the provisions of Articles 50.79 – 50.83.

2. In reviewing applications in the GM Overlay, in addition to the requirements of Articles 50.79 - 50.83, the Development Review Commission shall consider the following objectives and shall make findings as applicable.

a. Significant fish and wildlife habitats will be protected.

b. Significant natural and scenic areas, viewpoints and vistas will be protected and enhanced.

c. Areas of ecological, scientific, historical or archeological significance will be protected, restored, or enhanced to the maximum extent possible.

d. The quality of the air and water in and adjacent to the river will be maintained or enhanced in the development, change of use, or intensification of use of land within the GM Overlay.

e. Areas of annual flooding, water areas, and wetlands will be retained in their natural state to the maximum possible extent to provide for water retention, overflow and other natural functions as well as protect the health, safety and welfare of the public. Areas subject to the 100 year flood level are also regulated by the Flood Plain Standard.

f. The natural vegetative fringe shall be maintained or enhanced to assure scenic quality, protection of wildlife, protection from erosion and screening of uses from the river.

g. Areas considered for development, change or intensification of use which have erosion potential will be protected from erosion by means compatible with the natural character of the Greenway.

h. Recreational needs will be satisfied by public and private means in a manner consistent with the natural limitations of the land. Conflicts with adjacent land uses will be minimized.

i. Public safety and protection of public and private property will be provided to the maximum extent practicable, especially from vandalism and trespass.

j. Non-water related or dependent structures shall be located west of and no closer than 25' to the following setback lines;

i. For property located from the northern City limits to the northern bank of Oswego Creek (in George Rogers Park), the setback line is the contour elevation line that establishes the Army Corps of Engineers 50 year flood plain line.

ii. For property located in George Rogers Park from the southern bank of Oswego Creek to the southern boundary of the Park, the setback line is the western edge of the paved pedestrian path.

iii. For property located from the southern boundary of George Rogers Park to the southern City limits, the setback line is the western right-of-way line for Old River Road.

The Compatibility Review Boundary Line becomes the setback line at any point where the above-described setback lines lie to the west of the Compatibility Review Boundary Line.

k. Necessary public access will be provided to and along the river including pedestrian, bicycle and water related uses.

3. To meet the intent of the objectives set forth in subsection 2, the Comprehensive Plan and/or this Code., reasonable conditions may be imposed by the Development Review Commission in approving a change of use, development or intensification proposal. Guarantees and evidence may be required of the applicant to provide that such conditions will be or are being complied with.

4. In addition to the notification required by Articles 50.80 - 50.82, 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.

Section 50.15.015 Permitted Uses.

The following uses are permitted within the GM District.

1. The placing, by a public agency on public lands, of signs, markers, aids, etc., to serve the public or signs on private lands to identify private property. Such signs shall be in conformance with the sign code.

2. Activities to protect, conserve, enhance and maintain scenic, historical and natural uses on public lands.

3. Parks and other recreational facilities as designated in the Comprehensive Plan. Any other recreational development shall be reviewed by the Development Review Commission.

4. Erosion control operations not requiring a permit from the Division of State Lands.

5. The cutting of trees for public safety, erosion control, or personal non-commercial use, subject to Article 50.79 – 50.83 and LOC Chapter 55.

6. Reasonable emergency procedures necessary to protect an existing use or facility for the safety or protection of persons or property.

7. Maintenance and repair as necessary for the continuance of an allowed existing use or improvement.

8. Landscaping, construction of driveways, modifications of existing structures and the construction or placement of such accessory structures or facilities which are usual and necessary to the use and enjoyment of existing improvements and which are established in a manner compatible with the intent of this Code..

9. Other uses legally existing on December 16, 1982; provided, however, that any change or intensification of such use shall require review as provided by this Code..

10. Single-family dwellings.

Section 50.15.020 Willamette River Greenway Boundary.

The Willamette River Greenway Boundary as adopted, and as it may be amended by the Land Conservation and Development Commission, is hereby adopted as the Greenway Boundary in the City of Lake Oswego.

Cross-Reference: see also underlying base zone

Article 50.16

Sensitive Lands Overlay Districts.

Section 50.16.005 Overview.

LOC Article 50.16 creates the Resource Protection (RP) and Resource Conservation (RC) District overlay districts to protect environmentally sensitive natural resources such as wetlands, stream corridors, and tree groves.

1. Comprehensive Plan and Zoning Map: The overlay districts shall be designated on the Comprehensive Plan Map and Zoning Map. The purpose of these maps is to give a general overview as to the location of the districts and is not intended to show the precise location of the district boundaries.

2. Sensitive Land Atlas: The boundaries of the districts shall be shown on individual property maps at a scale of 1:200 in the Sensitive Lands (SL) Atlas. The SL Atlas is intended to govern the applicability of LOC Article 50.16 pursuant to LOC 50.16.015. The SL Atlas shall be adopted as part of the City*s Comprehensive Plan and Zoning Maps.

Section 50.16.010 Purpose.

The purpose of Article 50.16 is to:

1. Manage the impacts of development on lands with environmental and natural resource significance in order to protect the functions and values of wetlands, stream corridors, and tree groves within the Lake Oswego City Limits.

2. Establish design and development standards that allow reasonable use of private property while protecting important natural resources through innovation in site planning and design and by allowing for density transfer and application of flexible development standards.

Section 50.16.015 Applicability.

1. This Article applies to all lands designated as RP or RC on the Sensitive Lands Map and Atlas. Development that would result in any land disturbance within the RP or RC District, or within 35 feet of the RP District boundary as shown on maps in the Sensitive Lands Atlas shall be subject to the standards and criteria of LOC Article 50.16. This Article shall also apply to land divisions, mitigation proposals, and adjustments of a District Boundary. To the degree that any requirement of LOC Article 50.16 conflicts with a requirement of the underlying zone, Article 50.16 shall prevail.

2. Exception: The provisions in LOC Article 50.16 shall not apply to a resource located within the boundaries of a partition, subdivision, Planned Development, or lot line adjustment, approved prior to August 21, 1997 if:

a. The resource was identified and protected pursuant to regulations in effect at the time of approval; and

b. The proposed development is in compliance with the conditions protecting the resource imposed at the time of approval. Any modification of the prior approved partition, subdivision, or planned development that would impact or modify any protection measures

imposed at the time of original approval shall be subject to the standards and criteria of this Article.

3. Wetlands, stream corridors, and tree groves that are not contained within a RP or RC District shall not be subject to the regulations of this Article. However, an application for development that impacts a stream corridor or wetland may still be subject to state or federal wetland or stream regulations. Notice of such applications will be sent to the Division of State Lands (DSL) or the Army Corp. of Engineers.

4. In addition to the notification required for the particular development by LOC 50.80 – 50.82, the City shall notify the Oregon Division of State Lands and the Army Corp. of Engineers upon receipt of a complete application for development, change or intensification of use within an RP District that impacts a wetland or stream corridor.

5. If development occurs in violation of this Article, the violator shall not only be subject to any and all enforcement and penalties that can be brought or imposed for violation of this Code, he or she shall be responsible for mitigating any damage caused by the violation to a protected resource pursuant to LOC 50.16.100 to .110.

Section 50.16.020 Criteria for Designating Property within an Overlay District.

1. 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 a ESEE analysis in compliance with Statewide Land Use Planning Goal 5 and merits a Resource Protection (RP) and/or Resource Conservation (RC) designation.

2. 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. The former shall be processed as a legislative Comprehensive Plan Map and Zoning Map amendment pursuant to LOC Chapter 50.75.005(1), and the latter shall be processed as a quasi-judicial Comprehensive Plan Map and Zoning Map amendment pursuant to LOC 50.75.005(2).

3. Lake Oswego ESEE Analysis Methodology to be Utilized. The City shall utilize the Wildlife Habitat Assessment Score (HAS) and Methodology developed in the City of Lake Oswego Resource Areas Report and ESEE Analysis for evaluation and comparison of inventoried sites pursuant to Statewide Land Use Planning Goal 5. The HAS is a numerical ranking applied in an ESEE Inventory which represents the relative wildlife values of a given natural resource site. Six features are evaluated to determine the total Wildlife Habitat Assessment Score: Water; Food; Cover; Disturbance; Linkage; Unique Features. In addition, the City shall consider the scenic value of the resource pursuant to the methodology established in the ESEE Analysis. See Appendix 50.16-A.

4. Applicability of RP Overlay District: The Resource Protection (RP) Overlay District shall protect environmentally significant stream corridors and wetlands. The following resources may be placed within the RP District:

a. Stream corridors and wetlands that have a HAS ranking of 50 or more (defined as "Class I" stream corridors and wetlands).

b. Stream corridors and wetlands that have a HAS ranking of 35-49 or have a "high" ranking for scenic values (defined as "Class II" stream corridors and wetlands).

5. Applicability of RC Overlay District: The Resource Conservation (RC) Overlay District

shall protect significant tree groves. A tree grove may be placed within an RC District if the tree grove has:

a. A HAS ranking of at least 35 in the 1994/95 ESEE study; or
b. A "high" ranking for scenic values in the study; or
c. Is associated with a stream corridor or wetland that has an RP ranking.

Section 50.16.025 Removing an Overlay District Designation.

1. In order to remove an overlay District designation the review body shall find that one of the following criteria are met:

a. As a result of natural occurrences or evolution the resource has been degraded to the extent that the subject property no longer meets the criteria for designation found in Section 50.16.020(4) or (5);and a re-application of the ESEE analysis demonstrates that the designation is no longer justified; or

b. There was a mistake in the analysis of quality, quantity or location in the original designation of the resource and a re-application of the ESEE analysis demonstrates that the designation is no longer justified.

2. An overlay district designation shall not be removed as a result of damage caused by the property owner, another party, or other than natural causes.

3. A removal application shall be processed in the same manners as a designation application pursuant to LOC 50.16.020.

Section 50.16.030 Environmental Review.

An applicant for a development subject to this Article pursuant to LOC 50.16.015 shall comply with the environmental review requirements in LOC 50.16.035 to 50.16.045 and LOC 50.16.050 to 50.16.060 (for RC Zones), LOC 50.16.065 to 50.16.085 (for RP Zones) or LOC 50.16.090 (Special Standards for Oswego Canal), whichever sections are applicable.

Section 50.16.035 Delineation of Resource.

1. Preparation/Criteria. Except as provided in subsection 4 of this section, an applicant for a development subject to environmental review shall first delineate the resource. A delineation is a more precise, site specific determination of the location of the resource prepared by a qualified professional. The delineation shall include a map showing the delineated boundary to plus or minus 2 feet. The delineation map shall also show the buffer area, if required for the particular resource. Resource boundaries shall be delineated as follows:

a. Tree Groves. The boundary of a tree grove shall be measured at the outer edge of a contiguous tree canopy based on aerial photos and/or visual field observations.

b. Wetlands. A wetland boundary shall be measured or delineated in accordance with the *1987 Federal Manual for Identifying and Delineating Jurisdictional Wetlands* or equivalent methodology approved by the City, and must include soils testing.

c. Stream Corridors. A stream corridor boundary shall be measured or delineated based on topographic maps, hydrology maps, and/or field observations, pursuant to Appendix50.16-A, "Methods for Establishing Stream Corridor Boundaries".

2. Review of Delineation. The City Manager shall compare the applicant's delineation maps with the 1994/1995 ESEE Study and the SL Atlas, and shall inspect staked, delineated resource boundaries. The City Manager shall approve the delineation if he or she finds that the delineated boundary more accurately reflects the location of the resource than the boundary as shown in the SL Atlas. If the City Manager finds that the evidence is contradictory or does not support the proposed delineation, he or she shall deny the application. In the alternative, the City Manager may continue the application for additional information if:

a. The applicant agrees to conduct a new delineation by an expert selected by the City Manager at the applicant's expense; and

b. The applicant waives the applicable statutory deadline for completing a local decision on the application for the period of time necessary to conduct the new delineation.

3. Adjustment of Overlay District Boundaries to Reflect Approved Delineation. An approved delineated boundary shall replace the boundary in the Sensitive Lands Atlas for the purposes of review of the development proposal for compliance with this Article. If and when the proposed development receives final approval, including resolution of any appeals, the boundary of the RP or RC district as shown in the SL Atlas and SL Map (if necessary), shall be modified to be consistent with the delineated boundary.

4. Re-delineation not Required; Exceptions. An applicant for a development subject to this Article shall not be required to delineate the resource pursuant to this section if the resource has been previously delineated pursuant to an earlier development application subject to this Article. Exception: The City Manager may require a new delineation if:

a. The applicant desires to demonstrate that the previously delineated boundary is no longer accurate;

b. There is evidence of a substantial change in circumstances on the property that has affected the location of the resource as previously delineated; or

c. The City Council has adopted new delineation standards or requirements since the previous delineation.

5. Delineation in the Absence of a Development Application. An applicant may apply to delineate a resource in absence of an application for a specific development. In this circumstance, an application to delineate a resource shall be processed as a ministerial development pursuant to Article 50.81.

Section 50.16.040 Modifications to Dimensional Standards and Setbacks of the Underlying Zone.

1. Except as provided in subsections 2 and 3 of this section, an applicant for development subject to environmental review may vary from the lot dimensional standards (building setbacks, lot dimensions, size, width, and depth) otherwise applicable without a formal variance pursuant to Article 50.68, if the applicant demonstrates that:

a. Compliance with the applicable dimensional standard or standards would cause the proposed development to disrupt lands within an RP or RC District or within a required buffer, or would preclude or reduce the transfer of allowable density from RP or RC zoned areas of the property to non RP or RC zoned areas;

b. The proposed development will result in greater protection of the resources identified on the site than would occur without the dimensional modification; and

c. In the case of a Planned Development, the criteria of LOC 50.17.015 have been met.

2. An application to vary from standards other than the dimensional standards above or that does not comply with the criteria contained in subsection 1 of this section may be processed pursuant to the formal variance process contained in Article 50.68.

3. Where the request is not part of an application subject to the notice requirements of a minor or major development (either LOC 50.81.010 or LOC 50.82.020), and the proposed development would be located within 20 feet of an existing primary structure on abutting property, written approval from the abutting property owner shall be required.

Section 50.16.045 Density Transfer.

1. Density transfer shall be permitted on residentially-zoned lands subject to an RC or RP District pursuant to this section.

2. Density Transfer Ratios.

a. Density otherwise allowable pursuant to the underlying zoning designation may be transferred from RP District lands to contiguous non-resource zoned lands in the same ownership at a 1:1 ratio.

b. Density otherwise allowable pursuant to the underlying zoning designation may be transferred from RC District lands to contiguous non-RC lands on the same ownership at a 1:1 ratio for the portion of the RC District which is to remain undeveloped (the Protection Area).

3. When an applicant chooses to transfer density from one area or parcel to another contiguous area or parcel, the area or parcel that is protected shall no longer be eligible for additional density. In order to put future property owners on notice, the applicant shall execute a covenant running with the land that effects this restriction.

Section 50.16.050 Resource Conservation (RC) District Environmental Review Standards; Applicability and Purpose.

In addition to compliance with LOC 50.16.040 to 50.16.045, applicants for development subject environmental review pursuant to LOC 50.16.015 on property containing an RC District shall comply with the standards contained in LOC 50.16.050 to 50.16.060, in order to:

1. Ensure that new development and alterations are compatible with and maintain the functions and values of resources within the RC District; and

2. Limit the amount of disturbance allowed within RC Districts, while permitting reasonable development of property.

Section 50.16.055 RC District Protection Area.

1. The applicant for a major or minor development permit on a property containing an RC District shall designate a minimum of 50% of the RC District after delineation as the "RC Protection Area". The applicant for a development that does not otherwise require a major or minor development permit may designate a Protection Area as part of the application, but such application shall be processed as a minor development.

2. Except as otherwise provided in LOC 50.16.060, no development shall be permitted within the Protection Area. The area outside of the Protection Area may be fully developed pursuant to applicable regulations.

3. Except as provided in subsection 4 of this section, the location of the Protection Area

shall be based upon the following criteria:

a. The Protection Area shall link to other RP or RC lands on the development site and on abutting properties, if such lands are present;

b. The largest trees within an RC District shall be included in the Protection Area.;

c. The location of the Protection Area shall be designed to protect development from blow-down hazards;

d. The Protection Area shall protect steep slopes and resources close to water areas from potential erosion and water quality impacts;

e. The Protection Area shall protect wildlife habitat and travel corridors;

f. The Protection Area shall include the area the highest HAS ranking, if more than one resource is located on the property;

g. The Protection Area shall be designed to protect a contiguous canopy and a clustered configuration that does not fragment lands within an RC District;

h. The Protection Area shall maintain an ecologically viable plant and wildlife community;

i. The Protection Area shall maintain the scenic qualities of the site.

4. It is recognized that all of the criteria listed in subsection 3 of this section may not be applicable to every site. In some cases, the criteria may conflict on a given site. In such cases, the reviewing authority shall balance the applicable criteria in order to protect the most environmentally significant portion of the RC District.

5. Once a Protection Area has been identified and protected pursuant to LOC Article 50.16 and approval becomes final, no future reduction in the RC Protection Area shall be permitted, unless the property owner files for a modification to the original permit and establishes a new Protection Area in compliance with subsection 3 of this section that is at least as large as the previously designated protection area, or demonstrates that the Protection Area as originally designated has degraded through natural causes pursuant to LOC 50.16.020.

5. The City Manager shall note the establishment of a Protection Area in the SL Atlas, along with a reference to the application in which the Protection Area was created.

6. In order to put future property owners on notice, the applicant shall execute a covenant running with the land that references the Protection Area and the City of Lake Oswego Department of Planning application file in which the Protection Area was established.

Section 50.16.060 RC District Development Standards.

In addition to compliance with any other applicable regulations, development on properties containing an RC District shall be subject to the standards set forth in this section. Except as provided in subsection 8 of this section, a criterion applicable to the RC Protection Area shall apply to the entire RC District if no Protection Area has been established pursuant to LOC 50.16.055.

1. Streets, Driveways and Public Transportation Facilities. Public or private streets, driveways or public transportation facilities shall not be placed through the RC Protection Area to access buildable areas of the property unless there is no other practicable method of access. If allowed pursuant to this criterion, the applicant shall comply with the following requirements:

a. Roadways, driveways and bridges shall be the minimum width necessary to protect resources within the Protection Area while also allowing for safe passage of vehicles and/or pedestrians.

b. The amount of disturbance in the Protection Area shall be minimized through use of shared access for abutting lots and access through easements for adjacent lots;

c. The applicant shall plan for future extension of shared access, access easements, or private streets to access potential new building sites in order to avoid subsequent encroachments into the Protection Area;

d. The applicant shall mitigate for loss of Protection Area by increasing the size of the protection area, where feasible, or by complying with the mitigation requirements in LOC Sections 50.16.100 to 50.16.115.

2. Setbacks from Protection Area. New structures, parking areas, active use recreational facilities, and driveways shall be set back at least 5 feet from the Protection Area boundary in order to protect tree roots. Accessory structures, decks, and similar structures meeting the criteria of LOC 50.14.005(5)(a-c) and LOC 50.22.045(2) are permitted within the 5 foot setback area so long as they are placed no closer than 3 feet from the Protection Area boundary.

3. Fences. Fences shall not be placed in a Protection Area unless they are constructed to allow wildlife passage.

4. Passive Use Recreational Facilities in Protection Area. Passive use recreational facilities, including soft surface trails and pedestrian bridges, may be located within the RC Protection Area. If construction of such facilities disturbs any adjacent land within an RC Protection Area, the disturbed area shall be restored and revegetated with plants identified on the Restoration Plants List.

5. Utilities. Public or private utilities shall not be placed in or through the RC Protection Area unless there is no other practicable alternative. If allowed to be located within an RC District, the applicant shall restore and revegetate the disturbed area with plants identified on the Restoration Plants List and mitigation shall be required pursuant to LOC Sections 50.16.100 to 50.16.115. When applying Step 1 (avoidance) of the mitigation process:

a. Sanitary sewer, water, power, gas, telecommunications, cable and storm drain lines shall be maintained in public rights of way and routed around significant resources, rather than through a resource wherever possible;

b. Tunneling under a resource shall be permitted where tree roots can be avoided.

6. Resource Enhancement Projects. Resource enhancement projects shall remove only invasive vegetation, and shall plant only vegetation within the RC District or Protection Area, if one has been established, listed on the Restoration Plants List. Any pathways or structures proposed as part of a resource enhancement project shall retain existing trees.

7. Hazardous and Noxious Materials. The site shall be inventoried for hazardous materials, debris and noxious materials, and these materials shall be removed prior to the development of the site.

8. Landscaping.

a. Plants. Plants used for landscaping within a Protection Area shall:

i. Be adapted to local soils and growing conditions;

ii. Require no fertilizers or pesticides detrimental to the resource;

iii. Not be dependant on long-term irrigation, which can increase erosion and sedimentation. (Irrigation necessary for initial establishment of the plants is not considered long term irrigation); and

iv. Provide food or cover for wildlife.

b. The City shall maintain a Restoration Plant List on file in the Planning Department listing species that comply with the criteria in subsection 8(a) of this section. If a plant is listed

on the Restoration Plant list, it shall be presumed to comply with subsection 8(a) of this section. The Restoration Plant List is not intended to be an exclusive listing of allowable landscaping materials, but shall be used as a guideline and may be updated by the City Manager from time to time as new plants in compliance with subsection 8(a) of this section are discovered or become available. An applicant may utilize a plant not on the Restoration Plant List as long as it complies with the criteria in subsection 8(a) of this section.

c. Removal of vegetation identified on the Restoration Plant List is not permitted from a protection area.

d. No herbicides or pesticides shall be used except for control of invasive plants as identified on the Invasive Plants List maintained in the Planning Department.

e. New landscaping shall not include any plants on the City's Invasive Plants list.

f. Existing Landscaping: Non-conforming formal landscaped area including ornamental gardens and lawns located within a Protection Area and in existence at the time of the adoption of these standards, may be maintained, altered or the modified pursuant to LOC 50.70.005. However, a non-conforming landscaped area may not be expanded pursuant to LOC 50.70.025.

9. Tree Removal. Tree removal on property within the RC District shall be subject to the following criteria:

a. Tree removal in a RC district that has not established a RC Protection Area shall be subject to a Type II permit pursuant to LOC 55.02.042(2) and 55.02.080 (Tree Cutting). If the trees are proposed for removal pursuant to LOC 55.02.080(3), the approving authority shall consider the cumulative impact on the size of the resource resulting from a series of tree removals over time when determining whether the proposed tree removal will have an unacceptable negative impact on the area.

b. Tree removal within a designated RC Protection Area shall be subject to a Type II tree removal permit pursuant to LOC 55.02.042(2) in compliance with LOC 55.02.080(1) or (2). Tree removal pursuant to LOC 55.02.080(3) is prohibited in a Protection Area.

c. Tree removal outside of the Protection Area shall comply with LOC Chapter 55.

d. These limitations are not intended to prohibit removal of trees in an emergency pursuant to LOC 55.02.042(3).

Section 50.16.065 Resource Preservation (RP) District Environmental Review Standards; Applicability and Purpose.

In addition to compliance with LOC 50.16.030 to 50.16.045, applicants for development subject environmental review on property containing an RP District shall comply with the standards contained in LOC 50.16.065 to 50.16.085, in order to:

a. Prohibit new development within an RP District following delineation of the resource or resources, except as provided in this section. In the event that development is allowed within an RP District, the applicant shall mitigate for the loss of or damage to the RP resource pursuant to 50.16.100 to 50.16.115;

b. Ensure that new development and alterations are compatible with and maintain the total land area and the functions and values of resources designated as RP;

c. Allow for development opportunities for at least one single family home in residential zones where an RP District occupies most or all of an individual property, pursuant to applicable mitigation criteria of 50.16.100 to 50.16.115.

Section 50.16.070 RP District Buffer Requirements.

1. Buffer areas shall be provided around delineated RP resources. The purpose of the buffer area is to ensure that the resource is protected for the shelter, food, travel, and nesting needs of wildlife and to provide continuity of the resource for aesthetic, surface water quality, slope protection, and flood protection functions and values. The buffer area shall be shown on the delineation map prepared pursuant to LOC 50.16.035.

2. The following buffer areas, measured outward from the edge of a delineated RP resource, shall be provided:

a. Class I Wetlands and Class II Wetlands abutting Class I Stream Corridors - 30*
b. Other Class II Wetlands - 25*
c. Class I Stream Corridors - 30*
d. Class II Stream Corridors - 25*

3. Exceptions/Modifications to Buffer Requirements:

a. Development abutting a Class I Resource. The review authority may allow portions of the required buffer abutting a Class I resource to be reduced to a minimum of 15' if:

i. A qualified professional demonstrates that such an adjustment will not reduce the functions and values of the resource as a whole; and

ii. The width is increased in other areas to maintain a 30* average buffer width.

b. Development abutting a Class II Resource. The review authority may allow portions of the required buffer abutting a Class II resource to be reduced to a minimum of 10' if:

i. A qualified professional demonstrates that such an adjustment will not reduce the functions and values of the resource as a whole; and

ii. The width is increased in other areas to maintain a 25* average buffer width.

c. The review authority may permit a buffer width that is less than the average minimums required in Subsections 3(a) or 3(b) of this section when a qualified professional shows that such an adjustment will not damage the system as a whole, and one of the following conditions exist:

i. The presence of an existing topographic feature or human-made development physically precludes establishment of the minimum buffer width required; or

ii. The size or configuration of the subject parcel is insufficient to provide the minimum buffer width required.

4. The review authority shall not permit a reduction in buffer width solely for the purpose of maximizing development of the site.

Section 50.16.075 RP District Development Standards.

Except as provided in LOC 50.16.085, all development subject to environmental review shall comply with the following standards.

1. Landscaping. The delineated RP Resource and buffer zone shall maintain the natural function and character of resource area, which provides food and shelter for native wildlife. Landscaping within these areas shall therefore comply with the following criteria:

a. Plants: Plants used for landscaping within a delineated resource and buffer area shall:

i. Be adapted to local soils and growing conditions;

ii. Require no fertilizers or pesticides detrimental to the resource;

iii. Not be dependant on long-term irrigation, which can increase erosion and sedimentation. (Irrigation necessary for initial establishment of the plants is not considered long term irrigation); and

iv. Provide food or cover for wildlife.

b. The City shall maintain a Restoration Plant List on file in the Planning Department listing species that comply with the criteria in subsection 1(a) of this section. If a plant is listed on the Restoration Plant list, it shall be presumed to comply with subsection 1(a) of this section. The Restoration Plant List is not intended to be an exclusive listing of allowable landscaping materials, but shall be used as a guideline and may be updated by the City Manager from time to time as new plants in compliance with subsection 1(a) of this section are discovered or become available. An applicant may utilize a plant not on the Restoration Plant List as long as it complies with the criteria in subsection 1(a) of this section.

c. Removal of vegetation identified on the Restoration Plant List is not permitted from a delineated resource or buffer area.

d. No herbicides or pesticides shall be used within the delineated resource or buffer area except for control of invasive plants as identified on the Invasive Plants List maintained in the Planning Department.

e. New landscaping within the delineated resource or and buffer area shall not include any plants on the City's Invasive Plants list.

f. Existing Landscaping: Non-conforming formal landscaped areas including ornamental gardens and lawns located within a delineated resource or buffer area and in existence at the time of the adoption of these standards, may be maintained, altered or the modified pursuant to LOC 50.70.005. However, a non-conforming landscaped area may not be expanded pursuant to LOC 50.70.025.

2. Tree Removal. Tree removal within an RP District requires a Class II tree removal permit or an Emergency Tree Removal Permit, in accordance with Article 55.02.042(2) and 55.02.080 (Tree Cutting), except that a tree removal pursuant to LOC 55.02.080(3) shall only be permitted for those limited development activities allowed and approved pursuant to this section.

3. Utilities.

a. Public or private utilities shall not be placed within an RP district or buffer unless there is no other practicable alternative. If allowed within an RP District, mitigation shall be required pursuant to LOC Sections 50.16.100 to 50.16.115. When applying the mitigation process to this section:

i. Step #1 Avoidance Sanitary sewer, water, power, gas, cable, telecommunications and storm drain lines shall be maintained in public rights of way and routed around significant resources, rather than through a resource wherever possible, except that tunneling under a resource shall be permitted where tree roots can be avoided and the functions and values of a resource will be maintained.

ii. Step #2 Minimization Sanitary sewer, water, storm drain line and other subsurface crossings shall be made within 30 degrees of perpendicular to the stream where practical or feasible.

4. Streets, Driveways and Public Transportation Facilities. Public or private streets, driveways or public transportation facilities shall not be placed through an RP Resource or buffer area to access buildable areas of the property unless there is no other practicable method of access. If allowed pursuant to this criterion, the applicant shall comply with the following criteria.

a. Streets, driveways and bridges shall be the minimum width necessary to protect resources within the RP district or buffer while also allowing for safe passage of vehicles and/or pedestrians.

b. Stream and/or wetlands crossings shall be avoided if practicable. Where unavoidable, the applicant shall use bridges or arched culverts that are wildlife friendly and do not disturb the natural stream bed. The number of stream or wetland crossings shall be minimized through use of shared access for abutting lots and access through easements for adjacent lots;

c. The applicant shall plan for future extension of shared access, access easement, or private streets to access potential new building sites in order to avoid subsequent encroachments into the RP District or Buffer;

d. The applicant shall mitigate for loss of any portion of an RP Resource pursuant to LOC 50.16.100 to 50.16.115.

5. Structures, Parking Areas, Pathways, Driveways, Lighting and Fences.

a. Except as provided in subsection 4 above, new structures, parking areas, active use recreation facilities, hard surfaced pathways, streets and driveways shall be set back at least 10 feet from an RP District buffer. Accessory structures, decks, and similar outdoor facilities meeting the criteria of LOC 50.14.005(5)(a-c) and LOC 50.22.045(2) are permitted within the 10 foot setback area so long as they are placed no closer than 3 feet from the resource buffer boundary.

b. Passive use recreation facilities, such as soft surface trails and pedestrian bridges, may be located within the RP district or its buffer. Any disturbed land area shall be restored with plants as described on the Restoration Plants List.

c. Exterior lights shall be hooded and positioned so that light does not shine directly into the RP District.

d. Fences shall not be placed in a resource or its buffer, unless they are constructed to allow wildlife passage.

6. Resource Alterations.

a. Streams shall not be impounded or diverted from their natural channels unless the applicant demonstrates:

i. The diversion or impoundment will cause minimum degradation or loss of natural features in the stream corridor;

ii. The diversion will not cause erosion or otherwise cause damage downstream of the development site; and at least one of the following criteria are met:

A. A diversion would return a previously altered stream to its original location; or

B. A stream channel occupies all or most of a legally created lot; or

C. An impoundment is designed to reduce flooding or improve water quality.

b. A wetland shall not be impounded or the hydrology of the wetland modified through such activities as draining the resource or enlargement of the resource to create a pond, unless it can be demonstrated that the criteria for allowing resource enhancement in LOC 50.16.080 have been met.

7. Hazardous Materials. The site shall be inventoried for hazardous materials, debris and noxious materials, and these materials shall be removed prior to the development of the site.

8 Land Divisions. The following standards apply to applications for land divisions including partitions, subdivisions, and Planned Developments (PDs):

a. All new lots proposed on lands that include an RP District shall have designated sites

for buildings, vehicular access, and utility service that are located outside of the delineated RP resource and buffer area. Exception: This standard shall not apply to lots established as open space tracts, for transfer to a public agency or private trustee to manage as a natural area, or where the entire lot is included in a conservation easement that prohibits development on the site; and

b. Permanent signage is required in planned developments and subdivisions to identify the RP District and buffer area where any common open space protects an inventoried natural resource through conditions of approval. The signage shall be installed before any occupancy permit is issued. Such signage shall be reviewed as part of the development review process, and shall meet the standards of LOC Chapter 47.

Section 50.16.080 Resource Enhancement Projects.

Resource enhancement projects such as bank stabilization, restoration plantings, in-channel habitat improvements, and similar projects which propose to improve or maintain the quality of a natural resource within RP Districts shall be approved if the applicant demonstrates that all of the following criteria are met:

1. The project will cause the minimum degradation, or loss of natural features in the stream corridor necessary to accommodate the enhancement project; and
2. There will be a significant improvement in the quality of at least one function or value of the resource; and
3. Only vegetation described in the Restoration Plant List shall be planted.

For the purpose of this section, "resource enhancement project" does not include required mitigation pursuant to LOC Sections 50.16.100 to 50.16.115.

Section 50.16.085 Exceptions Where the RP District Prohibits all Reasonable Development Opportunities.

1. When a delineated RP District Resource occupies most or all of an individual property in any residential district and thereby prevents reasonable development opportunity on such a parcel, the property owner shall be permitted development of at least one single family home. All other applicable City Codes and Development Standards shall be complied with, and the mitigation criteria of LOC Sections 50.16.100 to 50.16.115 shall also be applicable.
2. A parcel from which density has been or may be transferred to another area in contiguous ownership shall not be eligible for this exception.

Section 50.16.090 Special Standards for the Oswego Canal.

1. Purpose. The Oswego Canal was original constructed and continues to be used for conveying water from the Tualatin River to Oswego Lake for the purpose of enhancing and maintaining the lake. Although originally artificial, certain portions of the Oswego Canal have acquired the characteristics of a RP Class I and Class II stream corridor. The Canal provides the primary source of water to Oswego Lake for the purposes of recreation, navigation, scenic value, irrigation, maintenance and enhancement of water quality and to produce hydroelectric power. It is also an important element of flood and storm water control for Oswego Lake and surrounding areas and it serves as the route for a sanitary sewer interceptor which is necessary to provide sewer service to several areas of Lake Oswego. This Article is applicable to the portions of Oswego Canal described as beginning immediately south of the Bryant Road bridge and extending to the Tualatin River as illustrated by Appendix 50.16-B. These regulations are intended to preserve the community-wide benefits of the natural resource functions and values of the Canal, but are not intended:

a. To prevent the Lake Oswego Corporation from exercising its water rights to ensure an unimpeded supply of water to Oswego Lake;

b. To prevent the Lake Corporation from undertaking necessary management and maintenance activities to ensure water quality of the Canal or Oswego Lake, or

c. To prevent the City of Lake Oswego or the Lake Corporation from repairing, maintaining or making necessary improvements to essential public facilities and flood

management measures within the Canal per LOC Article 50.44 Flood Plain, applicable Federal Emergency Management Association (FEMA) regulations, and any other City codes or standards that are applicable.

2. Exempt Activities. The following activities within the Oswego Canal Stream Corridor are exempt from the requirements of this Article when undertaken by the City of Lake Oswego or the Lake Corporation:

a. Operation of the Oswego Canal headgate, including variation of water flow rates and emergency or routine maintenance and repairs of the headgate, approaches to the headgate, associated banks and channel including ripraped areas, reinforcement areas, gabions and other features;

b. Emergency and routine removal of fallen trees, siltation, slides and other debris from the channel and banks of the canal and buffer areas as needed to ensure a continuous flow of water to Oswego Lake and to prevent flood damage;

c. Treatment of waters or flows of water for water quality purposes, and the control or eradication of aquatic weeds and similar threats to the aquatic environment of Oswego Lake;

d. Emergency and routine repair and maintenance of failing or collapsed sections of the canal bank or buffers, including removal of contributing vegetation;

e. Maintenance, major repair of the Oswego Canal sanitary sewer interceptor and any service laterals connecting to the sewer.

3. Activities Approved Pursuant to a Maintenance and Management Plan. Activities other than those described as exempt above, or incidental thereto, shall be reviewed as a minor development by the City Manager when proposed by the City of Lake Oswego or the Lake Corporation and when as part of an approved maintenance and management plan. Activities approved pursuant to a maintenance and management plan are subject to the minor development review criteria of LOC 50.79.025 and any other City Codes or Standards that are applicable. These projects are exempt from the RP District requirements.

4. Environmental Mitigation Required. Any effects of the above activities which impact the Canal*s stream corridor functions and values as determined by the adopted ESEE analysis, whether conducted either as part of an approved maintenance and management plan or in the course of an emergency shall be mitigated pursuant to a plan approved by the City Manager. The mitigation plan shall be appropriate to the scale of disturbance, conform to the Oregon Division of State Lands and the U.S. Army Corps of Engineers requirements and shall also, to the extent practical, replace plant communities and wildlife habitat disturbed by the above activities.

4. Boat Houses. Boat houses and docks shall not be placed within the portions of the Oswego Canal stream corridor or its buffer areas as described in LOC 50.16.090 above and illustrated by Appendix 50.16-C

Section 50.16.095 Construction Standards.

Following approval of an application but prior to any grading, clearing, or construction on a development site which contains a RP or RC District, the applicant shall submit a construction plan and narrative which demonstrates to the satisfaction of the City Engineer that the following standards will be met:

1. RC Protection Areas or RC Districts where no Protection areas been approved and delineated RP Resources and buffers shall be protected during construction with a minimum 4*

tall chain link fencing secured with a minimum of 4* tall steel posts. The fencing shall be in place and maintained for the duration of construction. In addition, temporary signage shall be placed on the fencing which shall clearly identify the resource District and shall state the penalty for violations of this Article.

2. RC protection boundaries, delineated resource boundaries and buffer boundaries, as applicable, shall be located and staked by a qualified professional prior to placement of fencing and other protective measures.

3. No construction, demolition, grading, or site clearing shall begin until after protective measures, signs, and erosion control measures are in place and have been inspected and approved by the City Manager and all applicable permits have been issued. Fencing and other protective measures shall not be removed, even temporarily, without the permission of the City Manager.

4. No stockpiling of fill materials, or parking or storage of construction equipment shall be allowed within a resource District.

5. When transportation facilities, pathways, utilities, or structures are approved within a delineated RP resource, they shall be constructed in such a way that a minimum of excavation is required and so that no draining or filling of a stream corridor or wetland will occur.

6. Any additional construction requirements imposed as conditions of approval or which may be required by the Development Standards, the Lake Oswego Building Code (LOC Chapter 45) or the Erosion Control Code (LOC Chapter 54).

Cross Reference: Mitigation and Avoidance Review Requirements of LOC 50.16.100 to 50.16.115.

Section 50.16.100 Mitigation; Purpose.

1. Purpose. Mitigation is a way of repairing or compensating for adverse impacts to the functions and values of a natural resource caused by a development. Mitigation may consist of resource area creation, restoration, or enhancement. Some examples of mitigation actions are construction of new wetlands to replace an existing wetland that has been filled, replanting trees, and restoring stream side vegetation where it is disturbed.

LOC 50.16.100 to 50.16.115 recognizes that true replacement of mature or complex natural resource systems is difficult and can take many years. Mitigation is discouraged by first requiring that avoidance of development siting within the resource be explored. Then, if that is not possible, actions should be taken to minimize damage to the resource. Mitigation ratios are established according to the type of mitigation proposed and the value of the resource. Maintenance and monitoring of the mitigation measures is also required.

Section 50.16.105 Progressive Mitigation Steps Required.

The approving authority shall permit development allowable within an RC Protection Area or a delineated RP resource pursuant to LOC 50.16.060 or 50.16.075 through 50.16.085, whichever is applicable, only if it finds that the following progressive steps have been met:

1. Step #1-Avoidance: The applicant shall endeavor to avoid detrimental impacts on the resource altogether by providing alternative site plans along with the development proposal demonstrating that alternative designs have been explored. If disturbance of a resource district resource is proposed, the applicant shall first demonstrate that intrusion into the resource district

can not be avoided by a reduction in the size or configuration of the proposed development or by changes in the design that would avoid adverse effects on the resource while still allowing development of the property.

2. Step #2-Minimization: If the applicant has endeavored to avoid detrimental impacts on the resource according to subsection 2(a), above, and the review authority finds that detrimental impacts cannot be avoided; then the applicant shall minimize impacts by demonstrating that:

a. Alternative and significantly different site plans and development locations on the subject site have been considered, and that the alternative chosen is the least environmentally damaging; and

b. When mitigation is proposed, there will be no net loss of resource area, functions, or values as a result of development actions pursuant to LOC Section 50.16.115(5) or (6), whichever is applicable.

Section 50.16.110 Mitigation Requirements.

1. Mitigation Plan. When mitigation is proposed or required as part of a development application, the applicant shall provide a mitigation plan prepared by a qualified professional that:

a. Demonstrates compliance with LOC 50.16.105 and this section.

b. Includes a maintenance and monitoring plan to ensure the viability of the mitigation over time. As part of the monitoring plan, the applicant or other legally responsible agent shall provide an annual report to the City Manager on October 31st of each year for a 3 year period. The report shall be prepared by a qualified professional and shall document site conditions with narrative and pictures.

c. Provisions for regular maintenance and periodic monitoring of the mitigation site.

Failure to comply with an approved mitigation plan shall be deemed a violation of this Code. and a public nuisance and may be enforced pursuant to LOC Articles 34.04 and 34.08.

2. If a Division of State Lands (DSL) wetland permit, Army Corp. of Engineers, or other State or Federal permit is also required, the City shall not issue a building permit until all applicable State and Federal wetland permit approvals have been granted.

3. Mitigation shall be completed prior to a final inspection, issuance of a final occupancy permit, or acceptance of a public improvement.

4. On-site mitigation is required where possible, taking into consideration the existing natural and human-made features of a site. If the review authority finds that on-site mitigation is not possible, then off-site mitigation shall be permitted according to the following priorities:

a. Within the same drainage system (as defined by the Lake Oswego Surface Water Management Plan or the Winterowd Natural Resources Inventory) and within the City limits; or

b. Outside of the drainage system, but inside the City limits; or

c. Outside the drainage system and City limits, but within the Lake Oswego Urban Services Boundary.

5. Stream corridors and tree groves: When mitigation is proposed, the review authority shall require a minimum mitigation ratio (area of resource District created or enhanced to area of resource District lost) of 1:1 for stream corridor and tree grove resources.

6. Wetlands: When wetland mitigation is proposed within an RP Class I or Class II District, the review authority shall require minimum mitigation ratios (area of wetland created or enhanced to area of wetland lost) as follows:

a. Wetlands Creation or Restoration - 2:1 ratio

b. Wetlands Enhancement - 3:1 ratio

c. Wetlands Creation, Restoration or Enhancement- 5:1 ratio where the wetland is a Class I RP District and is forested or contains a sensitive, threatened or endangered species as identified in an adopted ESEE inventory.

7. Vegetation restoration shall be required to mitigate the loss of plant communities disturbed by development activities. In-kind vegetation shall be required for all mitigation projects, including trees, shrubs, and ground cover plants as identified on the Restoration Plants List (on file in the Planning Department). The restoration plant community chosen shall recreate a diverse and healthy environment which is compatible with the resource.

8. Initial 3 Year Bonding Period.

a. Except as provided in subsection 8(d) of this section, the applicant or property owner of a development subject to an approved mitigation plan shall post a performance bond or a letter of credit to the City that is equal to 120% of the value of the improvements installed pursuant to the plan for a 3 year period. The bond shall be posted prior to the issuance of a building permit to ensure the success of mitigation improvements and the survival of plant materials.

b. The performance bond or the letter of credit will be released by the City after three (3) years upon receiving proof that the mitigation measures have been successfully implemented according to approved plans. Following release of the financial guarantee, the property owner(s) or other designated party (such as a homeowners association) shall remain responsible for maintenance of the resource.

c. If mitigation improvements fail during the bonding period and the responsible party does not replace said improvements after notification by the City, the bond shall be forfeited and shall be used by the City to correct the problem pursuant to the Mitigation Plan and the Conditions of approval.

d. Property owners of individual tax lots that are lots of record which are zoned for single family residential use, are not large enough to be further divided, and were in existence prior to the date this Article becomes effective shall be exempt from these bonding requirements.

Article 50.17

Planned Development Overlay.

Section 50.17.005 Purpose, Applicability.

1. The purpose of the Planned Development Overlay is to provide greater flexibility in development of land as compared to a standard subdivision, encourage variety in the development pattern of the community, encourage developers to use a creative approach in land development, conserve natural land features, facilitate a desirable aesthetic and efficient use of open space, create public and private common open spaces, and provide for flexibility and variety in the location of improvements on lots. If these public purposes are accomplished, exceptions to certain zoning standards may be granted as provided by LOC 50.17.015.

2. Use of the Planned Development Overlay (PD) is allowed in any zone for proposals classified as major development pursuant to LOC 50.79.030. Use of the PD Overlay is required in any zone for a residential development proposal of 20 or more units or four or more acres that is classified as a major development pursuant to the terms of LOC 50.79.030.

Section 50.17.010 Procedures.

1. The establishment of a PD Overlay for projects containing more than one phase shall occur in conjunction with the approval by the Planning Commission of an Overall Development Plan and Schedule (ODPS) pursuant to the provisions of LOC Article 50.71. The ODPS shall contain a section which identifies the zone requirements to be applied in the PD Overlay. These requirements may be adopted by referring in the Final Order to existing provisions of this Code. or by creating special zoning standards pursuant to the Planned Development Overlay section. (LOC 50.17.005 to 50.17.025).

2. A request for a PD overlay for a project that will contain only one phase may be considered by the Development Review Commission. No ODPS shall be required, but the requirements of subsection (1) of this section for the adoption of zone requirements in the Final Order shall be complied with.

3. Following approval of a PD Overlay, any subsequent request for exceptions to the zone requirements adopted under subsections (1) and (2) above shall be processed as variances according to Article 50.68.

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Section 50.17.015 Authorization.

1. In considering an application for a PD Overlay, the hearing body shall apply the height, Floor Area Ratio (FAR), lot coverage, use, open space and density requirements of the underlying zone and, if applicable, the setback requirements of LOC 50.06.045(5). The FAR and lot coverage requirements may be applied with reference to the total area of the project as a whole and not on a lot by lot basis.

2. Except for the special setback requirements of LOC 50.06.045(5), the hearing body may grant exceptions to the lot size, lot dimension and front and rear setback requirements of the underlying zone if the applicant demonstrates that the proposed PD provides the same or a better sense of privacy, appropriate scale and open space as a PD designed in compliance with the standard or standards to which an exception is sought. In making this determination, the hearing

body may consider:

a. Whether the applicant has reserved or dedicated more than the minimum amount of open space required by the Park and Open Space Development Standard.

b. Whether the requested exception allows the lots to be designed in a manner that provides better access to common open space areas from within and/or outside the PD, better protects views, allows better solar access, maintains or improves relationships between structures, maintains or improves privacy and/or improves pedestrian or bicycle access to surrounding neighborhoods.

c. Whether the requested exception will allow a more attractive streetscape through use of meandering streets, access through alleys or shared driveways, provision of median plantings, or other pedestrian amenities.

d. Whether the requested exception will enhance or better protect a significant natural feature on the site, such as a wetland, a tree or tree grove, or a stream corridor.

e. Whether the requested exception will provide better linkage with adjacent neighborhoods, parks and open space areas, pathways, and natural features.

f. Whether the requested exception will allow the development to be designed more compatibly with the topography and/or physical limitations of the site.

3. If the proposed PD is part of an approved ODPS as described in LOC Article 50.71, requirements of the ODPS approval regarding arrangement of uses, open space and resource conservation and provision of public services, will be considered when reviewing the considerations in subsection (1) for the PD.

4. Except as required by LOC 50.06.045(5), the hearing body may grant exceptions to the minimum side yard setbacks of the underlying zone, without the necessity of meeting the requirements of Article 50.68 (variances) if the requirements of 50.17.015 are met, and:

a. Proposed lot sizes are less than the minimum size required by the underlying zone, or

b. Lesser setbacks are necessary to provide additional tree preservation or protection of abutting natural areas.

Section 50.17.020 Special Requirements.

If common private open space or common buildings are included in the plan, a homeowner's association or similar organization must be established to provide for maintenance of the facilities or open space. The bylaws of such organization shall be included in the application.

Section 50.17.025

Section 48.18.485 Expiration, Revocation.

If 15% of the structural construction of the planned development has not occurred within three years of the date of the order granting approval for the PD Overlay or if development has occurred in violation of the approval granted, the hearing body may initiate a review of the Planned Development Overlay at a public hearing to determine whether or not its continuation in whole or in part is in the public interest. The Commission may decide that the Planned Development Overlay is to be removed and the plan or plat be resubmitted and made to conform to the requirements of the underlying zone, that the approval be retained, or that the approval be modified in any manner consistent with laws in effect at that time.

50.18

First Addition and the Lake Grove Building Height and Roof Pitch Overlay

50.18.005 Height of Structure

1. This zoning overlay requirement shall be applicable to single family structures and zero lot line dwellings in residential zones located in the First Addition Neighborhood and the Lake Grove Neighborhood as shown in LOC Appendix 50.18-A and 50.18-B.

2. Notwithstanding LOC 50.02.005, Height of Building definition, the method for determining the height of buildings shall be as follows:

a. On Flat Lots: The vertical distance from any ground surface at the exterior wall of the building to the highest point of the roof.

b. On Sloped Lots: The vertical distance from any ground surface at the exterior wall of the building prior to construction of any structure which artificially elevates the ground surface, to the highest point of the roof.

50.18.010 Minimum Roof Pitch Required in First Addition and Lake Grove Neighborhoods

1. This zoning overlay requirement shall be applicable to single family structures and zero lot line dwellings in residential zones located in the First Addition and Lake Grove Neighborhoods as shown in LOC Appendix 50.18-A and 50-18-B.

2. The minimum roof pitch for primary roof forms of a single family or zero lot line dwelling shall be 6:12. Shed type and flat roofs are not permitted as primary roof forms on single family and zero lot line dwellings. Secondary roof forms, such as sunrooms, balconies, dormers, porticos, or bays may be flat or shed roof types (See Appendix 50.07-A).

Article 50.19 Reserved

Article 50.20

Flag Lots.

Section 50.20.005 Purpose; Applicability.

1. The purpose of the Flag Lot Ordinance is to:
   a. Enable the efficient use of residential land and public facilities and services,
   b. Provide standards for site and building design compatibility of new development with the existing neighborhood character,
   c. Reduce the area of impervious surface resulting from redundant access paving, and improve the appearance where pavement is necessary, and
   d. Minimize the disturbance of natural resources.
2. The provisions of LOC 50.20.005 through 50.20.035 shall apply to all land divisions creating flag lots, and to any development occurring on a flag lot created subsequent to the adoption of this ordinance.
3. The creation of flag lots is permitted only in residential zones.

Section 50.20.010 Authorization; Application Requirements.

1. Flag lots shall comply with the requirements of the underlying zone except where noted in this article. A land division creating a flag lot shall also comply with any specific residential design criteria contained within an applicable adopted neighborhood plan.
2. In addition to the general application requirements for land divisions, an application to create a flag lot shall include a conceptual plan of complete parcelization of the subject property, and shall include a site plan illustrating the location of existing structures on adjacent parcels. The reviewing authority may impose conditions in order to ensure that parcelization of the subject property will not preclude the development of surrounding properties. Such conditions may be related (but not limited) to access, circulation, building location, utility availability, and natural resource protection.

Section 50.20.015 Exceptions.

1. For land divisions, the reviewing authority may allow exceptions to this Article without the need to obtain a formal variance pursuant to Article 50.68, in one or more of the following circumstances:
   a. Landscaping required by LOC 50.20.035(1) as separation between driveways, which would not result in screening or buffering as intended due to topography, lot configuration, or existing natural resources which would be preserved, may be modified or may not be required;
   b. Setback adjustments of up to 2 feet which are necessary to site a dwelling in compliance with this Article, or will result in additional separation from existing dwellings on surrounding lots, may be permitted;

c. Minimum driveway widths of 12 feet required by LOC 50.20.020(3) may be reduced, when approved by the City of Lake Oswego Fire Marshall.

Section 50.20.020 Access.

1. For land divisions creating flag lots, the reviewing authority shall require that access to the flag lots shall be consolidated into a single shared driveway wherever practicable, including consolidation with the access of the parent lot.
2. Flag lots shall have access to a public or private street; however, actual street frontage shall not be required.
3. Driveway widths shall be a minimum of 12 feet. Driveway length, construction standards, and turnaround requirements shall be determined by Article 50.58 "On site Circulation – Driveways and Fire Access Roads".
4. No more than two driveways shall be permitted within a distance equal to the minimum lot width of the underlying zone, or within 50 feet of each other if no minimum exists, as measured from the closest edge of each driveway.
5. All buildings on flag lots must post an address at the beginning of the driveway. The address shall be no less than 6" tall, must be on contrasting background, plainly visible, and must indicate the direction to the building.

Section 50.20.025 Lot Configuration Requirements.

1. Determination of Front Yard: At the time of land division review for a flag lot creation, the front yard shall be determined as follows:

The front yard of a flag lot is measured from the lot line that is most parallel and closest to the street, excluding the pole portion of the flag lot. If this standard is not practicable due to placement of structures on adjacent lots, topography, lot configuration, or similar reasons, then the front yard will be measured from a property line that abuts the access portion of the flag or easement.

2. Lot Width: Lot width shall be measured by a line connecting two points on opposite side yard property lines, that will result in a line parallel to the front yard.
3. Lot Depth: The lot depth shall be measured at the mid-point of the front and rear property lines of the "flag".
4. Lot size: Area of access easement or flagpole shall be deducted from the gross acreage of the flag lot. The "flag" portion of the lot shall be equal to or exceed the square footage of the underlying zone.

Cross-Reference: See also Determination of Front Yard for Flag Lots and Lots Accessing by Easement. Section 50.22.025(3)

Section 50.20.030 Building and Site Design Standards.

1. Building Orientation: For land divisions the reviewing authority shall require that buildings be oriented to provide the maximum separation and privacy from existing and future dwellings on adjacent lots. The reviewing authority may require conditions of approval to include measures such as specific building locations, increased setbacks, additional height

restrictions, location and orientation of windows and other openings.

2. Garage placement shall be reviewed at the time of building permit application to ensure minimum visibility of the garage from the street. Garage placement shall meet the following requirements:

a. Be side-loading where a turning radius can be provided that allows for a minimum of 24' separation from the garage door and any obstructions or property lines, or

b. Be placed such that no more than 40% of garage wall area is visible from the intersection of the flag lot driveway and street.

c. When a garage is visible from the street, the front or side of the exposed garage building wall shall have more than one plane, or shall include fenestration equal to at least 10% of the facade visible from any point at the intersection of the driveway and the public street.

To demonstrate compliance with this standard, building elevations shall be submitted which depict the facade area visible from the street at a width equal to the access easement.

The area of a specific facade of a building is determined by adding the square footage of surface area of each section of wall visible from that perspective. For buildings with more than one wall (plane) along one facade (for example, rooms jutting out from the main building or a building where each floor is set back from the floor below), all of the walls are included in the total area. The total area does not include any roof area.

3. Height Requirement: Single family residential structures and accessory structures shall not exceed the average height of all dwellings on lots abutting the flag lot. Where a vacant abutting lot is present, a height of 16 feet shall be used in calculating the average. Where an existing structure on an abutting lot exceeds the maximum height allowed by the underlying zone, then the maximum height permitted by the underlying zone shall be used for purposes of calculating the average.

4. Where a flag lot abuts a lot in a residential district of lower density, the greater setback requirements of the more restrictive district shall apply for those yards which have abutting property lines.

Section 50.20.035 Screening, Buffering and Landscape Installation.

1. For land divisions, a minimum six foot landscape strip shall be provided as separation between driveways that are within 10 feet of each other (as measured from the closest edge of each driveway) and where a driveway is within 10 feet of an adjacent residential structure. Where land area is not sufficient to accommodate a 6 foot wide landscaped buffer between the new driveway and an existing dwelling, the review authority may impose conditions of approval to include measures that will provide effective buffering and screening. These measures may include landscaped islands, fencing, and meandering driveways.

The reviewing authority shall require the landscape strip to be planted with trees and shrubs in order to mitigate the visual impact of wide expanses of pavement, and to provide a visual and noise buffer between the driveway and the affected dwelling(s) located on adjacent parcels. Plant materials used for screening and buffering shall be of a size to provide an effective screen within two years of planting. Trees shall be a minimum 2" caliper, and shrubs shall be a minimum of 5 gallon at time of planting. Maintenance of the buffer is an ongoing obligation of the property owner.

2. For land divisions, existing mature vegetation and trees shall be integrated as screening where practicable. The review authority may require dwelling and garage placement or

orientation in a manner that will minimize the removal of specific trees, hedges, or other vegetation that would serve to screen the proposed structures from existing and potential surrounding homes.

3. The rear and side yards of the lot where the new development occurs shall be screened from adjacent property with a six foot tall fence, except where a four foot fence is required by LOC 45.15.020(1) of the Building Code, and except where the abutting property 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 feet in width shall be created along the rear property line and planted with a deciduous or evergreen hedge, a minimum four feet in height at planting which shall grow to a height of six feet within two years and shall be maintained at a minimum of that height, except where the abutting property 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.

4. Tree removal mitigation: A minimum of one evergreen or deciduous tree, of a species which will attain a minimum of thirty feet in height, shall be planted at a 1:1 ratio where practicable in order to mitigate the removal of existing trees necessary for site development. Deciduous trees at planting shall be a minimum of 2" caliper and evergreen trees shall be a minimum of eight feet tall.

Article 50.21

Vision Clearance

Section 50.21.005 Vision Clearance.

1. The "vision clearance triangle" is that area enclosed by the lines formed by the outside edges of the intersecting pavements or driving surfaces and a straight line drawn diagonally across the corner, connecting those lines at the various distances specified below. The measured distance along the pavement is the "vision clearance distance". Measurement shall be from the point of intersection of the traveled surfaces. See Appendix 50.21-A (Vision Clearance Triangle Graph.)

2. Standards:

a. Within the vision clearance triangle, it shall be unlawful to install, set out or maintain, or to allow the installation, setting out or maintenance of, any sign, fence, hedge, shrubbery, natural growth or other obstruction to the view, higher than 30" above the level of the centerline of the adjacent pavement.

b. The dimensions of the vision clearance triangle, as measured from the point of intersection of the traveled surfaces, shall be as follows:

(1) At intersections governed by existing traffic control devices, or at locations where a major development accesses to an arterial or collector street and generates in excess of 100 ADT, the vision clearance triangle shall be determined by an engineering study using REF 1965 Rural AASHO Standards.

(2) At the non-controlled intersection of two streets, the vision clearance distance along each traveled surface shall be a minimum of 60 feet.

(3) At an intersection of an alley and a street, the vision clearance distance shall be 10 feet along the alley and 60 feet along the street.

(4) At an intersection of a driveway and a street, the vision clearance distance along each traveled surface shall be 10 feet.

3. Exceptions.

The requirements of subsection 2 do not apply to:

a. Public utility poles;

b. Vegetation trimmed (to the trunk) from the ground to a line at least eight feet above the level of the pavement;

c. Official warning signs or signals;

d. Signs mounted nine feet or more above the ground and supported by a single support with a maximum cross section of 12";

e. Earth-formed obstructions, including retaining walls, at intersections which were existing on December 16, 1982.

Article 50.22

Exceptions to Site Development Standards: Lot Dimension, Lot Area, Setback, Building Height; and Special Determinations: Yards of Corner Lots

Section 50.22.005 General Exception to Lot Area and Dimension Requirements.

A lot which does not comply with the minimum lot area or dimensional requirements required by this Code at the time of application for development may be occupied by a permitted use in the zone in which the lot is located. Any proposed use of the lot must comply with all other applicable code provisions, including but not limited to setbacks, height limits, and lot coverage requirements. The lot lines of a lot which does not comply with the minimum lot area or dimensional requirements of this Code at the time of application may be adjusted as long as the adjustment does not increase the degree of noncompliance.

Section 50.22.010 General Exceptions to Yard Requirements.

Except as provided in LOC 50.20.105(2), the following exception to the front yard requirement for a dwelling is authorized for a lot in any zone. If there are dwellings on both abutting lots with front yards of less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth. The front yard setback for a single family detached dwelling in the R-5, R-7.5, R-10 or R-15 zones shall not be reduced to less than 15 feet.

Section 50.22.015 General Exception to Structure Height Limitations.

The following type of structures or structural parts are not subject to the structure height limitations of this Code; chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, masts, ham radio aerials, cooling towers, elevator shafts, smokestacks, flagpoles, radio and television towers, and other similar projections. Aerials other than ham radio aerials are permitted to 10 feet over the building height maximum in a residential zone. Collocated telecommunication facilities in residential zones may exceed the height limits of the underlying zone, but shall not exceed ten (10) feet above the existing structure height. Collocated telecommunication facilities in commercial and industrial zones may exceed the height limits of the underlying zone, but shall not exceed twenty (20) feet above the existing structure height.

Cross-Reference: General Exceptions for Building Projections and Decks to Setbacks – 50.22.045

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

A residential building permit applied for within one year of the date of recordation of the final plat of a subdivision shall be reviewed pursuant to the setbacks, height and lot coverage

standards in effect at the time of the application for the subdivision.

Section 50.22.025 Special Determination of Yards and Yard Requirements

1. Corner Lots.

a. In the case of corner lots with more than two street frontages, the City Manager shall determine the front yard requirements, subject to the following limitations: (1) at least one front yard shall be provided having the full depth required generally in the zone; (2) No other front yard on such lot shall have less than half the full depth required generally.

2. Through Lots.

Unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all street frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the City Manager may waive the requirements for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

3. Determination of Front Yard for Flag Lots Created Prior to September 6, 1998 and Lots Accessing by Easement.

The front yard shall be the area abutting the property line of the "flag" portion of the lot parallel to the street providing access to a flag lot created prior to September 6, 1998. If this standard is not practical due to placement of structures on adjacent lots, topography or similar reasons, then the front yard will be that portion of the lot abutting the property line of the greatest length abutting the access portion of the flag or easement.

Section 50.22.030 Oswego Lake.

Except for a boathouse, a building shall be set back a minimum of twenty-five feet from Oswego Lake, its bays and canals, measured from the property line in all zones except in the WR zone.

Section 50.22.035 Special Street Setbacks.

a) Purpose. To preserve an obstruction-free area along public rights-of-way in anticipation of future street improvements, such as additional lanes, pedestrian and bicycle facilities, transit facilities, drainage management improvements, lighting, and street landscaping.

b) Establishment of Special Street Setback Reference Line. A "special street setback reference line" is hereby established for the streets identified in subsection (f), below. On these streets, required yards shall be measured from the special street setback reference line.

c) Method of Measurement. The reference line shall be established by measuring the prescribed distance from the center of the right-of-way or as described in the special street setback requirement.

d) Priority of Other Plans. Special street setbacks are minimums. If a greater amount of additional right-of-way is warranted by improvements identified in a traffic impact study, corridor study, or transportation system plan, then the greater amount shall prevail.

e) The special street setbacks set forth in subsection (f) shall not be reduced.

f) Special Street Setback List

Affected Street	From	To	Special Setback
Bangy Rd.	South of Alyssa Terrace		30 feet
Bergis Rd.	Cornell St.	Stafford Rd.	30 feet
Bergis Rd.	Cornell St.	Skylands Dr.	25 feet
Boones Ferry Road	Mercantile Dr.	West Sunset Dr.	50', but will be superceded by the City Council's adoption of a corridor study
Bonita Rd.			30 feet
Bryant Rd.	Boones Ferry Rd.	Lake View Blvd.	40 feet
Bryant Rd.	Lake View Blvd.	Childs Rd.	30 feet
Burma Rd.			25 feet
"C" Ave	State St. alley	Country Club Rd.	30 feet
Carman Drive		North and east of Kruse Way	30 feet
Carman Drive		South and west of Kruse Way	40 feet
Cornell St.	Larch St.	Bergis Rd.	30 feet
Egan Way	East/west leg only		20 feet
Fielding Rd.			20 feet
Firwood Road			30 feet between Boones Ferry Rd. and Waluga Dr.; 20' west of Waluga Dr.
Gassner Ln			20 feet
Inverurie Rd.	North of Washington Ct.		20 feet
Knaus Rd. from	Country Club Rd.	North City Limits	30 feet
Lake Grove Ave			20 feet
Lake View Blvd.	Bryant Rd.	Iron Mt. Blvd.	25 feet
Lamont Way			20 feet
Lanewood St.		Through south leg of Douglas Circle	20 feet
Laurel St.	Dyer St.	Hallinan St.	30 feet
Lower Dr.			20 feet
McVey Avenue	State Street	South Shore Blvd.	40 feet
Madrona St	Boones Ferry	Bryant Rd. (south from railroad r/w)	50 feet
North Shore Rd.	Abutting the railroad right-of-way		30' measured from the south line of the

			railroad right-of-way
Oakridge Rd.	Quarry Rd.	Bonaire Ave.	25 feet
Oakridge Rd.	Quarry Rd.	Boones Ferry Rd.	30 feet
Overlook Dr.			30 feet
Pilkington Road	South of Rosewood St		Special street setback line shall be measured 30' from the east line of Rosewood Plat
Quarry Rd.	Boones Ferry Rd.	Galewood St. and extension to Carman Dr.	30 feet
Reese Rd.	Boones Ferry Rd.	Upper Drive	30 feet
Rosewood St.	Pilkington Rd.	Tualatin St.	25 feet
South Shore Blvd.			40 feet
Stafford Rd	South Shore Blvd	south City limits	40 feet
State Street			50 feet
Summit Dr.	Lake View Blvd.	Ridgewood Rd	20 feet
Sunset Dr.			20 feet
Tualatin St.			20 feet
Twin Fir Rd.	Boones Ferry Rd.	Upper Dr.	30 feet
Upper Dr.	Iron Mt. Blvd.	City limits	25 feet
Waluga Dr.	South of Firwood Rd		20 feet
West Sunset Dr.	West of Lake Grove Design District Boundary		20 feet

The special street setbacks set forth above shall not be reduced.

Section 50.22.040 Rooftop Decks

Rooftop decks are prohibited on the pitched portion of any roof exceeding two percent slope. Decks on flat roofs shall not extend above the coping of the roof.

Section 50.22.045 General Exceptions for Building Projections and Decks to Setbacks

1. Projections from Buildings. Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than two feet into a required yard or into required open space as established by coverage standards.

2. Patios and decks which are no more than 30 inches above grade may project into a required yard, but may not be closer than three feet to any property line. Such intrusion into the required yard are to be undertaken solely at the risk and expense of the owner. Any structure which is placed in a required yard, and is required to be moved for any reason, shall be moved without expense to the City and the person who bears such cost shall have no recourse against

the City to recover such cost.

Articles 50.23 – 50.29 Reserved

Article 50.30

Special Requirements for Type of Facility

Section 50.30.005 Home Occupations.

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

1. 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.
2. A current and valid business license is maintained.
3. No employees other than family members who reside at the dwelling.
4. No outside storage of goods or materials other than vegetation.
5. No more than 25% of the dwelling is devoted to non-residential use.

Section 50.30.010 Specific Standards for Secondary Dwelling Unit.

A secondary dwelling unit may be allowed in conjunction with a single-family dwelling by conversion of existing space, by means of an addition, or as an accessory structure on the same lot with an existing dwelling, when the following conditions are met:

1. The site is large enough to allow one off-street parking space for the secondary unit in addition to the required parking for the primary dwelling.
2. Public services are to serve both dwelling units.
3. The number of occupants is limited to no more than two persons in the secondary unit.
4. The unit does not exceed one bedroom and an area of 800 square feet, or a total FAR of 0.4 : 1.for all buildings. No more than one additional unit is allowed.
5. The unit is in conformance with the site development requirements of the underlying zone and LOC Chapter 45.
6. The following minimum area standards shall be met:
   - 1 person - 250 square feet
   - 2 persons - 500 square feet
7. One unit shall be occupied by the property owner. The owner shall be required to record a declaration of restrictive use in the appropriate county clerk deed records prior to issuance of a building permit for the secondary dwelling unit on the lot. The declaration shall state that use of the parcel is subject to compliance with the City of Lake Oswego's secondary dwelling unit requirements (LOC 50.30.010), including the requirement that one of the dwellings on the lot be occupied by the property owner to permit usage of a secondary dwelling unit on the lot.
8. The reviewing authority may impose conditions regarding height modifications, landscaping, buffering and orientation of the secondary unit to protect privacy of the neighbors.

Section 50.30.015 Specific Standards for Telecommunications Facilities.

1. Purpose. The purpose of this section is to establish design and siting standards for telecommunication facilities that:
   a. Reduce visual impacts of towers and ancillary facilities through careful design, siting, and vegetative screening;
   b. Avoid damage to adjacent properties from tower failure and falling ice, through

engineering and careful siting of tower structures;

c. Maximize use of any new transmission tower and any existing suitable structures to reduce the need for additional towers; and

d. Allow transmission towers in residential areas only when necessary to meet functional requirements of the telecommunications industry.

2. Applicability. These standards shall apply to new telecommunication facilities and collocated telecommunication facilities and not pre-existing towers or pre-existing antennae.

3. Approval Criteria for Collocated Facilities.

a. Site Size. No minimum lot size shall apply when a telecommunications facility is collocated on an existing building or structure. Telecommunications facilities collocated on existing towers or reconstructed existing towers shall not decrease the setback of the existing tower. For the purposes of this section, an increase in tower circumference to accommodate collocated facilities shall not be deemed to decrease setbacks.

b. Suitable Facilities for Collocation:

i. Towers or attachments may be placed on existing structures such as athletic field light poles, utility poles, utility towers and tall buildings provided that the addition of the antenna equipment will not interfere with the normal operation of utilities or existing transmission facilities and the collocated facility complies with the height limit in subsection 3(c) of this section.

ii. Existing structures may be replaced or structurally enhanced when necessary to permit collocation as long as the setback of the reconstructed structure is not decreased as described in subsection 3(a) of this section and as long as the height of the reconstructed facility complies with height limit contained in subsection 3(c) of this section as applied to the existing structure prior to replacement or reconstruction.

c. Height Limit: Collocated facilities are exempt from the height limits of the underlying zone, but shall be no more than ten (10) feet taller than the existing structure in a residential zone or no more than twenty (20) feet taller than the existing structure in a commercial or industrial zone. Exceptions:

A collocated facility shall be no taller than the existing facility where the height of the existing facility has previously been increased in excess of the height limit of the underlying zone as a result of approval of a prior collocation application pursuant to this section.

d. Visual Impact:

i. All ancillary facilities shall be screened, hidden or disguised.

ii. Antennae shall be screened, hidden or disguised, or shall be painted or colored to blend into the structure or surroundings.

e. A proposed collocated facility that does not comply with subsection 3 of this section shall be processed as a new facility.

4. Approval Criteria for New Facilities.

a. Site Size. A new facility shall be sited on a parcel of a size and shape that complies with the following criteria:

i. Setbacks: The tower footprint shall be set back at least two-thirds the tower height from any property line. This setback may be reduced if the applicant can demonstrate that:

A. The shape or configuration of the parcel prevents compliance with the setback standard or that a reduction in setback is necessary to take advantage of screening opportunities (such as tall trees, tree groves, buildings, or other tall elements) not available within the required

setback area;

B. The reduction in setback is the minimum required to best camouflage the facility;

C. Adequate clearance between the facility and property line can be provided to accommodate landscaping and fencing; and

D. The reduction in setback will not cause a greater visual impact to adjacent uses.

ii. The tower pad shall be sited in a location that permits additional expansion to accommodate future collocated ancillary facilities. The tower shall be located centrally on this pad. This standard shall not apply to antennae attached to existing structures or towers located on rooftops.

iii. A licensed structural engineer*s analysis shall be submitted to demonstrate that the potential impact of tower failure and ice falling from the tower will be accommodated on site.

iv. Separation from pre-existing towers. New towers shall be separated from existing towers by at least the following distances, measured in a straight line from the base of the proposed new tower to the base of any pre-existing tower:

	Lattice	Guyed	Monopole ≥80' in height	Monopole <80' in height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole >80'in height	1,500	1,500	1,500	750
Monopole <80' in height	750	750	750	750

b. Collocation to be Explored; Accommodated.

i. Before an application for a new transmission tower is accepted, applicants shall demonstrate that they have exhausted all practicable collocation options within the proposed service area pursuant to subsections (5)(a) and (d) including placement of antennae on existing tall structures and placing multiple antennae or attachments on a single tower.

ii. New towers shall be constructed so as to accommodate future collocation, based on expected demand for transmission towers in the service area. Towers shall be designed so as to accommodate a minimum expansion of three two-way antennae for every 40 vertical feet of tower.

iii. Multiple Attachments on Utility Towers. In conformance with the Telecommunication Act of 1996, Section 703, a utility shall provide any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right of way owned or controlled by it, unless there is insufficient capacity or access cannot be granted for reasons of safety, reliability, and generally applicable engineering purposes.

c. Height. New telecommunication facilities shall not exceed the height limits of the underlying zone, unless the applicant demonstrates that:

i. There is a service area need for the proposed facility at the proposed location;

ii. The increase in height above the maximum allowed height for the zone is the minimum increase necessary to eliminate service shadows;

iii. that providing coverage with telecommunications facilities which comply with the height requirements of the zone would result an unacceptable proliferation of such facilities. For the purposes of this subsection, "unacceptable proliferation" means an increase in the number of transmission towers by a factor of four in order to achieve the same level of adequate service. An increase in the number of transmission towers shall not include facilities or towers that would qualify as collocated facilities;

iv. the negative visual impacts on adjacent properties can be minimized by screening or disguising the facility.

The applicant may be required to pay for an independent Radio Frequency Engineer or similar consultant to verify the need for this request.

d. Visual Impact. The applicant shall demonstrate that telecommunications facilities will have the least practicable visual impact on the environment, considering technical, engineering, economic, and other pertinent factors.

i. The height and mass of the telecommunications facilities shall not exceed that essential for its intended use and public safety, as demonstrated in a report prepared by a licensed structural engineer.

ii. Telecommunications facilities 200 feet or less in height shall be camouflaged to ensure the facility is visually subordinate to surrounding objects and colors.

iii. Towers more than 200 feet in height shall be painted in accordance with the Oregon State Aeronautics Division and Federal Aviation Administration. Applicants shall attempt to seek a waiver from OSAD and FAA marking requirements. When a waiver has been granted, towers shall be painted and/or camouflaged in accordance with subsection ii, above.

e. Accessory Uses. Accessory uses shall include only building facilities that are necessary for transmission function and associated satellite ground stations, and shall not include broadcast studios (except for emergency broadcast), offices, vehicle storage areas, nor other similar uses not necessary for the transmission or relay function. No unenclosed storage of materials is allowed.

f. Lighting. No lighting shall be permitted on transmission towers except that required by the Oregon State Aeronautics Division or Federal Aviation Administration. This standard shall not prevent shared use or replacement of an existing light pole. For collocation on existing or replaced light poles, the transmission tower shall have no net increase to the spread, intensity, or direction of the existing light source.

g. Fences and Landscaping.

i. The tower(s) and ancillary facilities shall be enclosed by a six foot fence meeting the requirements of LOC 45.15.

ii. Landscaping shall be placed outside of fences and shall consist of fast growing vegetation placed densely so as to form a solid hedge with a minimum planted height of six feet.

iii. For new towers, landscaping and fencing shall be compatible with other nearby landscaping and fencing.

iv. Where antennae or towers and ancillary facilities are to be located on existing buildings or structures and are secure from public access, landscaping and fencing requirements may be waived.

h. Signs. One non-illuminated sign, not to exceed 2 square feet, shall be provided at the

main entrance to the facility stating a contact name and phone number for emergency purposes. Signs shall not be placed on towers and antennae.

5. Supplemental Application Requirements.

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

i. Documentation demonstrating that the collocated facility will comply with non-ionizing electromagnetic radiation (NIER) emissions standards adopted by the Federal Communications Commission (FCC).

ii. Documentation addressing the specific criteria for compliance contained in subsection 3 of this section.

b. 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:

A. A vicinity map depicting the proposed extent of the service area.

B. 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.

C. An inventory within the applicant*s proposed service area depicting the height and location of non-habitable structures, including poles, towers, and appurtenances that could accommodate collocation of the proposed antennae.

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 subsection (1). Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

iii. A landscape plan drawn to scale showing proposed landscaping, including type, spacing, size and irrigation methods.

iv. Evidence demonstrating collocation has been explored and is impractical on existing structures, existing transmission towers, and existing tower facility sites for reasons of safety, available space, or failing to meet service coverage area needs.

v. A report containing the following information:

A. A description of the proposed tower and reasons for the tower design and height.

B. Documentation to establish the proposed tower has sufficient structural integrity for the proposed uses at the proposed location in conformance with minimum safety requirements as required by the State Structural Specialty Code, latest adopted edition.

C. Ice hazards and mitigation methods which will be employed, including increased setbacks, and/or deicing equipment.

D. The general capacity of the tower in terms of the number and type of antennae it is designed to accommodate.

E. Documentation demonstrating compliance with non-ionizing electromagnetic

radiation (NIER) emissions standards adopted by the Federal Communications Commission (FCC).

F. A signed agreement stating that the applicant will allow collocation with other users, provided all safety and structural requirements are met. This letter shall also state that any future owners or operators will allow collocation on the tower. This agreement is not necessary if the applicant does not own the facility or structure; however, a consent to allow the owner to grant access to other users for the same structure or facility shall be required.

G. A soils report if the property contains weak foundation soils or has landslide potential.

H. Identification of any other antenna sites owned or operated by the applicant in the City.

6. Abandoned Facilities. A telecommunication facility that is unused for a period of six consecutive months or longer is hereby declared abandoned. Abandoned facilities shall be removed by the property owner no later than 90 days from date of abandonment. Failure to remove an abandoned facility is declared a public nuisance and is subject to the penalties established by LOC 34.04. Upon written application, prior to the expiration of the six month period, the City Manager shall, in writing, grant a six month extension for reuse of the facility. Additional extensions beyond the first six month extension may be granted by the City Manager subject to any conditions required to bring the project or facility into compliance with current law(s) and make compatible with surrounding development.

Section 50.30.020 Specific Standards for Special Use Housing.

1. General Conditions - The conditions in this subsection apply to all types of special use housing.

a. The building shall be designed or renovated specifically for special use housing. Any required State licenses must be obtained before the building is occupied by special use residents.

b. Occupancy shall be residential. Periodic visits by medical or nursing personnel, such as Visiting Nurse Associations, or personal physicians for medical or therapeutic care are permitted.

c. Public services must have capacity to serve the proposed development.

d. The housing may be provided as a family setting, as congregate care or as separate apartment units or any combination thereof.

e. Walkways shall be paved and lighted and shall not exceed 8 percent in grade.

f. Buffering of noise and screening of lighting shall be required.

g. Adequate fire protection shall be available to each dwelling unit.

h. The requirements of the zone are to be met unless specifically modified by this section.

i. Occupancy of special use housing designed for the elderly is limited to persons 58 years of age and older for publicly funded projects and 60 years of age and older for non-publicly funded projects. Each unit shall be occupied by at least one person who has reached the minimum required age. If a unit is occupied by more than one person and one occupant dies or is forced to move from the premises and the remaining occupant(s) does not meet the minimum age requirement, that remaining occupant(s) shall be entitled to continue to occupy the premises. For projects receiving financial assistance from a program administered by the State of Oregon, the age restriction may be reduced to no lower than age 55 if such a reduction is certified by the

State as being necessary for the economic survival of the project. This restrictive condition shall be recorded in the county deed records. This age restriction does not apply to housing designed for classes of residents other than the elderly.

j. The site must be at least one-half an acre in size.

k. Proposals shall be presented according to the requirements of the PD Overlay District.

l. Services such as shopping and other commercial needs, medical and dental care, library, churches, etc., shall be available to the project through one or more of the options below:

i. Services within walking distance of one-half mile or less on paved walkway of less than 8% grade.

ii. Services available through access to at least hourly scheduled regional public transit system. Public transit stops shall be within one quarter mile of the project via paved walkway of less than 8% grade, and shall be located at traffic light controlled crossings on four-lane streets. Two-lane street crossings may use a non-controlled crosswalk provided that safe site distance, as calculated by ITE Standards for Safe Stopping Distance, can be provided. When projects are located on streets having greater than 10,000 ADT a traffic study may be required to show that safe sight distance and adequate traffic "gaps" exist to allow safe crossing.

iii. Private or public community bus system which provides on-site service such as Dial-a-Bus or Senior Citizens' bus.

2. Density and applicable conditions for special use housing in the DD, R-0 and R-3 zones.

a. DD, R-0: 45 units for the first net buildable acre; 30 units allowed for each additional net buildable acre. R-3: 30 units for the first net buildable acre, 26 units for each additional net buildable acre. For lots larger or smaller than a full net buildable acre, the number of units will be changed in the same proportion as the lot is greater or less than a full acre.

b. The occupancy of the units located in the R-0 and R-3 zones, other than congregate care units, will be limited to low and moderate income residents.

c. For congregate care facilities, 1/2 parking space will be provided for each unit. For other type projects one parking space per unit will be provided.

d. Landscaping/open space shall be 30% of the site, unless it can be shown that other alternatives for open space are available.

3. Density and Applicable Conditions for Special Use Housing in the R-5, R-7.5, R-10 and R-15 Zone.

a. Projects are allowed in any R-5 zone with occupancy limited to low and moderate income residents. In the R-7.5, R-10 and R-15 zones, projects are allowed only if the property on which the project is to be built is located adjacent to property zoned DD, R-0, R-3, R-5, or any commercial or industrial zone. All property which is in one ownership or the subject of a joint application is considered to be one lot. The maximum intrusion into the R-7.5, R-10 and R-15 zones from the property line adjacent to the DD, R-0, R-3, R-5, commercial or industrial zone is 400 feet. Allowed densities in the R-5, R-7.5, R-10 and R-15 zones are 30 unit for the first net buildable acre and double the density of the underlying zone for each additional net buildable acre. For lots larger or smaller than a full net buildable acre the number of units will be changed in the same proportion as the lot is greater or less than a full acre.

b. One parking space per unit will be provided.

4. In commercial zones the requirements of the particular zone are applicable. The density of the project is determined by application of those requirements, there being no absolute number of allowable units. For congregate care facilities, one-half parking space will be provided for

each unit. For other type projects one space per unit will be provided.

5. The terms "low income" means an income level which makes a household eligible for the HUD Section 8 Housing Assistance Payments Program. The term "moderate income" means an income level for a household that is below the statewide median family income.

Section 50.30.025 Specific Standards for Mobile Home Park or Subdivision.

1. Must be located in the R-0, R-3 or R-5 zones.
2. Maximum project size of 10 acres; 1/2 acre minimum project size.
3. Must be located on arterial or collector street.
4. Public services must have the capacity to serve the proposed development.
5. Must be separated from other mobile home parks or subdivisions by either;
   a. A distance of one mile or,
   b. By a permanent topographic or vegetative buffer such as a hill or wooded area which completely screens one mobile home park from another or from existing residential development. If newly planted, the screening must be of a size to form an effective screen in five years.

Articles 50.31 – 50.39 Reserved

Article 50.40

Drainage Standard for Minor Development

Section 50.40.005 Applicability.

This Article shall be applicable to all ministerial and minor developments within the City.

Section 50.40.010 Standards for Approval.

1. Drainage Pattern Alteration. Development shall be conducted in such a manner that alterations of drainage patterns (streams, ditches, swales, and surface runoff) do not adversely affect other property.

Section 50.40.015 Standards for Construction

1. Same as for LOC.50.41.025

Section 50.40.020 Standards for Maintenance.

1. Same as for LOC 50.41.030.

2. Site Discharge. Where conditions permit, individual lots shall be developed to maximize the amount of storm water runoff which is percolated into the soil and to minimize direct overland runoff into streets, drainage systems, and/or adjoining property. Storm water runoff from roofs and other impervious surfaces should be diverted into swales terraces, and/or water percolation devices on the lot when possible.

Section 50.40.030 Procedures.

The applicant shall submit the following information:

1. General Information. Information concerning clearing, grading, vegetation preservation and drainage improvements.

2. Hydraulic Characteristics. When a watercourse is present on the site, information regarding its hydraulic characteristics shall be submitted.

Article 50.41

Drainage Standard for Major Development

Section 50.41.005 Applicability.

This Article applies to all major developments.

Section 50.41.020 Standards for Approval.

1. All drainage management measures, whether located on private or public property, shall be accessible at all times for City inspection. When these measures have been accepted by the City for maintenance, access easements shall be provided at such a width to allow access by maintenance and inspection equipment.

2. Storm Water Runoff Quality. All drainage systems shall include engineering design features to minimize pollutants such as oil, suspended solids, and other objectionable material in storm water runoff.

3. Drainage Pattern Alteration. Development shall be conducted in such a manner that alterations of drainage patterns (streams, ditches, swales, and surface runoff) do not adversely affect other properties.

4. Storm Water Detention. Sufficient storm water detention shall be provided to maintain runoff rates at their natural undeveloped levels for all anticipated intensities and durations of rainfall and provide necessary detention to accomplish this requirement.

5. Required Storm Water Management Measures. The applicant shall provide sufficient storm water management measures to meet the above storm water runoff requirements. The applicant shall provide designs of these measures taking into account existing drainage patterns, soil properties (such as erodibility and permeability) and site topography.

Section 50.41.025 Standards for Construction.

1. Landscaping and Topography. Detention or retention areas shall, where possible, use natural topography and existing vegetation.

In addition to or as replacement for existing vegetation these areas shall be landscaped with ecologically compatible trees, shrubs, and permanent ground cover. Basin or pond side slopes shall be grassed and mulched to prevent erosion.

2. Outlet Structures. Outlet control structures shall be designed as simply as possible and shall require little or no attention for proper operation.

3. Sideslopes. The sideslopes of all man-made detention or retention basins or retention ponds shall be sufficiently sloped or treated so as not to create a safety hazard, or maintenance problem.

4. Emergency Overflow or Bypass. All storm water storage areas shall be provided with some means of emergency overflow or bypass in accordance with one of the following standards:

a. Emergency Overflow. An appropriate surface or subsurface drainage system shall be provided as a method of emergency overflow in the event that a storm in excess of the 50-year frequency storm occurs. This emergency overflow system shall be designed to function without attention and shall direct this excess flood water to an appropriate existing drainage pattern.

b. Bypass. A surface or subsurface drainage system shall be installed with adequate capacity to convey around the storage area the storm water runoff from all upstream tributary areas. This "bypass" channel shall be designed to carry the peak rate of runoff from a 50-year storm.

No habitable or storage structures shall be constructed within bypass channels; however, streets and parking or playground areas and utility easements shall be considered compatible uses.

c. Hydraulic calculations. Shall be submitted to substantiate all design features.

5. Secondary Uses. Storm water detention or retention areas may be designed to serve a secondary purpose for recreation, open space, or other types of uses that will not be adversely affected by occasional or intermittent flooding.

6. Release Rate Outlet. The outlet opening controlling the release rate of detained storm water runoff shall be:

a. Sized so as not to exceed the water conveyance capacity of the downstream drainage system.

b. Small enough to cause storm water runoff to be detained from a storm of at least the undeveloped ten-year frequency.

c. Designed to prevent siltation or clogging of the outlet opening, and,

d. Provided with a means of adjusting the size of the outlet openings.

7. Required Detention Volume for Developments.

Detention volume shall be the maximum difference between:

a. The storm water runoff produced from the proposed development site by a 50-year storm, and

b. The storm water runoff produced from the pre-development site area by a 10-year storm.

8. Detention Basins.

a. Low Flow. A positive method of carrying the low flow through detention ponds shall be provided. This method shall have a positive gravity outlet to a downstream drainage system with adequate capacity.

b. Maximum Depth. Maximum depth of detention ponds shall not exceed four feet unless the existing natural ground contours and other conditions lend to greater storage depth, which may be approved by the City Manager.

c. Minimum Sideslopes. The minimum sideslopes of detention ponds shall be 50 to 1 (two percent) or sufficient to ensure complete drainage of said sideslopes within a reasonable period of time.

d. Paved Areas. If a portion of a detention basin area is to be paved for parking or recreational purposes, the paved surface shall be placed at the highest possible elevation within the storage area. Paved areas shall have minimum grades of one per cent and shall be restricted to storage depths of nine inches maximum.

9. Retention Ponds

a. Shoreline protection shall be provided to prevent erosion from wave action.

b. The margins of all retention ponds shall be provided with an under water shelf having a maximum slope of four to one (25%) to a depth of three feet. Other safety treatments may be allowed as approved by the City Manager.

c. To minimize growth of aquatic vegetation, the water depth beyond the underwater shelf shall be at least three to four feet.

d. If possible, a method shall be provided to drain retention ponds by gravity flow to allow cleaning and maintenance.

Section 50.41.030 Standards for Maintenance.

1. Maintenance. All detention or retention areas shall be properly maintained by the owner such that they do not become nuisances. Nuisance conditions shall include: improper storage resulting in uncontrolled runoff and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facility's operation. Storm water storage areas shall be designed with sufficient access to allow adequate, safe and efficient maintenance as determined by the City Manager.

Section 50.41.035 Procedures.

1. All drainage management measures shall be prepared by a registered engineer to meet City standards and specification. These plans must be approved by the City Engineer.

2. The applicant shall submit information regarding existing drainage systems, storm water runoff under existing and proposed development site conditions, and the effect of site runoff on adjoining properties. Such information includes:

a. General Information. Information concerning clearing, grading, vegetation preservation, drainage improvements and maintenance of storm drainage systems.

b. Impact Analysis. An analysis of both upstream and downstream impacts that would result from the development. This shall include:

i. Ten Year Storm: The amount (volume) and rate (in cubic feet per second) of storm water generated from the project site during a 10-year frequency storm for the undeveloped condition of the site.

ii. Fifty Year Storm: The amount and rate of storm water generated from the project site during a 50-year frequency storm for the proposed development on the site.

iii. Drainage System Impacts. The effects of increased development runoff on existing drainage systems including potential downstream erosion and/or sedimentation, capacities of existing downstream storm conduits and potential flooding areas downstream and upstream.

c. Hydraulic Characteristics. When a watercourse is present on the site, information regarding its hydraulic characteristics shall be submitted.

3. Storm Water Detention Feasibility. When, as determined by the City Manager, on-site detention is not feasible, practical or required by the City, the applicant shall:

a. submit a plan to mitigate any adverse effects (such as erosion and flooding of culverts) resulting from increased runoff and,

b. construct these mitigating measures.

Cross Reference: See City Engineer's Surface Water Management Design Manual.

Section 50.41.040 Miscellaneous Information.

1. Joint development of drainage facilities is encouraged, especially where individual developments cannot feasibly provide on-site facilities. The City may participate in joint drainage facilities.

2. Options for meeting detention requirements include on-site detention areas, joint detention areas shared by several developers, off-site detention in City detention areas shared by several developers, off-site detention in City detention areas, or off-site detention in areas provided by the applicant.

3. Examples of storm water management measures include: french drains, porous pavement, precast concrete lattice blocks and bricks, grass lined channels, dry wells, seepage ditches, and detention areas.

Article 50.42

Weak Foundation Soils

Section 50.42.005 Applicability.

This Article applies to all development which will involve proposed structures located in areas identified as "Potential Weak Foundation Soils.

Section 50.42.010 Standards for Approval.

The presence of weak foundation soil is not a cause for denying development, but may cause density to be reduced, structural modifications to be required, or structures to be relocated.

Section 50.42.015 Standards for Construction.

None. (reserved)

Section 50.42.020 Standards for Maintenance.

None. (reserved)

Section 50.42.025 Procedures.

1. Confirmation of Weak Foundation Soil

The applicant shall be responsible for confirming whether or not the soils in the proposed development site are actually Weak Foundation Soils.

2. If a development is located in an area of potential weak foundation soils, the applicant shall provide the City Manager a report prepared by a registered professional soils engineer or engineering geologist. This report shall describe the nature, distribution, and strength of the soils, including findings regarding the adequacy of the soils to support the intended types of structures.

3. If soils characteristics are determined to be adequate for the proposed use, no further consideration of compensating design shall be necessary.

4. The engineering report shall include conclusions and recommendations for design criteria for corrective measures, which are appropriate to the soils and types of proposed structures.

5. The application materials shall include description of the design or engineering

features which will compensate for the soils in accordance with the recommendations of the engineering report. The proposed design shall be certified by a registered professional engineer.

6. The City Manager shall specifically review design or engineering features in the development application which are intended to compensate for Weak Foundation Soils.

7. The City Manager may require modifications in the proposed design or engineering where necessary to assure adequate structural support, prior to submission of the application for public hearing or approval of a Development Permit.

Section 50.42.030 Miscellaneous Information.

1. Weak foundation soils are identified in the "Engineering Geology" report supplement and accompanying map of the Lake Oswego Physical Resources Inventory, March 1976.

These soils are also identified and described in the report entitled. "Soil Survey Interpretations for Land Use Planning and Community Development, Lake Oswego Area, Oregon", USDA Soil Conservation Service, December 1975.

The SCS map units which correspond to the Engineering Geology units above are listed in "Table II: Characteristics and Limitations of Earth Materials" in the Engineering Geology Report of L.O.P.R.I.

Article 50.43

Hillside Protection

Section 50.43.005 Applicability.

This Article applies to all development which includes hillsides or areas with erosion potential.

Section 50.43.010 Definitions.

For purposes of this Article, the following definitions shall apply:

1. Cut or Excavation: Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

2. Erosion: Detachment and movement of soil or rock fragments by water, wind, gravity, frost and ice or by mechanical action caused by development activities.

3. Fill: Placement of any soil, sand, gravel, clay, mud, debris and refuse or any other material, organic or inorganic.

4. Mulch: Application of plant residue, netting, plastic sheeting or other suitable materials to the land surface to conserve moisture, hold soil in place and aid in establishing plant cover. Plastic mulch may be used only temporarily, during construction activities.

5. Potential Severe Erosion Hazard Area: Surface areas where erosion can be easily caused by removal of vegetation cover, stripping topsoil or by placement of fill, whether by natural causes such as streams or surface runoff or by development activities. The placement of any new fill in such an area shall be considered as creating a potentially severe erosion hazard. (Known Potential Severe Erosion Hazard Areas are described and mapped in the Engineering Geology chapter of the Lake Oswego Physical Resources Inventory, March, 1976, on file at City Hall; specifically in Table II, "Characteristics and Limitations of Earth Materials" and "Engineering Geology" map.)

6. Potential Severe Landslide Hazard Area: Areas where earth movement or failure, such as slumps, mud flows, debris slides, rock falls or soil falls, are likely to occur as a result of development activities. These activities include excavation which removes support of soils by changes in runoff or groundwater flow or vibration loading such as pile driving or blasting.

7. Sediment: Any organic or mineral material that is in suspension, is being transported or has been moved from its site of origin by water, wind, or gravity as a product of

erosion.

8. Stripping: Any activity which disturbs vegetated or otherwise stable soil surface, including clearing and grubbing operations.

Section 50.43.015 Approval Standards.

1. All developments shall be designed to minimize the disturbance of natural topography, vegetation and soils.

2. Designs shall minimize cuts and fills.

3. Cuts and fills shall conform to the minimum requirements of LOC Chapter 45.

4. Development Prohibited.

a. Where landslides have actually occurred, or where field investigation confirms the existence of a severe landslide hazard, development shall be prohibited except as provided in subsection b.

b. Exceptions.

A registered Soils Engineer or Engineering Geologist may certify that methods of rendering a known hazard site safe for construction are feasible for a given site. The granting authority shall determine whether the proposed methods are adequate to prevent landslides or damage to property and safety. The granting authority may allow development in a known or confirmed landslide hazard area if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The granting authority may apply any conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur.

5. Cuts and Fills.

On land with slopes in excess of 12 percent, cuts and fills shall be regulated in accordance with LOC Chapter 45, and as follows:

a. Toes of cuts and fills shall be set back from boundaries of separate private ownerships at least three feet, plus one-fifth of the vertical height of the cut or fill. Where a variance is required from that requirement, slope easements shall be provided.

b. Cuts shall not remove the toe of any slope where a severe potential landslide or erosion hazard exists (as defined in this standard).

c. Any structural fill shall be designed by a registered engineer, in accordance with standards engineering practice; the engineer shall certify that the fill has been constructed as designed and in accordance with the provisions of LOC Chapter 45.

d. Retaining walls shall be constructed in accordance with Section 2308(b) of the Oregon State Structural Specialty Code.

6. Roads shall be the minimum width necessary to provide safe vehicle access, minimize cut and fill, and provide positive drainage control, all in accordance with LOC Chapter 44.

7. Land over 50 percent slope shall be developed only where density transfer is not feasible. The development will provide that:

a. At least 70 percent of the site will remain free of structures or impervious surfaces.
b. Emergency access can be provided.
c. Design and construction of the project will not cause erosion or land slippage.
d. Grading, stripping of vegetation, and changes in terrain are the minimum necessary to construct the development.

Section 50.43.020 Construction Standards.

1. All development activity shall minimize stripping or other soil disturbance and shall provide prevention measures in accordance with LOC Chapter 15, Erosion Control Standards.

2 Slope stabilization and re-vegetation measures:

a. No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan. The plan shall be approved by the City Manager as part of the Development Permit.

b. The developer shall be responsible for the proper execution of the approved grading plan.

c. No more than 65 percent of area in slopes of 20-50 percent shall be graded or stripped of vegetation.

Section 50.43.025 Standards for Maintenance. [Reserved]

Section 50.43.030 Procedures.

1. . Use of Survey Information.

A survey is required for Major Development Permit Applications and is to be used to provide accurate topographic information for site and building designs which will minimize disturbance or removal of soils during construction. A survey may be required for a

Minor Development Permit if the City Manager determines that the information is needed to know whether the standard is being met.

2. Removal of Vegetation.

All development applications shall show areas where grubbing, clearing or removal of vegetation is to occur, and shall describe provisions to protect soils during construction in accordance with LOC Chapter 15, Erosion Control Standard.

3. Potential Severe Erosion of Landslide Hazard Areas.

Where development is to occur on a Potential Severe Erosion or Landslide Hazard area, a report evaluating soil conditions and potential hazards shall be submitted to the City Manager.

The report shall be prepared by a registered soils engineer or engineering geologist and shall contain the following:

a. Evidence that a field investigation was made to determine the actual hazard.
b. Statements regarding the exact nature and extent of the hazard.
c. Recommendations on site preparation and construction methods to minimize the effects of the hazard.
d. If erosion hazard exists, a specific erosion control plan to be approved by the City Manager, in accordance with LOC Chapter 15, Erosion Control Standard.
e. A description of any hazard area which should not be disturbed by construction.
f. If landslide hazard exists, a statement as to whether or not a proposed development constructed in accordance with the recommended methods is reasonably likely to be safe and to prevent landslide or damage to other property.

4. Plan Filing.

The Erosion Control Plan shall be filed with the Development Permit.

5. All development proposed on land with existing slopes greater than 20 percent shall provide a survey showing specific contours, location and types of trees, soils, rock outcroppings or surface rock, and drainage ways.

6. For all development proposed on land with slopes greater than 20 percent, a specific grading plan shall be provided and approved which shows all proposed changes in natural terrain, including the following:

a. Site contours at two-foot intervals.

b. Location of existing structures and buildings, including those within 100 feet of the development site on adjacent property.

c. Limiting dimensions or finish contours of proposed grading, including all cut and fill slopes, proposed drainage and related structures or construction.

d. Description of all methods to be employed in disposing of soils or other materials to be removed, including location of disposal site.

7. All proposed cuts, fills or retaining walls shall be shown on development applications.

Section 50.43.035 Miscellaneous Information.

Known Potential Severe Landslide Hazard Areas are described and mapped in the Engineering Geology chapter of the Lake Oswego Physical Resources Inventory, March 1976, on file at City Hall; specifically in Table II, "Characteristics and Limitations of Earth Materials" and "Engineering Geology" map.

Article 50.44

Flood Plain

Section 50.44.005 Applicability.

This Article shall apply to all development within "Areas of Special Flood Hazard".

Section 50.44.010 Purpose.

The purpose or these standards is to regulate development within flood plains to:

1. Protect Life and Property from the hazards of flood waters.

2. Designate flood plains as Protection Open Space, where it will encourage land use ideally suited to flood plains. These uses include: wildlife refuges, parks, greenway buffers, trails, wetland retention, etc.

3. Preserve the natural features of these lands, preserving the natural systems and yet allowing development compatible with them.

4. Maintain the Hydraulic Characteristics of these lands by controlling filling, excavation and other development to minimize:

   a. Rises in the base flood elevation,
   b. changes in direction of flood water flow,
   c. increases in flood water velocity,
   d. reduction of flood plain storage capacity, and
   e. other increases in flood hazard.

5. Require development proposals to:

   a. be consistent with the need to minimize flood damage;
   b. provide an adequate drainage system to reduce exposure to flood hazards;
   c. have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

Section 50.44.015 Adoption of Flood Insurance Study.

The areas of special flood hazard identified by the Federal Flood Administration a scientific and engineering report entitled "The Flood Insurance Study for the City of Lake Oswego, Oregon" dated August 4, 1987," with accompanying Flood Insurance Maps is hereby

adopted by reference and declared to be a part of this standard.

When base flood elevation data has not been provided in accordance with the above adopted "Flood Insurance Study", the City shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, state or other sources in order to administer this standard.

When base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated by the applicant for development proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less)".

Section 50.44.020 Standards For Approval.

1. Permit Review.

The City shall review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

2. Encroachment within Floodways.

Encroachment, including fill, new construction, substantial improvements, or other development within a floodway shall be prohibited unless certification by a registered professional engineer is provided demonstrating that encroachment would not result in any increase in the flood levels during the occurrence of the base flood.

3. Restrictions within Flood Plains.

Development may be allowed by the City within a flood plain, including a floodway when the following conditions are satisfied:

a. The development is consistent with the need to minimize flood damage.

b. Applications for building permits have been reviewed to assure that proposed construction will be reasonably safe from flooding.

c. Every attempt is made to locate, group, and/or cluster all development outside the flood plain or upon the highest ground within it as possible.

d. The development is located and oriented to minimize obstruction to flood flows.

e. Vegetation alteration which would increase flood flow velocity, erosion potential or other flood hazards is minimized.

f. The methods used to elevate structures and any filling or excavating shall be based on the need to maintain the storage capacity of the flood plain and to minimize impacts on the natural features within the flood plain. Filling and excavating in excess of 10 cubic yards may be allowed only after alternatives to filling and excavating have been demonstrated to be infeasible.

4. Vehicular Access and Circulation.

Where possible, all vehicular access shall be designed and constructed to approach structures and/or building sites from the direction upland from the flood plain to minimize restriction of such access during periods of flooding.

5. Storage.

a. Development providing for the storage or processing of materials that are buoyant, flammable, explosive, toxic, or that could be injurious to human, animal, or plant life in time of flooding shall be prohibited in a flood plain.

b. Storage of other materials or equipment may be allowed in a flood plain if not subject to major flood damage, if firmly anchored to prevent flotation, or if readily removable from the area within the limited time available after flood warning.

6. Alteration Of Watercourses.

When alteration of a watercourse is proposed within a flood plain:

a. The City shall notify adjacent communities and the Oregon Division of State Lands prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration, and

b. The applicant shall:

i. demonstrate that the carrying capacity of the watercourse is not diminished, and
ii. provide for City approval a plan to maintain the carrying capacity of the watercourse.

7. Residential Construction.

a. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior

walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

8. Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall:

a. have the lowest floor (including basement) elevated to at least one foot above the base flood elevation and shall meet the standards for enclosed areas below the lowest floor as described in Residential Construction (50.44.020(7b); or

b. together with attendant utility and sanitary facilities, shall:

i. be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water; and

ii. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and

Section 50.44.025 Standards For Construction.

1. Certification of Elevation and Flood Proofing.

The following information shall be documented on the "Elevation Certificate" form provided by and recorded with the City.

a. The actual as-built elevation in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures, and whether or not the structure contains a basement. This information shall be certified by a Registered Professional Engineer, Registered Professional Architect, or Registered Professional Land Surveyor.

b. The actual as-built elevation in relation to mean sea level, to which any

structure has been flood proofed. This information shall be certified by a Registered Professional Engineer, Registered Professional Architect, or Registered Professional Land Surveyor.

c. The design and methods of construction for any nonresidential structure are in accordance with the standards of practice for meeting provisions of the nonresidential construction section based on their development and/or review of the structural design, specifications, and plans. This certification shall be provided by a Registered Professional Engineer or Registered Professional Architect.

2. Anchoring.

All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

3. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

4. Utilities.

a. All utilities, such as sanitary sewer, storm drain, water, gas, and power shall be designed, located and constructed to minimize or eliminate flood damage.

b. All new and replacement water supply systems shall be designed and constructed to minimize or eliminate infiltration of flood waters into the system.

c. All new and replacement sanitary sewer systems shall be designed and constructed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

d. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

e. Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Uniform Building Code.

All development within a flood plain shall conform with the flood proofing standards of Chapter 56 of the Unified Building Code.

6. Manufactured Homes.

All manufactured homes to be placed or substantially improved within a flood plain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation and securely anchored to an anchored foundation system in accordance with the provisions of the section on anchoring above.

Section 50.44.030 Standards For Maintenance.

None. (reserved)

Section 50.44.035 Procedures.

1. Information Required.

The following information shall be submitted for City staff review at a pre-application conference. This information shall be obtained by an on site survey by a Registered Professional Land Surveyor or Registered Professional Engineer. The required information shall include the following:

a. The boundary lines for the 100-year flood plain and floodway;

b. The elevation in relation to mean sea level, of the 100-year flood plain and the datum used;

c. The location of all stream channel banks;

d. The existing and proposed topography at the two foot contour interval in those areas where development is proposed (including fill, excavation, and stockpile areas);

e. The location and description of natural features such as wetlands, streams, trees, vegetative cover types, wildlife habitat features, etc.;

f. The location of existing and proposed structures, utilities, streets, and other development;

g. The elevation in relation to mean sea level, of the lowest floor (including basement) of all existing and proposed structures;

h. The elevation in relation to mean sea level, to which any structure has been flood proofed.

2. Variances.

In addition to satisfying the requirements of LOC 50.68.010 and 50.77.007, variances to the provisions of this standard shall not be granted without the prior written approval of the Federal Emergency Management Agency (FEMA).

3. Records.

The City shall maintain, for public inspection, the record of proceedings subject to this Standard.

Article 50.45

Building Design

Section 50.45.005 Applicability.

This standard is applicable to development involving a structure for commercial, industrial, institutional, multi-family residential, attached single-family (three or more units) residential development, and to all minor development within the DD Zone. This standard is also applicable to exterior modifications of a structure which does not qualify as a ministerial development pursuant to LOC 50.79.010(2)(c).

Cross Reference: Single Family Dwelling Design in R-6 Zone – 50.07.040

Section 50.45.010 Standards for Approval.

1. Buildings shall be designed and located to complement and preserve existing buildings, streets and paths, bridges and other elements of the built environment, and to assure accessibility for bicyclists, pedestrians, and users of other transportation modes.

a. Design buildings to be complementary in appearance to adjacent structures of good design with regard to:

i. Materials
ii. Setbacks (for retail/commercial part specifically)
iii. Roof lines
iv. Height
v. Overall Proportions

b. Where existing buildings are to remain on site, new development shall be designed to:

i. Integrate the remaining buildings into the overall design, or

ii. Provide separate landscaping, remodeling or other treatment which establishes a distinct character and function for the remaining buildings.

Where a residential building is to remain, a lot meeting the zone requirements must be provided.

c. Design bus shelters, drinking fountains, benches, mail boxes, etc., to be complementary in appearance to buildings.

d. Design those elements listed below to be complementary in appearance to those buildings or structures upon which they are located.

Windows	Mailboxes
Doors	Mechanical Equipment
Downspouts	Vents
Utility Connections and Meters	Stairs
Chimneys	Decks and Railings
Lights	Weather vanes, aerials, and other
Signs	appendages attached to the roof or projecting
Awnings	above the roofline
Foundations	

e. Design awnings, signs, and lights at a specific height to define the first floor or retail cornice height.

f. Use trees and other natural elements to help define building proportion relationships and to provide scale to the structure as a whole.

g. Limit the variety of styles of building elements.

h. Screen mechanical equipment from view, or place in locations where they will generally not be visible.

i. Every attempt shall be made to design and locate buildings to provide access to desirable views, while not blocking the views of others unnecessarily (density reduction not required).

2. Buildings shall be designed and located to complement and preserve existing natural land forms, trees, shrubs and other natural vegetation.

a. Consider land forms and trees as design elements which must relate to building elevations to determine scale and proportion.

b. Design foundations to match the scale of the building being supported. Berming, resiting, or sheathing the foundation structure with wall siding are examples of methods which accomplish this purpose.

c. Use decks, railings, and stairs to relate a building to the contours of the land.

3. Buildings shall be designed to minimize the personal security risks of users and to minimize the opportunities for vandalism and theft. Building hardware that discourages forced

entry and provides approved egress capability shall be used.

4. Building shall be designed and constructed to reduce noise impacts on interior occupied spaces and adjacent property.

a. Use solid barriers such as fences, berms, natural land forms and structures to reduce sound levels. The effectiveness of the barrier increases as barrier height increases and as it is moved closer to either the source or the receiver.

b. Minimize the window surface on sides facing adverse sound sources, where possible.

c. Heat pumps, or similar mechanical equipment shall be located so that operating noise does not affect use of living areas such as bedrooms, outdoor decks or patio areas and adjacent property.

5. Buildings shall be designed and constructed with roof angles, overhangs, flashings, and gutters to direct water away from the structure.

6. Buildings shall incorporate features such as arcades, roofs, alcoves, porticoes and awnings to protect pedestrians from the elements. These projections shall maintain a minimum vertical clearance of 13"-6" where over fire lanes.

7. Building orientation shall be designed to encourage pedestrian access from public streets and make the street pedestrian friendly. Building orientation shall include:

a. Locating buildings within 30 feet of a public street except where prevented by topographic constraints, existing natural resources, or where, in multi-building complexes, the configuration of the lot prevents locating all buildings within 30 feet of a public street.

b. Buildings that are within 30 feet of a public street shall have a public entrance directly from the street.

c. Buildings located on sites adjacent to a transit street shall have at least one public entrance within 30 feet of the transit street.

d. Buildings located on sites with multiple frontages on public and/or transit streets shall provide at least one public entrance within 30 feet of the transit street.

Cross Reference: Parking garages – See Parking. LOC Article 50.55.

Section 50.45.015 Standards for Construction.

None.

Section 50.45.020 Standards for Maintenance.

None.

Section 50.45.025 Procedures.

None.

Section 50.45.030 Miscellaneous Information.

None.

Article 50.46

Park and Open Space

Section 50.46.005 Applicability.

This Article is applicable to all major development.

Section 50.46.010 Standards for Approval.

1. All major residential development and office campus development shall provide open space or park land approved by the City in an aggregate amount equal to at least 20 percent of the gross land area of the development. Commercial and industrial development shall provide open space or park land approved by the City in an aggregate amount equal to at least 15 percent of the gross land area of the development.

2. Open space and park land in commercial, industrial and office campus areas may be provided as a combination of reserved land and landscaping. Where no RP or RC District Resources or public park land is located on the site, the park and open space requirement can be met by protecting non-designated natural resource areas and/or providing landscaping which meets the requirements of the Landscaping Standard.

Section 50.46.015 Standards for Construction.

None. (reserved)

Section 50.46.020 Standards for Maintenance.

None. (reserved)

Section 50.46.025 Procedures.

1. Development applications shall include a scaled plan which identifies the site's proposed open space or park land.

2. Open space or park land shall be clearly and accurately depicted on the final plat map or development plan and documented in the development permit record. If not dedicated by plat and the land is to be in public control, the conveyance shall be by document acceptable in form to the City Attorney.

3. Final approval of open space or park land boundaries shall be made by the hearing body at the time of the public hearing on the development proposal.

4. Lands shall be selected by the City for reservation as open space areas or parks in accordance with the following priorities:

a. Delineated RP resources and buffer area.
b. RC District Protection Areas.
c. Proposed Public Open Space and Parks including intra-city bike/pedestrian pathways.
d. Woodlands, tree groves.
e. Specimen trees.
f. Natural meadows.
g. Topographic variations, such as rock outcrops, cliffs, extreme slopes, riverbanks.
h. Conveniently located areas where recreation opportunities can be created. Examples include trails, nature study sites, picnic areas, or view points.
i. Scenic views and vistas.
j. Others.

5. The decision on whether land is acceptable by the public for control and maintenance for park or open space purposes is to be made by the City Manager and is solely in his discretion. Formal acceptance of parks and open space lands shall be by City Council resolution. Lands may be approved by the City to be counted toward meeting the park and open space requirement that are not acceptable to the City for public control and maintenance.

6. Options for Meeting Park and Open Space Requirements

a. The entire amount of the required percentage of park/open space land may be approved as open space or park. In such a case, the park and open space acquisition fee may be waived; the development fee will be charged.

b. If the entire amount of land is approved and developed, according to the Comprehensive Plan and City standards, both the acquisition fee and the development fee may be waived. If the project were not developed, the City Council will, after public hearing, assess the development charge.

c. If only a portion of the required percent of park and/or open space land is approved by the City then a pro-rated share of the acquisition fee may be waived. The development fee will be charged.

d. If, in the situation described in c above, the approved portion is developed under the Plan and City standards, a pro-rated share of the acquisition fee and of the development fee may be waived.

e. If no park or open space lands are approved, the full amount of both the

acquisition and the development fees will be assessed.

7. Payment of Fees

The required fees shall be paid prior to issuance of a development permit.

8. Granting of Partial Rights to Open Space Lands

Up to 100% of the open space requirements may be met by the granting of partial rights or reservations, such as:

a. Scenic or view easements or cross easements, or
b. Imposition of deed restrictions such as tree cutting restrictions in yards or special setback requirements. (Amended Res. R-83-10; 2-15-83).

Section 50.46.030 Miscellaneous Information.

1. Density Transfer Allowed

Open space and park land may be included in the net site area when determining the maximum allowable density. Structures that otherwise might have been located on open space and park land may be transferred to other portions of the site, and lot areas may be reduced to offset for land reserved as open space, as long as the overall density remains within the maximum permitted by the zone.

2. The hearing body may require active play areas in major residential developments.

Article 50.47

Landscaping, Screening and Buffering

Section 50.47.005 Applicability.

This Article is applicable to all major development.

Section 50.47.010 Standards for Approval.

1. Commercial and industrial development, other than in the Office Campus zone, shall provide 15 percent of net buildable area in landscaping and/or open space, including courtyards, planters, raised beds, espaliers, etc. Office campus developments shall provide 20 percent.

2. Multi-family and mobile home park development must provide 20 percent of net buildable area in landscaping in addition to the park and open space requirements.

3. Public and semi-public use must meet 1 or 2 above, depending on use.

4. All development abutting streets shall provide street trees at the proper spacing for the species.

5. Parking lot plantings shall be designed to allow surveillance of the lot from the street at several points.

6. Screening and buffering shall be required to:

a. Mitigate noise, lighting or other impacts from adjacent transportation routes or dissimilar uses.

b. Screen public or private utility and storage areas; and parking lots.

c. As a separation between dissimilar uses

7. Any development in the EC zone that is abutting dissimilar uses in the DD zone, must provide a minimum of 15' of landscaped area to act as a separation and to screen and buffer noise, lighting or other impacts between the dissimilar uses. (Rev. R-96-12; 2-20-96)

8. The following standards apply to PD and cluster developments:

a. Lots which are located on the perimeter of a development located in a R-0,

R-3, R-5, R-7.5, R-10 or R-15 zone, and which are adjacent to lots in an R-7.5, R-10 or R-15 zone upon which are constructed single-family dwellings, may be not less than 75% of the minimum lot area per unit of the adjacent zone.

b. Housing types located on the perimeter lots described in a. shall be single-family, zero lot line or duplex dwellings, except three attached dwelling units may be placed on three lots which abut at a common point with the middle lot being a corner lot.

c. In a PD or cluster development located in a R-0, R-3 or R-5 zone which abuts a R-7.5, R-10 or R-15 zone and which does not contain separate lots for the dwelling units, the building setbacks shall meet the requirements of the zone in which the development is located.

9. Group care homes which include paved outdoor recreational space shall provide screening for adjacent properties.

Section 50.47.015 Standards for Installation and Construction.

1. All plant materials shall conform in size and quality grade to the American Standard for Nursery Stock, current edition.

2. All plant material shall be installed according to Sunset Western Garden Book, current edition.

3. All planting shall have an irrigation system installed to meet standards of Turf Irrigation Manual current edition, unless the applicant can demonstrate to the satisfaction of the Development Review Board that such system is not necessary.

4. Existing vegetation may be used in a landscaping plan. Construction shall not be allowed within the drip lines of trees which are to remain. Finish grade shall be at the original grade or a well or planter constructed equal in size or greater than the drip line.

5. Rare and endangered species as identified below shall be preserved.

Marsh or Sessile Trillium - "Trillium chloropetalum"
Fawn Lily - "Erythronium oreganum"
White Larkspur - "Delphinium leucophaeum"

6. Topsoil removed during construction shall be replaced with topsoil.

7. Plant materials for use in parking lots and streets shall have a mature height of less than 25' in areas where overhead utilities are present.

8. Plant materials listed below prohibited:

	Big-leaf Maple
Acer macrophyllum Leaves block drainage, roots buckle sidewalks	
Acer negundo Insects, weak wooded	Box Elder
Acer rubrum Shallow rooted	Red Maple
Acer saccharinum Shallow rooted, weak wooded	Silver Maple
Aesculus hippocastanum Messy fruits	Common Horsechestnut
Betulus species Insects, weak wooded	Birches
Carya species Fruits cause litter and safety problems	Hickories
Catalpa species Seed pods cause litter problems	Catalpas
Corylus species Fruits cause litter and safety problems	Filberts
Crataegus species Thorns, fruits cause litter and safety problems	Hawthorns
Fraxinus species Seeds pods cause. litter problem	Ashes
Gleditsia triacanthos Seed pods cause litter problem	Honey Locust (species) (does not include horticultural variants)
Juglans species Fruits cause litter problem	Walnuts
Morus species Fruits cause litter and safety problems	Mulberries
Populus species Weak wooded, shallow roots	Poplars

Robinia species Weak wooded, suckers	Locusts
Salix species Weak wooded, shallow roots	Willows
Ulmus fulva Insects, weak wooded, shallow roots	Slippery Elm
Ulmus pumila Weak wooded, shallow roots	Siberian Elm

9. Metal grating, non-mortared brick, grasscrete or similar material shall be installed at grade over the planting area around street trees; or raised planters shall be constructed to prevent soil compaction and damage to the trunk

10. Plant material used for screening and buffering shall:

a. be of a size to provide an effective screen within two to five years of the planting date.

b. be planted in a single row on centers equal to one-half mature width of the plant material or in staggered multiple rows.

c. shall be a minimum of 6' high at maturity; or as determined by the Manager to buffer or screen a specific situation except as prohibited by LOC 50.350.

Section 50.47.20 Standards for Maintenance.

All landscape materials shall be guaranteed by the owner for a period of one twelve month growing season from the date of installation. Security in the amount of 5% of the total landscaping cost shall be provided to ensure necessary replacement. A schedule of continuing maintenance of plantings shall be submitted and approved for industrial, multi-family and commercial developments.

Section 50.47.025 Procedures.

None.

Section 50.47.030 Miscellaneous Information.

None.

Cross Reference: LOC CHAPTER 55 (Removal of Trees)

Street Trees in the R-6 Zone – 50.07.060

Article 50.48

Manufactured Homes

Section 50.48.005 General Provisions.

1. Manufactured Homes Permitted on Individual Lots and Parcels:

Manufactured homes are permitted on individual lots or parcels in R-15, R-10, R-7.5, and R-5 residential zones in accordance with the placement standards set forth in Section 22.010 and all other provisions of this Code which apply to conventionally built dwellings.

2. Deed Covenants or Restrictions:

Nothing in these provisions shall be interpreted as superseding deed covenants or restrictions.

3. Manufactured Housing Construction and Safety Standards (HUD Code):

Title VI of the 1974 Housing and Community Development Act (42 USC 5401 et sequential) as amended and rules and regulations adopted thereunder, and; including information supplied by the manufacturer which has been stamped and approved pursuant to HUD Rules by a "Design Approval Primary Inspection Authority," and; regulations and interpretations of the Act by the Oregon Department of Commerce; all or which became effective for mobile/manufactured home construction on June 15, 1976 shall be utilized as the minimum construction standard of the City of Lake Oswego to which all manufactured home placements shall comply except as provided other wise by this Article.

4. State Standards:

Where standards for Manufactured Home Construction and placement are established by state law or Department of Commerce Administrative Rules, such requirements shall apply in a

5. For purposes of this Article only, the definitions of terms used herein and not defined in this Code shall be as defined in ORS Chapter 446 or OAR Chapter 918, Div. 500 as amended.

Section 50.48.010 Reserved

Section 50.48.015 Manufactured Home Placement Standards.

1. All manufactured homes on individual lots placed within the City of Lake

Oswego shall comply with the following standards:

a. The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.

b. Bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code and be:

i. A new or not previously occupied unit, or;
ii. Be found upon inspection to be in excellent condition and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.

c. Transportation mechanisms including wheels, axles and hitch must be removed. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the finished floor elevation of the manufactured home is located not more than 12 inches above grade. The perimeter enclosure shall be a non-reflective material and give the outward appearance of a concrete, stone or masonry foundation. This material shall be of weather resistant, non-combustible or self extinguishing materials. The materials below grade and for a distance of six inches above finish grade shall be resistant to decay or oxidation.

All load bearing foundations, supports, and enclosures shall be installed in conformance with the Oregon Department of Commerce regulations (OAR, Chapter 814, Division 23) and with the manufacturer's installation specifications.

d. Have utilities connected in accordance with City of Lake Oswego and Oregon Department of Commerce requirements and manufacturers specifications.

e. The manufactured home shall have a pitched roof at a minimum of three feet in height for each 12 feet in width. Eaves must extend at least one foot from the intersection of the roof and the exterior walls.

f. The manufactured home shall have exterior siding and roofing which is similar to the exterior siding and roofing material commonly used in the community or which is comparable to the predominant materials used on surrounding dwellings (greater than 50%) within 300 feet of the subject property.

g. The manufactured home shall have either an attached or detached garage constructed at the same time the manufactured home is placed on the site or prior to occupancy. The garage shall be constructed of like materials as the manufactured home. An attached carport shall be allowed if more than 50 percent of homes within 300 feet of the subject do not have garages.

Garages and carports shall be constructed to the Oregon State Structural Specialty Code.

h. If new or previously unoccupied, the manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss levels equivalent to the performance of single family dwellings constructed under the state building code as defined by ORS 455.010.

Section 50.48.020 Placement Permit.

1. Requirements:

Prior to the location, relocation, or establishment of any manufactured home, the homeowner, or authorized representative shall secure from the Building Official a Placement Permit which states that the building and its location conform with these and other relevant standards of this Code. Each application for a Placement Permit shall be accompanied by:

a. A plot plan as required for all dwelling units and elevations or photographs of all sides of the home; drawings showing exterior dimensions; information illustrating the type of roofing and siding materials, foundation support system, and; foundation enclosure method and materials.

b. A copy of the manufacturer's approved instructions to be used for installation purposes.

c. An agreement signed by the homeowner or authorized representative pledging compliance with the terms set by the Building Official in the Placement Permit and other information as may be required for enforcement of these standards.

2. Issuance of Permit:

Following receipt of the required information, the Placement Permit shall be issued by the Building Official within ten days if all requirements have been met.

3. Denial and Revocation of Placement Permit:

The Building Official shall deny a Placement Permit which does not provide the proper information or which proposes to site a manufactured home not in conformance with the requirements of this code.

The Building Official shall revoke a Placement Permit when such permit was issued on the basis of incorrect or misleading information. In this case the applicant shall cease work on the placement and/or occupancy of the unit and reapply for a Placement Permit and pay the required fees within five days of written notification of revocation by the Building Official. If the Building Official determines that it is not possible for placement of the manufactured home or the unit itself to meet the requirements of this code, then it shall removed from the site within fifteen working days of written notice.

Section 50.48.025 Occupancy Certificate.

1. Occupancy Requirement:

Prior to the occupancy of any manufactured home, the homeowner or authorized representative shall request from the Building Official a Certificate of Completion stating that all requirements of this code have been complied with. The building official shall inspect the property and if all requirements have been complied with, an Occupancy Certificate shall be issued.

If the applicant has not met the required conditions and standards, the Building Official may issue a temporary Occupancy Certificate along with a written statement of requirements to be met. The Temporary Occupancy Permit shall not exceed thirty days.

The Building Official may also elect not to issue the Certificate of Occupancy if there is a substantial degree of non-compliance with the standards of this code. The manufactured home shall not be occupied until these standards have been complied with.

Articles 50.49 through 50.54 Reserved

Article 50.55

Parking Standards

Section 50.55.005 Applicability.

The provisions of this Article shall apply to all development which generates a parking need. This shall include the construction of new structures, the remodeling of existing structures and a change of use which increases on-site parking or loading requirements or which changes access requirements.

Cross Reference: Parking in R-6 Zone – 50.07.050]

Section 50.55.010 Standards for Approval.

1. Vehicle Parking:

a. Required parking spaces shall be available for the parking of operable passenger vehicles of residents, customers, patrons and employees and shall not be used for the storage of vehicles or materials or for the loading and unloading or parking of vehicles used in conducting the business or use.

b. Number of Required Parking Spaces:

i. Refer to Appendix 50.55-A to determine the number of parking spaces required. The number of parking spaces specified for each type of use are the minimum standards. Fractional space requirements shall be counted as the next highest whole space.

ii. Except for residential parking requirements, the maximum number of parking spaces shall not exceed 125 percent of the minimum number of required spaces.

iii. Handicapped parking and ramps shall be provided in accordance with the Uniform Building Code.

iv. In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately.

c. On-Site Location of Required Parking Spaces:

i. All required parking shall be off-street. Parking may not be

located in a required yard or special street setback, except where driveways for single-family residential use constitute the required parking area.

ii. Except for tandem parking in residential developments of single-family detached and attached dwelling units, duplexes, and zero lot line dwelling units, design shall insure that the parking of any vehicle shall not interfere with the parking or maneuvering of any other vehicle.

d. Parking Options:

i. Within commercial, industrial and campus institutional zones parking may be provided on lots which are within 500' of the property line of the use to be served. Within the EC (East End General Commercial) zone only, unless otherwise prohibited, employee parking may be allowed within 1,000 feet of the property line of the use to be served.

ii. Shared parking is allowed if the application can demonstrate that the combined peak use is provided for by a parking study that demonstrates:

a. there are a sufficient number of parking spaces to accommodate the requirements of the individual businesses; or

b. that the peak hours of operation of such establishments do not overlap, and

c. that an exclusive permanent easement over a delineated area has been granted for parking space use.

e. Reduction for Parking Space Requirements:

i. Parking space requirements may be reduced in developments where compensating factors exist which would offset the parking demand (such as availability of mass transit). Refer to Appendix 50.55-C for reduction options.

ii. Within the East End General Commercial zone only, additional parking modifiers may be available. Refer to "Article 50.65, Downtown Redevelopment District Design Standards" 50.65.055 for reduction options.

f. Parking Dimensions:

i. Refer to Appendix 50.55-B to determine the minimum dimension and layout of parking spaces.

ii. The minimum dimension to meet single family residential parking space requirements shall be eight feet six inches wide and 18 feet six inches long for each space.

iii. Up to 50% of the total parking requirement may be provided in

compact car spaces. All parking spaces designated for compact vehicles shall be signed or labeled by painting on the parking space.

g. Loading:

Loading berth in sufficient numbers and size to adequately handle the needs of the development shall be required. The off-street parking areas to fulfill the requirements of this standard shall not be used for loading and unloading or the storage of vehicles or materials or parking of trucks used in conducting business or use.

h. Employee Carpool and Vanpool Parking:

Commercial and industrial development which requires a total of 50 or more parking spaces shall designate at least five (5) percent of the number of parking spaces as employee carpool or vanpool parking. The carpool/vanpool spaces shall be full sized parking spaces. The spaces shall be clearly marked "Reserved-Carpool/Vanpool Only" with hours of use. Except for designated handicapped parking spaces, employee carpool and vanpool parking spaces shall be located as follows:

i. Where employee parking spaces are designated, the designated carpool and vanpool parking spaces shall be the closest employee parking spaces to the entrance normally used by employees.

ii. Where employee parking spaces are not designated, designated carpool and vanpool parking spaces shall be located in close proximity to the building entrance normally used by employees.

2. Bicycle Parking:

a. Bicycle parking shall be provided for all new multiple family residential developments (4 units or more) and commercial, industrial and institutional uses, except seasonal uses, such as fireworks stands and Christmas tree sales; drive-in theaters; and self-storage facilities are exempted.

b. The minimum number of required bicycle parking spaces are listed in Appendix 50.55-D.

c. Modifications which increase the size of existing commercial, industrial or institutional buildings by more than ten (10) percent or a change of use shall provide bicycle parking spaces to meet the requirements of Appendix 50.55-D for the entire development. For the purposes of this section, an "existing building" is a building as it exists on (date of adoption of ordinance).

d. Bicycle parking shall be separated from car parking and vehicular traffic by a physical barrier or sufficient distance to protect parked bicycles from damage by vehicles.

e. Bicycle parking for multiple uses may be clustered in one or several locations meeting all other requirements specified in this section for bicycle parking.

f. One hundred percent (100%) of all required bicycle parking spaces for residential and industrial categories shall be covered. These required bicycle parking spaces may be provided within a building. Bicycle parking spaces for employees of commercial and institutional uses are encouraged to be covered and secured. Cover for bicycle parking may be accommodated by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings or dwelling units or free standing shelters.

g. Required bicycle parking inside a building shall be provided in a well-illuminated, secure location within 50 feet of a building entrance.

h. Outdoor bicycle parking spaces shall be clearly visible and shall be located within 50 feet of the public entrance to the building unless clustered pursuant to subsection (2)(e) in which case the parking spaces shall be no more than 100 feet from a public entrance.

i. If the required bicycle parking spaces cannot be provided on-site within the EC (East End General Commercial) zone, bicycle parking racks may be provided on the sidewalk adjacent to the property's frontage providing a minimum five foot unobstructed sidewalk width is maintained.

j. Bicycle parking spaces shall be a minimum of six feet long and two feet wide, and provide a minimum five foot access aisle. For covered spaces the overhead clearance shall be at least seven feet.

Cross-reference: Off-Site (On-Street) Parking Area in First Addition Zoning District (R-6) – 50.07.050.

Section 50.55.015 Standards for Construction.

1. The surface of the parking and maneuvering area shall be constructed as a durable surface. The use of gravel in low use areas, such as church parking lots, recreational vehicle storage in a residential zone or outside equipment storage or fleet vehicles in industrial zones, may be approved, so long as the gravel is contained, the parking area is clearly defined, and where grade permits. Refer to LOC 50.58.020(6) for additional paving surface specifications.

2. Bicycle Parking.

a. Areas set aside for required bicycle parking shall be clearly marked and reserved for bicycle parking only. If the bicycle parking is not visible from the street or main building entrance, a sign shall be posted indicating the location of the parking facilities.

b. Rack types and dimensions.

i. Bicycle racks shall hold bicycles securely by the frame and be anchored.

ii. Bicycle racks shall accommodate both:

a. Locking the frame and one wheel to the rack with a high-security U-shaped shackle lock; and

b. Locking the frame and both wheels to the rack with a chain or cable not longer than 6 feet.

Section 50.55.020 Procedures.

Applicant shall provide scaled parking plan with dimensions and number of spaces accurately depicted.

Section 50.55.025 Miscellaneous Information.

None.

Article 50.56

Transit System

50.56.005 Applicability.

This standard is applicable to all new subdivisions, planned developments, residential developments of four units or more, and new commercial, institutional and industrial developments located on a transit street or within one-quarter mile of a transit street.

50.56.010 Standards for Approval.

1. All applicable development as defined by LOC 50.56.005 shall be required to provide transit-facilities and transit-oriented features.

a. The extent of the transit oriented features and transit facilities required for a particular site on a transit street shall be determined by the City, in coordination with Tri-Met, based upon an analysis of:

i. Level of existing and projected adjacent transit facilities.
ii. Proximity of other ridership attractors, such as bus routes.
iii. Size and trip generation potential of proposed development adjacent to transit street (within 1/4 mile of a transit street).
iv. Expected transit ridership generated by a development.

b. Transit-oriented features for a site within 1/4 mile of a transit street shall be provided to connect the development with:

i. The nearest adjacent transit street, or
ii. To adjacent paths which lead to the nearest transit street.

c. Where a proposed development creates or contributes to a need for transit stops, pullouts, or other transit facilities, as identified by the City in coordination with Tri-Met, easements or right-of-way dedication may be required.

50.56.015 Standards for Construction.

None.

50.56.020 Procedures.

None.

50.56.025 Miscellaneous Information.

None.

Article 50.57

Access

Section 50.57.005 Applicability.

This Article is applicable to all major developments and to all partitions of land.

Section 50.57.010 Definitions.

Access: Area within public right-of-way directly affected by the traffic generated by the particular development and necessary to provide safe and efficient ingress and egress to the property.

Section 50.57.015 Standards for approval.

1. Every lot shall abut a street for a width of at least 25 feet. Exception: The street frontage of a lot created pursuant to approval of a row house development may be reduced to 17 feet in the R-0, D-D, R-2, R-3 and R-5 zones.

2. Access design shall be based on the following five criteria:

   a. Topography.
   b. Traffic volume to be generated by the development.
   c. Classification of the public street from which the access is taken (residential, collector or arterial).
   d. Traffic volume presently carried by such street.
   e. Projected traffic volumes.

3. Direct permanent access from a development to an arterial street is prohibited where an alternate access is either available or is expected to be available. A temporary access may be allowed.

4. Direct access from a development or a structure to a residential street is required unless such access is not available.

5. The City may require shared access with a neighboring site or an extension of residential streets across adjacent properties to provide access to the development if necessary to prevent adverse impacts on traffic flow.

6. If no satisfactory access from a public street to a development is available, the City shall require postponement of the development until such time as a satisfactory access becomes available.

Section 50.57.020 Standards for Construction.

None.

Section 50.57.025 Standards for Maintenance.

None.

Section 50.57.030 Procedures.

1. Determination of the location and configuration of an access shall be based on a traffic study, unless otherwise approved by the City Manager.

Section 50.57.035 Miscellaneous Information.

1. The expense related to modification of an existing street to accommodate proposed access including all traffic control devices and lighting, shall be paid for by the developer.

2. Access from a major development to a collector or an arterial shall be not less than 100 feet from the nearest intersection of street center lines.

[**Cross-reference:** Alleys in R-6 Zone – 50.07.055]

Article 50.58

On-Site Circulation – Driveways and Fire Access Roads

Section 50.58.005 Applicability.

This Article is applicable to all development proposing a new use or an increased use on a site when the development will result in the construction of or the increased use of private streets, driveways, or parking lot aisles.

Section 50.58.010 Definitions.

2. Design vehicle: A selected motor vehicle, the weight, dimensions, and operating characteristics of which are used in highway design. In this Article, design vehicle categories are those adopted by the City's "Standard Details", defined below.

8. Increased use: An increase in trip generation or parking requirement.

Section 50.58.015 Standards for Approval.

1. Driveway Approaches—Locational Limitations and Restrictions

a. On corner lots where the adjacent streets are fully improved to their anticipated ultimate width, the nearest edge of a proposed driveway to the intersection shall be no closer than 30 feet when measured from the projected curb of the street that is the most parallel to the alignment of the proposed driveway.

b. On corner lots where the adjacent streets are not fully improved to their anticipated ultimate width, the nearest edge of a proposed driveway to the intersection shall be no closer than 30 feet when measured from the lot corner, or if the corner is a radius, from the point of intersection of the tangents. If right-of-way dedication is required as a condition of approval, the lot lines after dedication shall be used as the basis for determining compliance with this standard.

c. On lots with less than 75 feet of continuous frontage on a single public street, only one driveway shall be permitted along that frontage.

d. All driveway approaches shall be located and designed so that the driver entering or exiting the driveway can see approaching traffic for a sufficient distance to make a

safe entrance and exit. AASHTO standards shall be used in determining compliance with this standard.

e. The maximum width of a driveway approach, measured where the edges of the driveway meet the right-of-way, shall be governed as follows:

i. Single family residential with garage door(s) facing the street: 12 feet per garage or carport stall, or surface parking space, but not to exceed 30 feet.

ii. Single family residential with side-loading garage: 24 feet.

iii. All other uses: 24 feet unless otherwise justified by the recommendations of a traffic study.

2. Driveway Widths

a. Driveways shall conform to the minimum width requirements of LOC 15.06.610 (Uniform Fire Code Adopted) and Article 50.55, "Parking Standards".

b. When the Fire Marshall determines that an on-site staging area is necessary pursuant to the Fire Code, a minimum unobstructed surface of 24 feet shall be provided for a length and location as determined by the Fire Marshall.

3. Driveway Grades

a. The maximum grade of a driveway serving a single family structure shall be 20%.

b. The maximum grade of a driveway for all other uses shall be 15%.

c. For all uses except residential structures of four units or less, there shall be a landing area where a driveway used by multiple drivers meets the public street. The landing area shall be a minimum of 25 feet long and shall have a maximum grade of five (5) percent. The length and grade of the landing area described in this subsection presupposes that the abutting street has been fully improved to its ultimate anticipated width. If a driveway is proposed on a street that is not fully improved, and the development proposal is anticipated to proceed prior to the improvement of the street, the City Engineer shall determine the location and grade of the future street improvement and the applicant shall design the driveway and site grading so that this standard will not be compromised when the street is improved in the future.

d. Along the traveled way, grade breaks shall not exceed an algebraic difference of nine (9) percent unless accomplished by the construction of a vertical curve complying with the City's Standard Details.

e. The maximum cross-slope of a driveway shall be five (5) percent, except for that portion of a driveway which must blend with an adjacent street grade that exceeds five

(5) percent. When blending is necessary, the length of the blended section shall be limited to 30 feet.

4. Fire Access Lanes

a. All developments shall comply with the minimum requirements for fire access roads as stipulated by the Uniform Fire Code and LOC Chapter 15.

b. The paved improvement of fire lanes, their associated turnarounds and right of way dimensions shall comply with the City's Standard Details.

c. When a fire access road is required to be used as a primary or alternate access route for the provision of emergency services to or through an abutting property, the fire lane shall be declared as such on a legal instrument to be recorded against the title of the affected property(ies). A declaration on a plat or on a recorded development plan may also be used to satisfy this standard.

5. Turnarounds

a. If a dead-end driveway exceeds 150 feet in length, it shall provide a fire department turnaround in compliance with the City's "Standard Details".

b. Except where a continuous forward exit can be made out of the site, all developments with on-site loading and delivery areas shall provide a turnaround for delivery vehicles in compliance with the City's "Standard Details".

c. Required turnarounds shall not overlap a required parking space.

6. Special Provisions—Schools

a. Schools and similar institutional or instructional uses with a total enrollment of 25 or more students on any given day shall provide an on-site driveway that allows a continuous forward flow of vehicles through the site for the loading and unloading of children.

7. Easements Required

a. Driveways and their associated parking areas and turnarounds shall be located on the site or, if located off-site, in an easement.

b. A copy of the easement shall be submitted to the City as part of the development application. If the easement has not yet been obtained at the time of application, the applicant shall supply a letter of commitment from the party who has the authority to grant the easement indicating that the easement will be granted contingent upon the development's approval by the City.

c. Easements shall state the purpose of the easement, identify the benefiting

and burdened properties, state the duration of the easement rights granted, and stipulate the maintenance responsibilities of the parties.

Section 50.58.020 Standards for Construction.

1. All driveways that serve as fire lanes or fire access roads shall be paved, unless modified below, and shall be designed to support the design vehicle load. The City may require an engineered pavement section and soil test to ensure compliance with this standard.

2. Driveway approaches in the right-of-way shall be constructed according to the City's "Standard Details".

3. In locations where there is a slope adjacent to a driveway edge, there shall be a minimum two-foot shoulder or other means of protecting the driveway and the adjacent land from the adverse effects of erosion.

4. Stormwater running off a driveway shall be managed and disposed of in compliance with the applicable drainage standards for minor or major development, and the Uniform Plumbing Code.

5. Where a driveway approach needs to cross a roadside ditch, a culvert of 10" minimum diameter shall be used. The City may require a larger culvert if warranted by the hydrology of the upstream drainage basin.

6. All driveways shall be paved with a material that does not generate dust. Hard pavement is required except in the following circumstances:

a. Low-use driveways, such as one serving a parking area for recreational vehicle, boat trailer, or access to a storage building or storage area.

b. Where a driveway grade changes less than 10 percent from the street to the parking area serving a single-family residence.

c. Existing unpaved driveways, when there is an existing use on the site that is rated at 10 or less average daily trips per weekday pursuant to the applicable ITE (Institute of Transportation Engineers) category, and the rating will not be increased with the proposed development.

d. When the requirement for a paved driveway is waived, a paved approach shall be constructed to prevent the tracking of loose gravel onto the public street.

e. Temporary construction access driveways.

f. Combustible materials, erodable materials, or floatable materials shall not be approved as acceptable driveway surfaces (i.e. wood chips, bark dust, shredded tire rubber).

Section 50.58.025 Standards for Maintenance.

Driveways that serve as fire lanes shall be maintained in a state of good repair and free of obstruction for their entire length and width. They shall also be kept free of overhead obstructions for a vertical clearance of 13-1/2 feet.

Section 50.58.030 Procedures.

Applications shall include a scaled site plan containing sufficient dimensions and spot elevations to demonstrate compliance with this standard.

Section 50.58.035 Miscellaneous Information.

For additional requirements pertaining to parking, refer to Article 50.55, Parking Standards".

Article 50.59

On-Site Circulation – Bikeways, Walkway and Accessways

Section 50.59.005 Applicability

This standard is applicable to all minor and major development involving the construction of a new structure other than a detached single family dwelling, duplex, or accessory structure, and subdivisions and planned developments. This standard is also applicable to modifications which increase the square footage of commercial, industrial or institutional buildings by more than ten (10) percent. For the purposes of this section, an "existing building" is a building as it exists on (date of adoption of ordinance).

Section 50.59.010 Standards for Approval.

1. Commercial, industrial and institutional developments of one acre or more shall provide a pedestrian circulation plan for the site.

a. Pedestrian connections between the proposed development and existing development on adjacent properties other than connections via the street system shall be identified and implemented, where feasible.

2. Walkways shall connect at least one public entrance of each building accessible to the public to the nearest public walkway or other walkway leading to a public walkway. Walkways shall also connect to other areas of the site, such as parking lots and outdoor activity areas, to other building entrances, to adjacent streets and nearby transit stops.

3. Walkways shall meet accessibility standards of the Americans with Disabilities Act (ADA) standards as found in UBC Chapter 31. Walkways within the site, connections to the public sidewalk, and external connections off site shall provide convenient, accessible, and the most practical direct, barrier-free route design.

4. Portions of walkways shorter than 30 feet across driveways, parking lots or walkways crossing surfaces shared by fork lift or heavy truck traffic may use a painted crossing zone. Otherwise, walkways crossing driveways, parking areas, and loading areas shall be clearly identifiable through the use of a different paving material, raised elevation, or other similar method.

a. Where walkways are adjacent to vehicle travel areas, they shall be separated by a raised curb, bollards, buttons, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps.

5. Accessways for use by pedestrians and bicyclists shall be required when necessary to provide direct routes not otherwise provided by the existing right-of-way. Developments shall not be required to provide right-of-way for accessways off-site to meet this requirement. If right-of-way is otherwise available off-site, the developer may be required to improve an accessway off-site to the nearest transit route.

Section 50.59.015 Standards for Construction.

1. The surfacing of walkways, bikeways and accessways shall consist of either two inches of asphaltic concrete over a minimum of four inches of compacted crushed rock, or of four inches of concrete, as determined by the City Manager. Other materials must be specifically approved by the City Manager.

2. Walkway surfacing shall be five feet in unobstructed width, unless specifically otherwise approved by the City Manager, and never less than four feet in unobstructed width.

3. Walkways without stairs shall have a maximum cross slope of two percent and a maximum slope of eight percent. If the existing grade exceeds an eight percent slope and the walkway construction requires an erosion control permit pursuant to LOC 52.02.040(1), and construction of stairs are impracticable, then the pathway may follow the existing grade.

4. Ramps for handicapped use are required on all walkways used by the public at all points where a path intersects a curb.

5. Walkways, bikeways and accessways must be constructed in such a way as to allow the surface drainage to sheet flow across them, and not flow along them longitudinally.

6. An accessway shall include at least a 15-foot wide right-of-way or easement and an 8-foot wide hard surface. For safety, accessways shall be as straight as practicable. Bollards, buttons, or landscaping shall be used to block motor vehicular access.

Section 50.59.020 Standards for Maintenance.

Maintenance of walkways, bikeways or accessways shall be the responsibility of the owner or owners of the land abutting or through which the way passes. If the maintenance is proposed to be by an association or other entity, the maintenance agreement or by-laws, as the case may be, shall be subject to the review and approval by the City.

Section 50.59.025 Procedures.

Applications shall include a scaled site plan containing sufficient dimensions and spot elevations to demonstrate compliance with this standard.

Section 50.59.030 Miscellaneous Information.

None.

Article 50.60

LOCAL STREET CONNECTIVITY

50.60.005 Applicability.

This standard is applicable to:

a. Any development that results in the construction of a street, or

b. Construction of: a detached single family dwelling, duplex, zero lot line dwelling, commercial, industrial, institutional, or public facility structure; and is located on a parcel or parcels of vacant or redevelopable land of five acres or larger.

50.60.010 Purpose and Intent.

The purpose of the connectivity standard is to ensure that:

1. The layout of the local street system does not create excessive travel lengths or limit route choices. This will be accomplished through an interconnected local street system to reduce travel distance, promote the use of alternative modes of travel, provide for efficient provision of utility and emergency services, provide for more even dispersal of traffic, and reduce air pollution and energy consumption;

2. Streets, alleys and residential accessways shall be designed to meet the needs of pedestrians and cyclists and encourage walking, bicycling and transit as transportation modes;

3. Street and pedestrian and bicycle accessway design is responsive to topography and other natural features and avoids or minimizes impacts to Sensitive Lands Overlay Zones, pursuant to LOC 50.16; Floodplains, pursuant to LOC 50.44; and steep slopes, pursuant to LOC 50.43;

4. Local circulation systems and land development patterns do not detract from the efficiency of the adjacent collector or arterial streets;

5. The street and accessway circulation pattern contributes to connectivity to and from activity centers, such as schools, commercial areas, parks, employment centers and other major trip generators;

6. The Metro Urban Growth Management Functional Plan street connectivity requirements (Metro Code 3.07.630) are met;

7. Proposed development will be designed in a manner which will not preclude properties within the vicinity that meet the definition of further developable, from meeting the requirements of this standard, and,

8. To guide land owners and developers on desired street and bicycle and pedestrian accessway connections to the existing transportation system that will improve local access to schools, transit, shopping and employment areas.

50.60.015 Definitions.

1. Full Street: For the purposes of providing multi-modal access, a street section that includes auto and bike travel surface, and pedestrian travel area, lighting, landscaping,

drainage and all other City standards or requirements.

2. Redevelopable: For the purpose of this article, land on which development has already occurred, but due to present or expected market forces, there exists the strong likelihood that current development will be converted to more intensive uses during the planning period.

50.60.020 Standards for Approval of Development Which Requires the Construction of a Street.

1. Local and neighborhood collector streets and residential accessways shall be designed to connect to the existing transportation system to meet the requirements of this standard as determined by the Review Authority.

2. Local and neighborhood collector street design shall provide for full street connections between through streets with spacing of no more than 530 feet, measured between the center of the intersection of two through streets that provide for vehicle traffic movement in generally the same direction ("through street pairs") with the cross street. This requirement shall be applied to all through street pairs which surround the site. If the nearest boundary of the site (or boundaries extended to the street) is more than 100 feet from the intersection of a through street nearest to the site and the cross street, the provisions of this Standard shall be met, except when the provisions of subsection 5 below are met. (See Appendix 50.60-A).

3. Streets shall be designed to connect to all existing or approved stub streets which abut the development site.

4. Cul-de-sacs and permanent closed-end streets shall be prohibited except where a) the requirements of this standard for street and residential accessway spacing are met and b) construction of a through street is found to be impracticable. When cul-de-sacs or closed-end streets are allowed under Subsection 5, they shall be limited to 200 feet and shall serve no more than 25 dwellings, except where the Review Authority has determined that this standard is impracticable due the criteria listed in subsection (5), below.

5. The Review Authority may allow an exception to the review standards of Subsections 1 through 4, above, based on findings that the modification is the minimum necessary to address the constraint and the application of the standards is impracticable due to the following:

a. Extreme topography (over 15% slope) in the longitudinal direction of a projected automobile route;

b. The presence of Sensitive Lands as described in LOC 50.16 or floodplains LOC 50.44, or other lands protected by City ordinances, where regulations discourage construction of or prescribe different standards for street facilities, unless the nearest through street pairs (See Appendix 50.60-A) surrounding the subject site are more than ¼ mile apart. The Review Authority may determine that connectivity is not required under this circumstance, if a benefit/cost analysis shows that the traffic impacts from development are low and do not provide reasonable justification for the estimated costs of a full street connection.

c. The presence of freeways, existing development patterns on abutting property which preclude the logical connection of streets or arterial access restrictions;

d. Where requiring a particular location of a road would result in violation of other city standards, or state or county laws or standards, or a traffic safety issue that can not be resolved; or

e. Where requiring streets or accessways would violate provisions of leases,

easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude required street or accessway connections.

6. If the Review Authority allows an exception to Subsection (2) for full street connections, it shall require residential accessway connections on public easements or rights-of-way so that spacing between bicycle and pedestrian connections shall be no more than 330 feet measured from the centerline of the nearest bicycle and pedestrian connection intersection with the cross street.

7. The Review Authority may allow a reduction in the number of residential accessway connections required by Subsection (6) based on findings that demonstrate:

a. that reducing the number or location of connections would not significantly add to travel time or distance from the proposed development to bus lines or activity centers in the area, such as schools, shopping, or parks or

b. that existing development patterns on abutting properties preclude logical connection of residential accessways, or

c. That the traffic impacts from development, redevelopment or both are low and do not provide reasonable justification for the estimated costs of such accessway.

Cross-reference: Section 4 - See also LOC 42.03.085

50.60.025 Standards for Approval of Construction of Structures that Do Not Require Construction of a Street but are Located on a Parcel(s) Five Acres or Greater in Size.

When an applicant proposes construction of a structure subject to LOC 50.60.005(b) that does not require the construction of a street, but is located on a parcel or parcels five acres or greater in size, the Review Authority shall require:

1. A future connectivity plan to be filed with the City and recorded in the applicable County Clerk records, as a condition of development approval. The future connectivity plan shall show how the location of future streets and accessways will provide for full development of the subject parcel as well as any abutting properties in order to meet the standards of 50.60.020(2) – (7), and,

2. Placement of structures in a manner that allows for the future street(s) or accessways to be constructed, as well as an area sufficient to meet the required zone setbacks from the future streets.

50.60.030 Procedures.

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

1. Proof of notification of a circulation analysis pursuant to this subsection and subsection 2, below, to all property owners within 530 feet 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 50.82.020.

2. A circulation analysis which includes a scaled site plan showing at a minimum:

a. The subject site and the entirety of all properties within 530 feet of the parcel on which the development or construction is proposed.

b. A scaled site plan showing existing and proposed topography with contour intervals not more than five (5) feet,

c. Drainage features, flood plains, and existing natural resource areas and significant vegetation,

d. The name, location, right-of-way, pattern and grades of all existing and approved streets bikeways and pedestrian ways,

e. Proposed streets and bike or pedestrian facilities identified in the Transportation Improvement Program in the Comprehensive Plan or applicable Neighborhood Plans;

f. All permanent structures;

g. Property lines;

h. Bus lines or activity centers, such as schools, shopping or parks, within one-quarter mile (1,320 feet) of the site;

i. All streets and residential accessways proposed by the applicant, containing sufficient dimensions, spot elevations, existing structures and land features on the subject site and abutting parcels, to demonstrate compliance with this standard.

2. The circulation analysis shall graphically and textually illustrate how the proposed development or construction complies with this standard. The applicant must illustrate how proposed streets and residential accessways will provide connections to surrounding properties within 530 feet of the subject site or to the nearest through street pairs, whichever is closer, in compliance with this standard.

50.60.035 Standards for Construction.

1. Standards for construction of full street connections shall be those included in LOC Chapter 42.

2. Standards for construction of residential accessways shall be those included in LOC 50.59.015.

Article 50.63

Street (Pathway, Parking Lots) Lights

Section 50.63.005 Applicability.

This Article is applicable to all development which includes public and private streets, public pathways and accessways, or parking lots.

Section 50.63.010 Standards for Approval.

1. Residential Streets

   a. Equipment Standards

      i. The type of luminaire to be used shall be approved by the City Manager.
      ii. The luminaire shall have a protective finish.
      iii. The lamp post may be wood, anodized aluminum or other materials as approved by the City Manager.

   b. Lighting Standards

      i. The maintained level of illumination on all public and private streets shall be between 0.15 average footcandles and 0.40 average footcandles (measure on the street).

      ii. The uniformity of illumination ratio shall be between 4:0 and 10:1.

      iii. Cut-off light distribution luminaires will be utilized.

2. Arterial and Collector Streets

Street lighting standards for arterial, and collectors shall be determined by the City Manager, who may require an independent engineering study to determine the appropriate lighting system.

3. Public Pathways and Accessways

Low level lighting of less than 0.3 average footcandles; and with a maximum uniformity of illuminating ratio not to exceed 20:1, shall be required unless the applicant can show that no night use of such facilities is planned.

4. Parking Lots

Article 50.64

Utility Standard

Section 50.64.005 Applicability.

All development requiring connection to utilities.

Section 50.64.010 Definitions.

3. Capacity: The effective ability of a pipe, conduit or other structure usually related to a sanitary sewer or water distribution system to carry the substance being transmitted by that system. Is usually expressed in gallons per minute or cubic feet per second.

Section 50.64.015 Standards for Approval.

1. Utilities Required. The following utilities, whether on or off site, shall be provided to all development in the City of Lake Oswego, in accordance with City Standards, Plans and Specifications:

a. Sanitary sewer systems
b. Water distribution systems
c. Sidewalks and any special pedestrian ways and bicycle paths
d. Street name signs
e. Traffic control signs and devices
f. Street lights, which shall be served from an underground source of power
g. Underground utility and service facilities, as required
h. Streets
i. Provision for underground T.V. cable.

The City Manager may require that utility designs be prepared by a registered engineer.

2. Easements or right-of-way for utilities and associated and related facilities shall be provided by the property owner. Easements for anticipated future utilities or extensions may be required by the City Manager.

3. Sanitary sewers shall be installed to serve the development and to connect the development to existing mains.

4. Design shall take into account the capacity and grade to allow for desirable future

extension beyond the development, and where required by the City Manager, extended to the upstream property line to allow for such future extension.

5. All sanitary sewers and appurtenant structures shall be designed and constructed in conformance with City of Lake Oswego Standard Plans and Specifications, and shall include, but not be limited to, such items as:

i. Pipe size and materials
ii. Manholes
iii. Cleanouts
iv. Backfill requirements
v. Service laterals.

6. All development shall be served by service lines, main water lines and fire hydrants which are connected to City mains or the water mains of water districts which provide service within the City.

7. Design of water system improvements shall take into account provision for extension beyond the development to adequately grid or loop the City system.

8. One water service line shall be provided to each lot in a development, or if the development does not include lots, to each building in the development. The system shall be designed to supply fire flow requirements of LOC Chapter 45.

Section 50.64.020 Standards for Construction.

1. Utility easement widths shall be the minimum width possible to facilitate utility installation and maintenance, and shall be a minimum of 10 feet (5 feet on each side) in width on easements not adjacent to a street right-of-way.

2. Utility construction within easements shall minimize disturbance to existing conditions, especially trees and other vegetation.

3. Any disturbed areas within easements shall be restored to a condition similar to the condition prior to construction, including the replacement of plants of similar species as those removed or damaged. Replacement trees shall be of similar species and be a minimum of 1 1/2 caliper.

4. Utilities Shall be Installed Underground. Utilities shall be installed underground (unless exempted by the City Manager).

a. Specific exemptions are as follows:

i. Developments which need multi-phase voltages or high KVA demands may develop with pad transformers where underground transformers are not feasible.

Pad mounted transformers shall be buffered from sight by landscaping or other suitable methods.

ii. Pad mounted transformers are allowed in major single-family developments, but shall be buffered from sight by landscaping or other suitable methods.

iii. Above ground telephone and cable television junction boxes are allowed.

5. Sanitary Sewers. Capacity, grade and materials shall be as approved by the City Manager. Minimum size shall be 8 inch diameter with 6 inch diameter allowed at the terminus of a sewer line.

6. All sanitary sewers and appurtenant structures shall be designed and constructed in conformance with City of Lake Oswego Standard Plans and Specifications, and shall include, but not be limited to, such items as:

a. Pipe size and materials
b. Manholes
c. Cleanouts
d. Backfill requirements
e. Service laterals

7. Service Laterals.

One service lateral shall be provided to each lot in a development, or if the development does not include lots, to each occupied building in the development.

8. Design, including materials, size and location of water mains, service lines, valves and hydrants, shall be in accordance with City of Lake Oswego Standard Plans and Specifications and be approved by the City Manager. Hydrants shall be a located at intersections and at intervals of no more than 500 feet from intersections in major developments with the exception that multi-family units shall locate a hydrant within 500 feet of residential buildings. For major or minor partitions which create a new lot or lots, a hydrant shall be no farther than 1,000 feet from any of the lots.

9. All facilities as described in this section shall be constructed in compliance with the rules and regulations of the City Manager, and the rules and regulations of the Public Utility Commissioner of the State relating to the installation and safety of underground lines, plant, system, equipment and apparatus.

Section 50.64.025 Standards for Maintenance.

None.

Section 50.64.030 Procedures.

1. A scaled utility plan of existing and proposed utilities shall be furnished to the City as part of any major development plan application and shall include at least the following at 1" = 100' scale.

2. Easements shall be recorded in the final plat or plan to serve the development and each lot therein.

Section 50.64.035 Miscellaneous Information.

The cost of all utility improvements shall be borne by the developer.

Cross-Reference: See also LOC Chapter 39 System Development Charges

Article 50.65

Downtown Redevelopment District Design Standards

50.65.005 Purpose.

The purpose of this Article, the Downtown Redevelopment District Design Standard, is to guide the redevelopment of downtown Lake Oswego in a manner that creates a feeling of vitality and sense of place in order to attract private investment and redevelopment of the area and create a community center that reflects and enhances the character of the City of Lake Oswego.

50.65.010 Applicability.

Except as otherwise expressly provided below, the following developments within the Downtown Redevelopment District are subject to the requirements of this Article:

1. Construction of a new building.

2. Substantial remodeling of an existing building. For the purposes of this Article "substantial remodeling" means:

a. Exterior remodeling that changes the appearance of more than 50 percent of any building elevation; or

b. A restaurant building expansion of more than 100 square feet or any other expansion of a building of more than 300 feet, except for an expansion that is solely designed and constructed:

i. To provide for accessibility to the disabled;

ii. To provide for energy conservation (e.g. addition of an entry vestibule);

iii. To provide for screened recycling or trash storage; or

iv. To relocate or screen visible exterior mechanical equipment so that such equipment is no longer visible.

3. Any development funded or partially funded utilizing a financial incentive granted, provided by or obtained through the authority of the City of Lake Oswego or LORA. As used in this section, a "financial incentive" includes a grant, fee waiver, revolving loan, tax abatement, property exchange or similar financial incentive provided by or secured through the City of LORA.

4. Construction or modification of a sign (LOC Chapter 47 only).

50.65.015 Relationship to Other Development Standards.

1. LOC 50.65.025 to 50.65.035 supersede Article 50.45 in its entirety for developments subject to this Article.

2. LOC 50.65.050 shall apply in addition to the requirements of LODS Chapter 9 (Landscaping, Screening and Buffering), but exceptions to the requirements of Article 50.55 may be granted as provided in 50.65.075.

3. The Parking Standard (Article 50.55) applies in full, but the requirements of Article 50.55 may be modified as provided in LOC 50.65.055, and exceptions of Article 50.55 may be granted as provided in LOC 50.65.075.

4. LOC 50.65.070 shall apply in addition to street standards contained in the remainder of this Code.

5. In the event of conflict between this Article and any other provision of this Code, the provisions in this Article shall apply.

50.65.020 Definitions.

As used in this Article,

1. "Village Character" means a community of small scale structures that appears and operates like a traditional small town. A village is typically composed of an assembly of smaller mixed used structures often centered on a square of other public space or gathering area, such as a body of water, a transportation route or a landmark building. Adherence to village character is not intended to require an historical reproduction of a turn of the century small town, but rather to encourage the development of a sophisticated small city that is pedestrian friendly, creates a sense of community and attracts people to the downtown in the same manner and using similar design concepts as historic small towns and neighborhood centers.

BUILDING DESIGN REQUIREMENTS

50.65.025 Building Siting and Massing.

Building siting and massing shall create a village character by compliance with the following requirements:

1. Complex Massing Required. New buildings shall use the siting and massing

characteristics of the Lake Oswego Style such as complex massing and asymmetrical composition (see illustrations, Appendix 50.65-A).

2. Pedestrian Oriented Siting. New commercial buildings shall be sited in order to maximize the amount of building frontage abutting pedestrian ways.

3. Roof Forms. New buildings shall use gable or hipped roof forms. Flat roofed building shall only be allowed pursuant to LOC 50.65.075.

4. Number of Stories. New buildings shall be at least two stories tall, and new and remodeled building shall be no greater than three stories tall, except:

a. A fourth story shall be allowed if:

i. The fourth story is residential and is contained within a gabled or hipped roof;

ii. The site is sloping and the structure has three or fewer stories on the uphill side;

iii. The fourth story is significantly stepped back from the building plane created by the lower stories; or

iv. Fourth story design elements are used break up the mass of a building, create visual interest and variety, hide mechanical equipment, define an entry or define a particular building's function. Examples of such design elements include dormers, towers, turrets, clerestories, and similar features.

b. One story construction shall only be allowed if:

i. It is limited to a small portion of a taller structure, such as an entry area, canopy over an outdoor restaurant, building ends or wings which relate to open space or as a step down to an adjacent one story viable existing structure; or

ii. When a minimum height of 20 feet is maintained at the right-of-way or street side building edge.

5. Height Limit. No building shall be taller than 51 feet in height. No flat roofed building shall be taller than 41 feet in height. Height shall be measured pursuant to this Code.

6. Entrances. When a new building is constructed or an existing building is substantially remodeled, the primary building entrances shall be oriented to pedestrian ways along streets to encourage increased pedestrian density on existing streets, sidewalks and other public ways. Secondary building entrances or tenant space shall be required along alleys to take advantage of and enhance the intimate scale of the alley space (see Appendix 50.65-A, Figure 3).

7. Street Corners. New structures shall be located to preserve or create strong building edges at street corners. Structures may "cut the corner" to create a building entry or to provide pedestrian space but shall use building design elements to create a structured corner (see Appendix 50.65-A, Figure 2).

50.65.030 Building Design

Building elements shall be designed to create a village character through compliance with the following requirements:

1. Lake Oswego Style Required. New and substantially remodeled buildings shall be designed using building design elements of the Lake Oswego Style to create distinctive buildings which richly textured, visually engaging facades (see illustrations, Appendix 50.65-A).

2. Storefront Appearance Required. New or substantially remodeled buildings fronting on streets or alleys designed for pedestrian use shall create a storefront appearance on the ground floor. This may be accomplished by changing buildings planes, materials or window patterns, or by creating a break in awning or canopy construction at intervals of about 25 feet (see Appendix 50.65-A, Figure 4). In addition, such design shall maximize the opportunity for window shopping through compliance with the following requirements:

a. A minimum of 80% (linear measurement) of the exterior ground floor abutting pedestrian ways shall be designed as storefront with display windows and entry features.

b. The bottom edge of windows along pedestrian ways shall be constructed no more than 30 inches above the adjacent walkway surface and shall be no closer than 12 inches above the walkway surface.

c. Sufficient interior or soffit lighting to allow night-time window shopping shall be provided.

3. Materials.

a. Ground floor. New or substantially remodeled buildings shall use masonry as the predominant building material for walls on the ground floor. "Masonry" includes fabricated bricks, blocks, stucco and glass. The design of these materials shall create an historic or vernacular Lake Oswego Style appearance.

b. Upper stories. New or substantially remodeled buildings shall use wood and glass as the predominant building materials for upper stories. These materials are intended to soften the appearance of a building that sits on a heavier appearing masonry/glass base and thereby effectively creating a mixed-use village appearance. Wood siding or cedar shingles may be used.

c. Roof. New buildings or substantial remodeling that involve modifications to the roof shall use the following roofing materials:

i. Slate, tile, shakes or wood shingles, or synthetic materials (e.g. concrete, pressed wood products, metal or other materials) that are designed to and do appear to be slate, tile, shake or wood shingles.

ii. Copper or zinc roofing materials in styles representative of period architecture in the Lake Oswego Style. Metal roofs other than cooper and zinc shall only be allowed in subdued colors and on small roof sections, not as a whole roof application.

iii. If new or remodeled building utilizes a flat roof, materials that will not cause roof repairs (patching) to be readily visible.

d. Prohibited Materials. The following exterior building materials or finishes are prohibited:

i. Plastic, except when use to replicate old styles (e.g. vinyl clad windows, polyurethane moldings, plastic columns, etc.)

ii. Metal or vinyl siding.

iii. Mirrored glass.

iv. T-111 Type plywood.

v. Corrugated metal or fiberglass.

vi. Standard form concrete block (not including split faced, colored or other block designs that mimic stone, brick or other similar masonry).

vii. Back-lighted fabrics, except that awning signs may be backlit fabrics for individual letter or logos.

4. Ground Floor Design. New and substantially remodeled buildings shall have a strong ground floor cornice designed to separate the ground floor functions and materials from the upper story or stories and to provide continuity with cornice placement on abutting buildings (see Appendix 50.65-A, Figure 5). Methods for compliance with this requirement include but are not limited to:

a. Use of the same or similar building materials and/or colors from storefront to storefront or building to building; or

b. Painting the wood elements in the first floor storefront areas white, black, dark brown, dark green or greyblue. This color range is not intended to be an exclusive list, but is recommended to create compatibility and design strength at the ground floor storefront level while encouraging diversity with multi-tenant buildings and in large lot (whole block) developments.

5. Molding Design. Moldings, window casings and other trim elements shall be designed in a dimension and character reflecting the Lake Oswego Style. Larger dimensions may be used to exaggerate or illustrate a creative design concept or to match the scale of the new building. Moldings shall match or compliment the detailing of adjacent buildings that comply with this Article.

6. Enclosure or Screening of Mechanical Equipment. Mechanical equipment shall be mounted within gable or hip roof attics where possible. Roof mounted mechanical equipment on flat roofed structures shall be screened by parapet walls to the maximum degree possible. Site located mechanical equipment shall be installed in below grade vaults where possible. Other building mounted mechanical equipment shall be screened from view to the maximum degree possible.

7. Awnings. New or substantially remodeled buildings shall provide awnings or canopies for weather protection extending six feet from window walls. Awnings shall be shed type with opened or closed ends (see Appendix 50.65-A, Figure 4). Curved awnings shall not be allowed. Awnings may have a front valance.

8. Outdoor Relationships. New or substantially remodeled buildings shall be designed to open up to outdoor seating and display areas that are intended to be accessory to an indoor use, such as a restaurant or cafe.

9. Mixed Use Residential. New or substantially remodeled mixed use buildings with a residential component shall define the residential portion of the structure through the use of design elements such as decks, balconies, landscaping, chimneys, dormers, gable or hipped roofs or step backs above the second story to provide upper story deck areas (see Appendix 50.65-A, Figures 5 and 7). Masonry should be used for chimney construction.

10. Corner Buildings. New or substantially remodeled buildings located on street corners shall:

a. Shall be designed to compliment and be compatible with other corner buildings at the same intersection by repeating or echoing the same pattern of corner treatment by creating similar focal points such as entries, towers, material or window elements, signage, etc.

b. Reinforce building corners by repeating facade elements such as signs, awnings and window and wall treatments on both "Avenue" and "Street" sides.

c. If the building "cuts" the corner at ground level, anchor the corner with a column supporting the upper levels or roof or with a free-standing column or obelisk. The area of the "cut" corner shall be equal to or greater than the public area in the abutting sidewalk (see Appendix 50.65-A, Figure 2).

11. Alley Space. Alley space shall be designed to minimize service functions, to screen trash/storage areas and to enhance pedestrian/patron use. Outdoor cafe seating, landscaping, signage, lighting and display features shall be included in alley design where feasible.

50.65.035 View Protection.

New development shall preserve and enhance any available views of Mount Hood and Lakewood Bay by compliance with the following requirements. These regulations are not intended as a guarantee that a view will be preserved or created, only to require special and significant efforts to maintain and provide views.

1. Street trees on A Avenue shall be selected and located to preserve views of Mt. Hood.

2. New structures shall be designed and located to preserve and enhance views of Lakewood Bay from the south end of Block 138 and from the Lakewood Bay bluff.

3. Restaurants, outdoor cafes, housing and hotels shall be oriented to available views, especially views of Lakewood Bay, where feasible. Public gathering places shall be designed to maximize any available toward Lakewood Bay.

4. Staff may require site sections, photographs, view diagrams, survey spot elevations, view easements and other similar tools in order to ensure compliance with the requirements of this section.

50.65.040 (Reserved)

50.65.045 (Reserved)

LANDSCAPING AND SITE DESIGN

50.65.050 Landscaping and Site Design Requirements.

All developments subject to this Article shall comply with the following landscape and site design requirements.

1. Street Furniture and Lighting. New and substantially remodeled buildings shall incorporate street furniture and lighting within the public right-of-way and in private areas open to public pedestrian activity. Street furniture and lighting shall comply with designs approved by the City of Lake Oswego (see Appendix 50.65-A, Figure 8).

2. Street Trees. Street trees shall be required to be installed in compliance with the Downtown Street Tree Plan as a condition of approval.

3. Brick Paving. Where a subject development is proposed adjacent to a sidewalk or intersection, brick paving shall be required for sidewalk surface detail panels on numbered streets and at primary building entrances as shown in the paving detail diagrams. Brick pavers shall be

used to provide color and texture on north-south streets. The use of brick, cobbles or flagstones as pavement for other pedestrian ways, courtyards or parking lots is encouraged, but is not required.

4. Walls. New and substantially remodeled existing buildings shall use natural stone (preferably Columbia River Basalt) for retaining walls, courtyard walls or similar landscape applications (see Appendix 50.65-A, Figure 10).

5. Gates and Hangers. Decorative iron gates and hangers for signs, flags and hanging baskets shall be required as part of the landscape plan and shall be designed in the Arts and Crafts style.

6. Hanging Baskets. Any required landscaping shall include seasonal hanging flower baskets placed within parking lots and along streets and sidewalks.

7. Art. The site design for a new or substantially remodeled existing building shall include locations for placing public or private art.

8. Protecting Pedestrians. In areas of potential vehicle/pedestrian conflict, City approved street furniture or bollards (see Appendix 50.65-A, Figure 8) shall be used to help create a "protected zone" for the pedestrian.

9. Landscape Design.

a. Where new or substantially remodeled buildings are set back from property lines and sidewalks, intervening landscaping shall be designed to invite the public in, not to provide separation.

b. Where non-pedestrian space is placed between a building and a sidewalk, benches, low sitting walls or other street furniture shall be placed in order to enliven the sidewalk.

c. Small areas of landscaping and paving in courtyards, entryways, building nooks and other areas shall use materials and designs similar to adjacent public spaces where such use will make the area appear larger or more inviting. This requirement is intended to minimize the transition from public to private space, but is not intended to restrict changes in material where it is functionally necessary or where it will avoid visual monotony.

d. Drinking fountains, display windows or other street furniture shall be located in stopping areas created outside of pedestrian circulation areas. Stopping areas may be created by an enclosure, a change in grade or a change in paving materials (see Appendix 50.65-A, Figure 7).

10. Undergrounding of Utilities. Overhead utilities shall be placed underground in conjunction with the construction of a new building.

PARKING

50.65.055 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.

1. Number of Spaces. New uses shall provide the number of parking spaces required under the City of Lake Oswego Parking Standard (Article 50.55), modified as follows:

a. Because of the layout of Downtown Lake Oswego and the ready availability of on-street parking and transit, the minimum parking requirement shall be .75 of the total required for each use pursuant to Article 50.55.

b. New uses within existing buildings may demonstrate compliance with the parking requirement through the use of existing spaces on adjacent property if the applicant complies with all of the following criteria:

i. The applicant demonstrates that the proposed use has substantially different peak period parking needs than uses served by the parking spaces on the adjacent property. Evidence necessary to support such demonstration may include a by-the-hour parking study, patron use evidence from register tapes, or written employees transportation and parking policies.

ii. The applicant demonstrates that he or she has permission of the owner of the adjacent property to utilize his or her property for parking, either by an easement or a parking agreement or leases that will last for the life of the use.

iii. The location of the adjacent property complies with Subsection 2 of this section.

c. High turnover eating or drinking establishments such as coffee shops, ice cream parlors and "take-and-bake" food services may vary from the parking requirements for restaurants by providing evidence that demonstrates the short term nature of their employee and patron parking needs. In no case, however, shall parking be reduced below the number of spaces that would be required for an equal size retail store.

d. Retail uses within 1,000 feet of 100 or more residential units may further reduce their total parking requirements to .9 of the total spaces required after all other adjustments are made pursuant to Subsection 1 of this section.

e. Existing on-street parking along the property frontage shall be used to calculate parking requirements.

f. In the portion of the downtown shopping and business district shown on map (see Appendix 50.65-A, Figure 1) no parking shall be required for existing or proposed uses when:

i. A retail use locates in an existing structure, or

ii. An existing structure is expanded and the ground floor footprint does not increase in area.

2. Employee and Patron Parking Restrictions. Employee and patron parking shall be restricted to available parking within the commercial district as follows:

a. On-site parking.

b. Owner or easement parking for patrons within 500 feet of the business site.

c. Owned or easement parking for employees within 1,000 feet of the business site.

d. On street parking along the property frontage.

50.65.060 Parking Lot Design

Parking shall be designed in compliance with the following criteria:

1. Parking configuration and circulation shall be designed to provide access from streets within the District. Off-site, signal or signage improvements may be required if needed to direct traffic away from residential districts.

2. Driveways to parking areas shall be located to avoid breaking the storefront pattern along primary pedestrian ways. First Street south of "B" Avenue shall be considered a primary pedestrian way.

3. Parking lots and structures shall be sited and designed to mitigate adverse lighting and noise impacts on residents. The reflection of sound by the Lake surface shall be specifically considered.

50.65.065 Parking Structures.

In addition to compliance with the requirements of LOC 50.65.060, a proposed parking structure or garage shall comply with the following design standards:

1. Retail storefronts at the ground level of parking structures shall be located at the periphery of parking areas and structures. The street side of residential parking structures may contain facilities or services for residents, such as laundry rooms, lobbies, or exercise rooms.

2. Building materials shall compliment abutting building materials (see Appendix 50.65-A, Figure 11). In cases where a parking structure extends to the periphery of a site, the design of the structure shall reflect the massing, fenestration and detailing of adjacent and abutting buildings.

3. Architectural elements such a frieze, cornice, trellis or other device, shall be continued from a residential portion of the building onto a parking structure.

4. Entries shall be designed to be subordinate to the pedestrian entry in scale and detailing. If possible, parking structure entries shall be located away from the street, to the side or rear of the building.

5. If possible, parking structures should be designed so that portions of the parking structure decks are used for landscaping or entry courts to abutting buildings.

6. Parking structures shall be detailed at ground level in a manner similar to adjacent or abutting buildings in order to create a strong/emphasized base.

STREETS

50.65.070 Street, Alley and Sidewalk Design.

Street, sidewalk and alley design shall safely and efficiently provide for vehicular and pedestrian travel while enhancing village character through compliance with the following design standards. These standards shall apply in addition to any other City requirements for street, alley or sidewalk design. In the event of a conflict, the provisions of this Article shall control.

1. Compliance with Comprehensive Plan. Development shall comply with the Major Street System Policies contained in the Goal 12, Transportation Chapter of the Comprehensive Plan. Pursuant to this element, "A" Avenue and State Street are classified as major arterials, "B" Avenue from State Street to Fifth Street and First through Fifth Streets from "A" to "B" Avenues are classified as major collectors.

2. "A" Avenue. Any improvements to "A" Avenue shall be designed and constructed in conformance with the 1994 Concept Plan as it exists now or may in the future be amended by LORA. This plan identifies turn lane configuration, island location, signal location and general scope of the project. "A" Avenue shall be designed to blend with and continue the design themes of the Demonstration Street Project (see Appendix 50.65-A, Figure 12) or in conformance with the completed construction plans for the next phase if such plans are available and have been approved by LORA.

3. Intersection Design.

a. Intersections on "A" and "B" Avenues shall create crosswalks in a different material and texture than the street paving (e.g. concrete, cobbles, or brick) to bridge the intervening streets.

b. Curb extensions shall be created at all intersections where feasible from a traffic management standpoint and unless such extensions would interfere with the turning and

stopping requirements of Emergency Service Vehicles (e.g. Fire Trucks, ambulances), buses or delivery vehicles. Such extensions will be designed to accommodate the turning and stopping requirements of such vehicles.

4. Sidewalks. Sidewalk design shall consider and encourage opportunities for outdoor cafes, pushcart vendors, seasonal sidewalk sales, festivals and similar uses and activities which enliven pedestrian walkways.

5. Alleys. Alleys shall be incorporated into design plans as pedestrian and vehicular accessways.

6. Undergrounding of Utilities. Utilities shall be placed underground where feasible.

7. Angle Parking. On numbered streets, angle parking shall be installed when it will maximize the number of spaces provided and still comply with the capacity, service level and safety requirements of the street system.

[Cross-Reference: Sidewalk Standards - LOC 42.03.400]

EXCEPTION TO STANDARDS

50.65.075 Exceptions to Standards.

1. The reviewing authority may allow exceptions to this Article and to other Lake Oswego Community Development Code provisions applicable to developments subject to this standard without the need to obtain a formal variance pursuant to Article 50.68 in one or more of the following circumstances:

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

b. New buildings or substantial remodels may vary from the design requirements in LOC 50.65.025 to 50.65.035 if:

i. The applicant demonstrates that the design should vary in order to create a complimentary relationship with an abutting viable existing structure that is not designed in the Lake Oswego Style;

ii. The applicant demonstrates that the alternative design is exceptional in the quality of detailing, appearance or materials and/or creates a positive unique relationship to other structures, views or open space in a manner that accomplishes the purpose of the Downtown Redevelopment District Design Standards.

c. The applicant demonstrates that the alternative design accomplishes the

purpose of the Urban Design Plan in a manner that is equal or superior to a project designed pursuant to this standard.

2. A request for exception under this provision may be processed as part of the underlying application or separately as a major development.

Article 50.66

Old Town Building Design Standards

50.66.005 Purpose.

The purpose of this Article is to develop a cohesive and orderly relationship between existing and proposed buildings in the Old Town Neighborhood by providing visual connections defined by the predominant architectural characteristics of the Old Town Styles (Appendix 50.66-A). Copying the existing building styles is not the intention of these guidelines. While a new development may have a distinctive identity, its overall effect should support and reinforce the Old Town Styles.

50.66.010 Definitions.

Old Town Styles.

Building appearance which borrows from the vernacular (gable front) style, craftsman bungalow style and Cape Cod (neo-colonial) style, which are the predominant historic styles in the DD District. These buildings are characterized by simple massing and composition, use of natural building materials, window and door openings emphasized with trim, and gable and hip roof forms. (Appendix 50.66-A).

50.66.015 Applicability.

This standard is applicable to Major Development or Minor Development within the DD (Design District) Zone that is required to be reviewed by the Development Review Commission as described in LOC 50.79.020(2)(a).

50.66.020 Building Siting and Massing.

1. Simple Massing Required.

New buildings shall utilize massing and composition characteristic of the Old Town Styles (See Appendix 50.66-A) and shall be compatible with existing structures of the Old Town Styles located on the block face where the proposed structure will be located as well as those structures of the Old Town Styles in the block face across the street from where the proposed structure will be located. In addition to the other requirements of this section, rowhouse or townhouse units shall be differentiated from one another through the use of varied setbacks for each unit or groups of units and/or varied roof lines and heights to provide visual interest and create the appearance of a single family development pattern along the street. Abutting rowhouse or townhouse units shall not have identical facades.

2. Roof Form and Pitch.

New structures shall be designed with gable and hip roof forms. Flat or shed roof forms are prohibited for primary structures, but may be allowed for secondary building projections such as dormers or porches. (Appendix 50.66-A, Figure 1). Roof pitch shall be similar to typical pitches of Old Town Styles. In no case shall pitch be less than 6':12' for the primary roof form. Structures located on the same block face as the proposed development as well as on the block face across the street, that are examples of the Old Town Styles, shall also be considered in determining preferable roof pitch. For corner lots, structures in the Old Town Styles on both block faces of the proposed development, as well as adjacent blocks across these streets, shall be considered.

50.66.025 Building Design and Materials.

1. Old Town Style Required.

New buildings shall be designed using the building design elements described in the Old Town Styles, to create buildings which blend with existing structures in these styles located on the same block face as the proposed development and on the block face across the street.

2. Materials.

a. Moldings.

Moldings, window casings and other trim elements utilized on buildings shall be similar to those represented in the Old Town Styles. Where possible, they shall match or compliment the detailing of structures on the same block face as the proposed development and on the block face across the street, which are designed in the Old Town Styles.

b. Siding.

The predominant exterior siding materials in the Old Town Styles are: (1) horizontal wood siding, (3 to 8 inch wide shiplap or clapboard), (2) board and batten siding, and (3) stone, brick or stucco of a type used in the Old Town Styles, and 4) plain or patterned wood shingles as described in the Old Town Styles. These materials may be used alone or in combination.

Development should use traditional materials as discussed in the Old Town Styles Description, but may include representations of the actual materials in pressed wood products, vinyl or metal. Traditional masonry materials, or concrete or other products made to appear like brick or stone, may also be used.

c. Prohibited Siding Materials.

Grooved, presawn plywood, (e.g., T-111), corrugated metal, diagonally applied or vertically oriented siding materials, with the exception of (2)(b)(2), above, are prohibited.

d. Roofing Materials.

Composition shingles, wood shingles or ceramic tiles, or materials which have the appearance of composition or wood shingles, or ceramic tiles, shall be used.

e. Chimneys

Chimneys shall be brick or stone, or boxed-in with the predominant siding material of the building.

f. Windows.

The general window shape and typical window placement and trim of the Old Town Styles shall be followed. Sash materials shall be wood, or vinyl, or other material with the appearance of wood.

g. Entrances and Stairs.

i. Entrances:

New buildings should have a minimum of one principal entry clearly visible from the street. This entry should be accentuated by characteristic elements of the Old Town Styles to make it a visual focal point. Where an entry to an additional unit is not directly visible from the street, its location should be clearly marked by some identifying feature such as an entry trellis, or entry gate with a visible address.

ii. Stairs:

Front entry stairs shall contain no more than seven (7) risers between each landing.

50.66.030. Fencing and Landscaping.

1. Fencing.

Fencing is not required. When fencing is included in the front yard, it shall be used in an ornamental or symbolic way rather than as a visual barrier. Metal chain link fencing is prohibited within the front yard setback. The maximum height of fencing within the front yard setback area shall be 48". Maintenance of existing stone fences is encouraged when new development is proposed. Construction of new stone fences that are of similar height and character to existing stone fences is also encouraged.

2. Trees and Landscaping.

a. Mature trees or tree groves shall be preserved and incorporated into the site plan for new development, where feasible, unless doing so would substantially reduce development options on the site.

b. Two (2) street trees for every 50 feet of street frontage are required as a condition of approval of a new structure. Existing street trees can be counted in order to comply with this requirement, as long as the type, location and viability of the existing trees are sufficient to provide a full streetscape of trees. New street trees shall be selected from the City of Lake Oswego Draft "Approved Street Tree Planting List," (Appendix 50.66-A, Figure 5).

[Cross Reference: Street Trees in R-6 Zone – 50.07.060]

50.66.035 Garages.

If a garage is provided, it shall meet the following siting requirements: (Also see Appendix 50.66-A, Figure 4)

1. Minimize the visual impact of garages and parking from the street by:

a. Facing the garage door(s) on a separate street frontage from the front door of the primary structure, or

b. Setting back the side of the garage facing the street a minimum of five feet behind the front building line of the primary structure, when the garage doors are parallel to the same street frontage as the primary structure, or

c. Accessing the garage or parking area from the rear of the lot, where feasible.

2. Garages shall have the same roof pitch as the primary structure.

50.66.040 Additional Requirements for Multiple Family Dwellings.

Due to the potential size of multi-family structures, attention should be given to incorporating design forms and elements of surrounding buildings that are in the Old Town Styles, so that new structures are visually reduced in scale and relate to nearby residential structures and neighborhood scale in general. In addition to compliance with LOC 50.66.020 – 50.66.030, multi-family projects shall also be subject to the following considerations: (See Appendix 50.66-A, Figures 2 and 3)

1. Create visual linkages with surrounding buildings in the Old Town Styles by repeating or incorporating similar ridge lines, eaves, window and door openings.

2. Offset building walls and roof lines to approximate width and height ratios of

surrounding buildings.

3. Incorporate similar roof forms and gables, and smaller elements like porches, dormers or bays, to reduce the scale of new buildings and better relate them to nearby residential structures. Roof pitch may be less steep than 6':12' if a reduction results in visually reducing the scale of the proposed structure and better relates the proposed structure to those surrounding structures in the Old Town Styles.

4. Use landscape buffers between parking areas and the street as well as abutting residences.

5. Create visual interest along the street by breaking walls into smaller planes with windows, entrances, dormers or other appropriate design elements (Appendix 50.66-A, Figure 3).

6. Break large parking areas into smaller groupings, where possible. Minimize the width of driveway curb cuts. Screen parking from the street with landscaping. Locate parking under, or at the sides and rear of buildings.

Article 50.67

West Lake Grove Design District Standards

50.67.005 Purpose.

These provisions are intended to implement the Lake Oswego Comprehensive Plan and the West Lake Grove Design District (Appendix 50.67-A, Figure 1) by specifying allowed land uses and providing design and development standards to ensure:

1. The characteristics of allowed land uses are appropriate for this location in terms of function, transportation characteristics, and compatibility with nearby residential uses;

2. Development of specific transportation improvements necessary to:

a. Minimize impacts on adjacent local streets through measures such as site planning, building design and building orientation.

b. Allow for efficient and safe shared access to Boones Ferry Road to minimize traffic conflicts;

c. Ensure cohesive internal circulation and cross easements between all properties at full development; and

d. Provide for pedestrian, bike and public transit facilities.

3. Effective buffering and screening occurs between land uses allowed within the West Lake Grove Design District and existing single-family residential neighborhoods.

4. The creation of a built environment complementary to the existing character of Lake Grove which includes:

a. The creation of an aesthetic entry to the City;

b. Architecturally designed structures of high design quality sited to orient towards the public streets;

c. Conservation of existing mature Douglas Fir trees and other significant trees to retain the landmark status imparted by these resources;

5. High quality site planning and designed landscapes.

50.67.010 Applicability.

The provisions of this Article apply to all development in the West Lake Grove Design District which consists of four zones – Office Commercial/High Density Residential (OC/R-2.5), Office Commercial /Neighborhood Commercial (OC/NC), Townhome Residential (R-2.5) and Live/Work Residential (R-2.5/W) as described below. Allowed land uses shall be developed in accordance with the design and development standards within this Article in addition to all other applicable Lake Oswego codes, standards and regulations.

In the event of a conflict between this Article and other Lake Oswego codes, standards and regulations, the West Lake Grove Design District standards shall apply.

50.67.015 West Lake Grove Design Standards.

This Article provides for two levels of design and development standards to implement the West Lake Grove Design District. The first level are those overall design and development standards which apply to the entire District. The second are those standards which apply specifically to the OC/R-2.5, OC/NC, R-2.5 and R-2.5/W zones.

50.67.020 Standards Applicable to the Entire District.

1. <u>General Requirements:</u>

Development which occurs within the West Lake Grove Design District (Appendix 50.67-A, Figure 1) shall create an aesthetically pleasing entry into Lake Grove through the following design elements:

a. Architecturally designed structures of high design quality that are in scale with the site, in proportion to similar buildings in the West Lake Grove Design District and which utilize a pleasing variety of harmonious earth and muted tone materials, colors, finishes and textures;

b. Conservation of mature Douglas fir trees and other significant trees to retain the landmark status imparted by these resources;

c. Orientation of building entrances shall conform to the provisions of LOC 50.45.010.

d. Buildings design and orientation shall be provide for effective screening and buffering of the subject properties from adjacent residential neighborhoods;

e. High quality designed landscapes involving native plant materials or those which have naturalized to the locale, which will grow to significant size and impart seasonal color and interest.

2. <u>Streets and Circulation:</u>

Access to Boones Ferry Road, new streets, internal vehicular driveways, parking, pedestrian and bike facilities shall be provided and developed in accordance with the Streets and Circulation Element of the West Lake Grove Design District [Appendix 50.67-A, Figures 2(a), "Auto Transportation and Circulation", 2(b), "Internal Parking and Circulation" and 2(c), "Street Pedestrian Facilities and Pathways"].

Through provision of shared access and driveways, parking and pedestrian system, development shall occur in a manner to ensure the phased construction of the planned circulation and access system and in no circumstance shall prevent the development of a cohesive access and circulation system. Furthermore, public bike and pedestrian facilities shall be provided on both sides of Boones Ferry Road as illustrated by Appendix 50.67-A, Figures 2(a), 2(b), and 2(c). Appendix 50.67-A, Figures 3(a), 3(b), 3(c), 3(d) and 3(e) illustrate the desired design treatment of West Sunset Street, Lower Boones Ferry Road and a pedestrian path intended to serve a portion of the R-2.5 Town Home Residential Zone.

The number of access points on Boones Ferry Road shall be minimized through the use of consolidated driveways sufficiently wide enough to allow for simultaneous ingress and egress. This shall require property owners to agree to construct, or share in the cost of consolidated driveways either:

a. At the time of development; or

b. At such future time when sufficient land area is developed to make driveway consolidation practical.

If it is impractical, due to the timing of development, to develop consolidated driveway access for more than one parcel, the location of future consolidated access shall be determined by the approval authority based upon the:

i. Streets and Circulation Element of the West Lake Grove Design District [Appendix 50.67-A, Figures 2(a), 2(b), and 2(c)];
ii. The ability to serve the maximum number of land uses and properties;
iii. Traffic safety and operational characteristics; and
iv. Use of more than one property to ensure future consolidated access, such as at property lines.

The approval authority may approve interim individual driveways access to Boones Ferry Road subject to the findings of a traffic analysis and the condition that when adjoining properties develop, permanent shared access be developed pursuant to this article. In circumstances where the location of permanent shared access is not in the same location as an interim driveway, the driveway shall be removed and the area landscaped or otherwise integrated into the design of the subject site under the provisions of this Article.

Driveway consolidation shall require the execution of reciprocal, non-revocable easements in a form necessary to ensure unimpeded property access and driveway maintenance.

All driveways shall include safety features such as changes in surface material, signage and lighting to alert drivers to the potential presence of pedestrians.

3. Off-Street Parking:

In order to maximize the development potential within the West Lake Grove Design District, shared parking between different business and land uses shall be allowed pursuant to LOC 50.55.010 (d)(ii)a-c as follows:

Parties involved in shared parking arrangements shall enter into reciprocal agreements, acceptable to the City for such use, by legal instrument which shall also provide for continuing maintenance of jointly used parking facilities.

4. Pedestrian and Bicycle System:

Continuous and connecting hard-surface pedestrian pathways, including a continuous meandering pathway on both sides of Boones Ferry Road, a minimum of eight feet in width and accessible to the public, shall be provided throughout the West Lake Grove Design District pursuant to Appendix 50.67-A, Figure 2(c). The location and radii of the pathway shall ensure a sufficient setback from Boones Ferry Road to allow for amenities such as effective landscaping, street trees and lighting.

These pathways shall provide access to all Design District properties and to the public pedestrian system in the surrounding residential neighborhoods and Lake Grove Commercial District. Pedestrian pathways shall be a minimum of six feet from the exterior wall of any structure.

A walkway shall be developed as illustrated by Appendix 50.67-A, Figures 2(c) and 3(d) to provide continuous pedestrian access to townhomes developed within the north portion of the R-2.5 townhome residential zone.

If inadequate right-of-way exists within which to construct the above eight foot wide meandering pathway, then property owners shall be required to provide a public easement of sufficient size for pathway construction and maintenance.

5. Intersection Design:

Intersections shall serve as design focal points through the application of landscaping, surface treatments and appropriately scaled lighting. Buildings adjacent within the OC/R 2.5 zone shall, where feasible, orient entrances to intersecting streets to facilitate pedestrian usage. Buildings within the OC/NC Zone shall orient entrances to intersecting streets as illustrated by Appendix 50.67-A, Figure 4, Building Massing.

6. Public Safety:

Intersection design and improvements shall enhance pedestrian safety and ease of crossing Boones Ferry Road and other streets within the Design District. Street lighting of a consistent style shall be provided within the Design District.

7. Landscaping Standards:

Landscape development shall reinforce the informal "village" scale and character of Lake Grove. The following appropriate landscape styles shall be emphasized for residential, office/commercial and neighborhood commercial development within the Design District:

- Informal massing and arrangement of plant materials around buildings, parking lots, and within required landscaped buffers;
- Rows of street trees within areas designated for neighborhood commercial;
- Meandering pedestrian pathways;
- Wide concrete or brick sidewalks adjacent to buildings designated as Office Commercial/Neighborhood Commercial;
- Use of trees which grow to a significant size including native evergreen trees where possible, and avoiding use of columnar form hybrids.

a. Parking Area Landscaping, Buffering and Screening:

The overall design themes for parking lot landscapes shall emphasize development of a natural appearing landscape, which utilizes plant materials that are either native or have naturalized to the locale. Off-street parking areas shall be designed and landscaped to:

i. Be buffered and screened from adjoining residential uses;

ii. Ensure that trees are integral to parking lot design to provide for aesthetics and shade;

iii. Be an integral part of a development's overall site plan, taking into special consideration the requirement to preserve significant vegetation;

iv. Visually mitigate large expanses of paving and allow for alternative surface treatments, such as the use of gravel and other pervious surfaces to preserve existing mature trees;

v. Preserve existing significant vegetation, especially existing mature Douglas firs and other significant vegetation.

b. Minimum Parking Lot Landscaping Standards:

All parking lots shall be landscaped to conform to the following minimum standards:

i. Trees planted to meet the landscaping requirements for parking lots shall be deciduous shade trees of at least three inches in caliper which reach a minimum mature height of at least 30 feet and have the canopy and structure necessary to cast moderate to dense shade.

ii. Where adequate room is available, large scale evergreen trees such as western red cedar, western hemlock, California incense cedar, and Douglas fir of at least four to six feet in height and reach a mature height of at least 70 feet shall be incorporated into the landscape theme.

iii. Exceptions to requirements (i) and (ii) above may be allowed for circumstances that limit placement of trees such as overhead lines, underground utilities and confined spaces.

iv. Parking areas shall be divided into bays of not more than eight parking spaces. Between and/or at the end of each parking bay there shall be curbed planters of at least five (5) feet in width. Each planter shall contain one shade tree of at least three inches in caliper. The planter shall also be planted with appropriate ground cover or shrubs at a rate of two 2-gallon plants for every 20 square feet of landscape area. The intervening area between plantings shall be mulched with an appropriate material to a minimum depth of three inches.

v. Parking lots fronting a driveway, sidewalk, pathway or public street shall be bordered by a minimum five (5) foot wide landscaped area. Within this area, shade trees shall be planted every thirty feet. Planting of shrubs and ground cover and mulching shall occur pursuant to Subsection 7b(iv) above.

vi. Parking areas shall be separated from the exterior wall of a structure by a minimum of a 10-foot buffer which may include a pedestrian pathway and/or landscaped strip. Parking areas or driveways shall be separated from abutting residential zones by a minimum 15-foot landscape buffer pursuant to Subsection 11(b)

vii. All parking area landscaping shall be provided with underground irrigation.

c. <u>Site Landscaping:</u>

All new development shall install landscaping on at least twenty (20) percent of the development site on which buildings are constructed. This is inclusive of landscaping required for parking lots, and landscaping within required buffer areas. Landscaping may include courtyards, raised beds and planters, espaliers, arbors and trellises. The landscape plan shall incorporate large-scale evergreen tree such as Douglas fir, western red cedar, hemlock or California incense cedar.

Planting plans shall emphasize development of an informal, natural appearing landscape, which utilizes drought resistant plant materials that are either native or have naturalized to the locale.

Existing significant vegetation, which is preserved as part of an approved development application shall be counted towards fulfillment of this section.

d. Minimum Site Landscape Requirements:

Minimum landscaping shall be as follows:

i. Tree Size and Quantity: One tree, a minimum of 2 to 3 inches in caliper at four and one-half (4 1/2') feet above grade for every 500 square feet of landscaped area. Where site conditions warrant, evergreen trees such as western red cedar, western hemlock and Douglas fir of at least three inches in caliper and which reach a mature height of at least 70 feet shall be planted.

ii. Shrub Size and Quantity: At least fifteen shrubs of a minimum two gallon in size for every 500 square feet of landscaped area. All remaining areas shall be treated with suitable mulch applied to a depth of no less than three inches.

iii. Irrigation: All landscaping shall be provided with underground irrigation.

iv. Street Trees: One street tree shall be provided within or immediately adjacent to the public right-of-way an average of every thirty linear feet along the entire development site frontage.

Street trees shall be a minimum of three (3") inches in caliper, measured four and one-half feet above grade when planted. When trees are not planted in a planter strip or landscaped area, tree wells, with approved grates that provide a minimum of sixteen square feet of surface area, shall be provided for each tree. Alternative arrangements to a linear street pattern may be implemented at the discretion of the approval authority. Existing preserved trees within 20 feet of the public right-of-way shall be counted towards fulfillment of this standard.

In order to provide for a more natural and informal setting, groupings of trees may be allowed.

v. Exemptions from Street Tree Requirements: Exemptions from street tree requirements may be granted by the approval authority provided the following conditions exist:

1. Trees would create problems with existing above or underground utilities.
2. Trees would conflict with clear vision requirements, or;
3. There is inadequate space in which to plant trees.

However, the approval authority may require the applicant to plant

street trees elsewhere within the Design District in lieu of trees which would normally be required for a specific development. If trees cannot be planted due to inadequate space or line clearance, the commensurate planting of shrubs or small trees more appropriate to the area may be required.

8. Unifying Design Elements:

Development shall incorporate landscape features which contribute to a unifying design theme and continuity within the West Lake Grove Design District such as paving materials and textures, lighting, street furniture, signage and plant material selection, especially trees.

9. Preservation of Mature Douglas Fir Trees and Other Significant Vegetation:

a. Development plans shall preserve existing mature, evergreen trees and other significant vegetation to the extent practicable.

b. The approval authority shall have the discretion to allow modifications or require changes to the paving standards, such as the use of pervious surfaces, to preserve mature trees.

c. Tree removal shall be mitigated. Where possible, the caliper inches of trees, with a trunk diameter of five inches or greater, which are removed shall be replaced with trees of the same or approved variety, of no less than three caliper inches in diameter each, to equal or exceed the caliper inches of trees removed. Where complete mitigation is not practicable, payment shall be made into the City of Lake Oswego Tree Fund pursuant to LOC 55.02.135.

d. A protection and maintenance plan to promote the continued survival of preserved trees shall be submitted for approval in conjunction with any development application.

10. Buffer Areas:

Adjoining residential land uses shall be buffered and screened from land uses within the Design District as follows:

a. Separation by Right-of-Way:

Where the boundary of the West Lake Grove Design District is adjacent to a residential zone but separated by a public right of way, buffering requirements shall be met by setback requirements.

b. Landscape Buffering:

There shall be a minimum 15 foot wide landscaped buffer along the entire edge of the West Lake Grove Design District where it abuts a residential zone and along the

property boundaries of new commercial and town home residential development which abut existing single family dwellings within the Design District. A buffer area may only be occupied by utilities, screening and landscaping. No buildings, access ways or parking areas shall be allowed in a buffer area except where an access way has been approved by the approval authority. The buffer area is required to be landscaped as follows:

i. One row of 2 to 3 inch caliper deciduous trees, spaced no more than 15 feet apart; or one row of evergreen trees not less than six feet tall and spaced no more than 15 feet apart, or a mix of evergreen and deciduous trees planted 15 feet apart.

ii. Ten shrubs planted a minimum of 5 feet from each other which shall attain a height of at least six feet within three years of planting.

iii. The remaining area shall be planted in ground cover and mulched with a suitable material to a depth of three inches.

c. Screening:

Screening shall be provided by a six-foot tall wood or masonry, sight obscuring fence or wall. The unfinished or structural side shall face the use to be screened.

11. Noise Mitigation:

The approval authority shall require a noise mitigation plan when the proposed development is reasonably expected to produce noise that can be heard in the abutting single-family residential districts above ambient residential levels. The development proposal shall incorporate noise reduction designs into construction of the development, and/or provide for additional noise reduction procedures to be implemented in order to reasonably reduce noise from the development so that it cannot be heard in the abutting residential district above ambient residential levels.

12. Signage:

Signs shall be limited to monument, blade and wall signs pursuant to LOC Chapter 47. Entrances to parking areas shall be specifically indicated through pedestrian-scale signage and lighting.

13. Undergrounding of Utilities:

All public and private utility services shall be placed underground.

14. Building Design:

Buildings shall be architecturally designed with a residential character and theme that reflect the architecture types that are historically indigenous to Lake Grove and Lake Oswego. Building character should reflect the residential English Country or Cottage style,

borrow from the Arts and Crafts tradition, English Tudor style and the American Rustic Style. Elements of these styles which can be used for both residential, office/commercial and commercial uses within the design district include:

- Complex Massing;
- Asymmetrical composition;
- Masonry and wood as exterior cladding materials;
- An intimate, pedestrian friendly scale;
- Richly textured and visually engaging facades, and
- Lush landscaping and border plantings.

Evaluation of the appearance of buildings and their conformance with these standards shall be based on the quality of design and relationship to the surroundings.

The following building design standards shall apply to all office and neighborhood commercial development which occurs within the West Lake Grove Design District:

a. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest as follows:

i. No continuous blank walls shall be allowed along pedestrian and vehicular ways and shall not exceed 25 linear feet without recess or change of plane. Pursuant to Appendix 50.67-A, Figure 5 at least 50 % of the ground floor walls within the OC/NC Zone shall consist of windows. Windows types shall consist of double hung or divided lights. Large Plate glass windows and simulated divided lights are not allowed.

ii. Buildings shall use materials that are architecturally harmonious for all walls and exterior components. Materials shall be durable and of high quality.

Materials for building walls may consist of:

- Wood Shingle;
- Brick;
- Stone-granite or concrete at street level of Office-Commercial/Neighborhood Commercial at street level only;
- Horizontal lap siding
- Stucco and timbers on gable ends only.

The following exterior materials are not allowed:

- EIFS or other synthetic stucco material;
- Metal panels;
- Flagstone;
- Plywood Paneling;

•Vinyl Cladding;
•Composite wood siding of any kind;
•Mirrored glass
•Standard form concrete block (not including split faced, colored or other block designs, which mimic stone, brick or other masonry), and
•Back-lighted fabrics

ii. Buildings which abut the office and neighborhood commercial zones shall incorporate a combination of the following design elements to foster a comfortable and interesting pedestrian experience:

- Modulations of scale;
- Definitive indoor-outdoor relationships;
- Harmonious materials and earth and muted tone colors and compatible color accents;
- Outdoor Lighting and other design treatments.

Other architectural features such as awnings, arcades, bay windows, projecting balconies shall be required.

iv. Pitched roofs are required and includes pitched gable end or hipped roofs. Small areas of flat roof not visible by the public or from adjoining residential areas may be allowed where necessary to accommodate mechanical equipment.

Roof materials shall consist of either cedar shingles or three tab composite shingles in dark grey, green or black colors. Metal roofs, colored roofs (red, blue or tan colors), and mansard or decorative roof forms are prohibited.

v. Building entrances shall be located for visibility and ease of pedestrian use. Entrances to upper floors shall be located so as not to conflict with street level activities and pedestrian use.

vi. Building vents and mechanical devices shall be screened from view with materials harmonious to the building. Exterior site elements such as storage, trash collection areas and noise generating equipment shall be located away from abutting residential districts and sight obscuring fencing and landscaping shall be used to screen and buffer these features.

vii. Building components, such as windows, doors, eaves and parapets shall have proper proportions and be placed in relationship to one another.

viii. Exterior building lighting shall be designed as part of the architectural concept. Fixtures, standards and exposed accessories shall be of the proper scale and compatible with the building and overall site design.

ix. Building rain protection is encouraged throughout the Design

District and shall be afforded to the Office-Commercial/Neighborhood Commercial Zone pursuant to Appendix 50.67-A, Figure 6. Rain protection shall consist of fabric awnings or metal canopies. Vinyl awnings are prohibited.

15. Street and Pathway Lighting:

Street and pathway lighting shall be provided per Appendix 50.67-A, Figure 7. Street and parking lot lighting shall consist of historic style fixtures. Cobra-head and contemporary fixtures are prohibited.:

a. Street Lighting: Additional street lighting on Boones Ferry Road made necessary by new development shall be determined by the approval authority, who may require a street lighting study commensurate with a development review application to determine the appropriate level of lighting.

b. Lighting of Sidewalks, Public and Private Pathways, and Access ways: Low level pedestrian-scale lighting of less than 0.3 average foot-candles, and with a maximum uniformity of illumination ratio not to exceed 20:1 shall be required. On-site lighting shall be of a pedestrian scale and of a continuous style that is maintained throughout the Design District.

c. Lighting Equipment: All street and pathway lighting equipment shall be approved by the approval authority.

d. Shielding of Lighting from Adjoining Properties: Lighting shall be designed so that light is directed away and screened from adjoining residential properties and/or streets.

16. No outdoor storage is allowed.

17. No Drive through businesses are allowed in the West Lake Grove Design District.

18. Storm drainage and surface water management facilities shall be required pursuant to Articles 50.40 and 50.41 and shall ensure storm water is not directed onto adjacent residential neighborhoods.

50.67.025 Design Standards for the Office Commercial/High Density Residential (OC/R-2.5) Zone.

1. Purpose.

The purpose of this zone is to provide for the development of office commercial land uses along with opportunities for attached town home residential housing. Housing may occur in the same building as office uses. The design character and theme of this district is intended to foster a residential architectural character, site design and scale.

2. Required Design Elements

a. Development within this district shall create a viable pedestrian scale streetscapes and public places inclusive of pedestrian ways, parking areas, interior courtyards and public and private spaces. These areas shall be designed to foster the comfort and enjoyment of pedestrians and other users. In addition the streetscape/public place shall provide for "layers" of design elements such as benches and walls, landscaping, street trees and walkways. Windows should be numerous and placed at the pedestrian level to provide building occupants with a visual connection to the streetscape/public place.

Dwelling units shall provide connections to the streetscape/public place with design elements such as balconies and windows.

b. Building design shall foster interest and compatibility between adjoining buildings through appropriate scale relationships. This shall be accomplished through a combination of the following:

i. Exterior building wall designs that provide distinct and separate areas with balconies and/or dormers;

ii. Setting back parts of the facade to reduce the mass of large buildings or row of attached dwellings;

iii. Architectural features that provide a variety of harmonious colors, textures, material changes in rooflines eaves, gables, trim details, bay windows, balconies and verandas.

c. The expanse of large facades and building planes shall be broken down both horizontally and vertically into smaller units through a mix of the following design elements:

i. Recessed or projected entries and porches;
ii. Mixing roof gables and eaves facing on public sides of the building(s);
iii. Appropriate use of windows to provide scale;
iv. Dormers to break up roof expanses, and;
v. Balconies.

50.67.030 Design Standards for the Neighborhood Commercial/Office Commercial (OC/NC) Zone.

1. Purpose.

This zone is intended to provide for a mix of professional office and neighborhood commercial uses to serve the frequently reoccurring needs of the Lake Grove and Rural Lake Grove Neighborhoods and serve as an activity focus for the West Lake Grove Design District.

2. Required Design Elements.

a. The design theme of the OC/NC zone is intended to reflect the residential character and scale of the surrounding OC/R-2.5 and R-2.5 zones through the incorporation of common building elements and to also create a store-front character. This shall be achieved through the use of design elements and features in Sections 50.67.020 and 50.67.025(2) above.

b. The architecture of buildings shall establish a strong design relationship to one another to create a visually compatible ensemble. This relationship shall be especially reinforced at all four corners of the intersection of Boones Ferry Road and West Sunset Drive (Appendix 50.67-A, Figures 4 and 5).

c. A clear visual distinction shall be made between the pedestrian oriented ground floor and upper stories through the use of an ample cornice above the first floor, a change of building materials, a row of clerestory windows, arcade or overhang;

d. Main public entrances shall be located directly off a sidewalk abutting the public street. Entries shall be sheltered and emphasized through the use of canopies or overhangs (Appendix 50.67-A, Figures 4 and 6).

50.67.035 Design Standards for the Town Home Residential Zone (R 2.5).

1. Purpose.

The purpose of this zone is to provide for the development of medium density town home residential housing. The design character and theme of this zone is intended to foster a residential architectural character, site design and scale which is harmonious with the surrounding office, commercial and single-family residential districts.

2. Design Elements.

a. Future development in this zone shall create a viable pedestrian scale streetscape, or public place which includes pedestrian ways, parking areas, interior courtyards and public and private spaces which are designed to foster the comfort and enjoyment of pedestrians and other users.

b. The streetscape/public place shall provide for "layers" of design elements such as benches, walls, landscaping, street trees and walkways.

c. Building design shall foster interest and compatibility between adjoining buildings through appropriate scale relationships. This shall be accomplished through a combination of the following design elements:

i. Exterior building wall designs that provide distinct and separate areas with balconies and/or dormers;

ii. Setting back parts of the facade to reduce the of a row of attached dwellings;

iii. Architectural features that provide a variety of harmonious colors, textures, material changes in rooflines, eaves, gables, trim details, bay windows, balconies, porches and verandas.

d. The expanse of large facades and building planes shall be broken down both horizontally and vertically into smaller units through a mix of the following design elements:

i. Recessed or projected entries and porches;
ii. Mixing roof gables and eaves facing on public sides of the building(s);
iii. Appropriate use of windows to provide scale, where the amount of fenestration or glazing shall be proportional to the mass of the building facade;
iv. Dormers to break up roof expanses, and;
v. Balconies or projected bays.

50.67.040 Design Standards for the R-2.5/W (Live/Work) Zone.

1. Purpose.

The purpose of this district is to provide an opportunity for persons to operate a business out of their residence consistent with the range of professional office, retail and service uses allowed within the Office Commercial/Neighborhood Commercial (OC/NC) zone.

2. Required Design Elements.

a. The design theme of the R-2.5/W zone is intended to reflect the residential character and scale of the surrounding OC/R-2.5 and R-2.5 zones. Buildings shall also incorporate design elements which reflect the store-front character of the adjacent OC/NC zone.

b. The residential character and theme shall be reinforced through the application of design elements and features listed in Sections 50.67.025 and 50.67.035 and supplemented by the following;

i. Building walls shall create a visual relationship between activities within the building and the streetscape by:

(1) The use of transparent windows and doorways which allow views into and from the portion of a building that is used as a business, and;

(2) Awnings, fixed overhangs, arcades and recessed entries to provide dimension and a sheltered transition between the sidewalk and buildings;

ii. On-street parking and regularly spaced street trees shall be provided to separate the pedestrian and sidewalk activities from moving traffic and create a well-defined pedestrian corridor.

iii. The architecture of buildings within the zone shall establish a clear design relationship to one another to create a visually compatible ensemble.

iv. A strong visual distinction shall be made between the pedestrian oriented ground floor and upper stories through the use of an ample cornice above the first floor, a change of building materials, a row of clerestory windows and an arcade or overhang.

v. Main public entrances shall be oriented toward public street. Entries shall be sheltered and emphasized through the use of canopies or overhangs.

APPENDIX 50.67-A, FIGURES

Figure No.	Title
1	West Lake Grove Design District
2(a)	Auto Transportation and Circulation
2(b)	Internal Parking and Circulation Plan
2(c)	Pedestrian Facilities and Pathways
3(a)	Street Sections – West Sunset Street (Section A-A)
3(b)	Street Sections – West Sunset Street (Section B-B)
3(c)	Street Sections – Lower Boones Ferry Road (Section C-C)
3(d)	Walkway (Section D-D)
3(e)	Street Sections - Lower Boones Ferry Road (Section E-E)
4	Building Massing
5	Building Window Openings and Blank Walls
6	Building Rain Protection
7	Required Street Lighting

Article 50.68

Variances.

Section 50.68.005 (Reserved)

Section 50.68.010 Variance Standards.

1. The granting authority may grant a variance from the Code standards, except as prohibited by subsection 3, if it is established that:

A. The request is necessary to prevent unnecessary hardship; and,

B. Development consistent with the request will not be injurious to the neighborhood in which the property is located or to property established to be affected by the request; and,

C. The request is the minimum variance necessary to make reasonable use of the property; and,

D. The request is not in conflict with the Comprehensive Plan.

2. In evaluating whether a particular request is to be granted, the granting authority shall consider the following, together with any other relevant facts or circumstances:

A. Relevant factors to be considered in determining whether a hardship exists include:

i. Physical circumstances related to the piece of property involved.

ii. Whether a reasonable use similar to like properties can be made of the property without the variance.

iii. Whether the hardship was created by the person requesting the variance.

iv. The economic impact upon the person requesting the variance if the request is denied.

B. Relevant factors to be considered in determining whether development consistent with the request is injurious include:

i. An analysis of the physical impacts such development will have, such as visual, noise, traffic and the increased potential for drainage, erosion and landslide hazards.

ii. The perceptions of residents and owners of property in the neighborhood concerning the incremental impacts occurring as a result of the proposed variance.

C. A determination of whether the standards set forth in subsection (1) are satisfied necessarily involves the balancing of competing and conflicting interests. The considerations listed in subsection (2) A and B are not standards and are not intended to be an exclusive list of considerations. The considerations are to be used as a guide in the granting authority's deliberations.

D. Prior variances allowed in the neighborhood shall not be considered by the granting authority in reaching its decision.

3. No variance may be granted which will permit a use not permitted in the applicable zoning district or which will increase the allowable residential density in any zone.

Section 50.68.015 Classification of variances.

A variance which would allow development not in conformance with the requirements of the development standards may be granted.

1. Class 1

Class 1 includes minor variances which are small changes from the Code requirements and which will have little or no effect on adjacent property or users. Administrative approval by the City Manager of Class 1 variances may be granted.

Class 1 variances include:

a. Variances from setback requirements for single family dwellings and accessory structures.

b. Variances from setback requirements for structures other than those described in subsection (1)(a) of this section of two feet or less in side and front yards and five feet or less in rear yards.

c. Variances from minimum lot width or depth of five feet or less.

d. Variances in lot coverage, building height, or FAR for single-family residential dwellings and accessory structures.

e. Variations from maximum fence height restrictions.

f. Variation to 25 foot street frontage requirement.

g. Variation to the maximum grade of a private street or driveway.

h. Variation to 1,000 foot limitation on cul-de-sac length.

i. Variations from driveway width requirements.

j. Variation from the requirements for distance of driveways from intersections.

k. Omission of curb requirements.

l. Variation to requirement for fire truck access.

m. Variation in type of driveway.

n. Other similar variances to subsections (e) – (m).

2. Class 2

Class 2 includes variances which are significant changes from the Code requirements and are likely to create impacts on adjacent property or users. A Class 2 variance may be granted by the hearing body.

Class 2 variances include:

a. Variances from minimum lot width or depth of more than five feet;

b. Variances in setback requirements for structures other than those described in subsection (1)(a) of this section of more than two feet in side and front yards and more than five feet in rear yards;

c. Variances in lot coverage, building height, or FAR for other than single family residential dwellings and accessory structures.

d. Variance requests to allow the siting of a structure in the RP Zone or buffer or RC Protection area.

e. Variances to any requirement of this Code not expressly classified pursuant to subsections (1) or (2) of this section, or coming within the classification of similar variances in subsection (1)(n), except density and use restrictions.

3. The City Manager shall decide the classification of any variance application.

4. For Class 1 variances, the City Manager shall have the authority to require an applicant to fulfill the requirements of LOC 50.77.025 at his/her discretion. This authority is solely at the discretion of the City Manager and is not subject to appeal.

Section 50.68.020 Procedure for Review and Approval of Variances.

1. A Class 1 variance may be granted by the City Manager and considered under the procedures provided for minor developments set forth in Article 50.81. Class 2 variances may be granted after consideration at a public hearing held by a hearing body pursuant to Articles 50.82 and 50.83. An application for a Class 2 variance shall also be processed pursuant to the minor development procedures, however, the decision on the application is to be made by a hearing body and not the City Manager. However, any variance which is being requested as a part of a major development approval shall be considered in that process and not as prescribed by this section. For either type of variance, the granting authority must determine that the requirements of LOC 50.68.010 are met.

Article 50.69

Conditional Uses.

Section 50.69.005 Intent and Purpose; Effect of Use Under Prior Code Which Is Conditional Under Current Code.

1. A conditional use is an activity which is permitted in a zone but which, because of some characteristics which are not entirely compatible with other uses allowed in the zone, cannot be permitted outright. A public hearing and review of the proposed conditional use by the hearing body and the imposition of conditions, if necessary, is intended to insure that the use proposed will be as compatible as practical with surrounding uses, and is in conformance with the purposes and requirements of the district, if any, and with other applicable criteria and standards of the City.

2. An alteration in a use which was classified by the prior zoning code as a permitted use that is by this Code classified as a conditional use shall conform to the requirements of this Code.

3. A use that existed before the December 16, 1982 which is permitted only upon receiving a conditional use permit under the terms of this Code is not a non-conforming use, but is without further action to be considered a conforming use

Section 50.69.010 Authorization to Permit or Deny Conditional Uses.

1. An application for a conditional use shall be allowed if:
   a. The requirements of the zone are met; and
   b. Special conditions found in 50.69.050 to 50.69.085, if applicable, are met; and,
   c. The site is physically capable of accommodating the proposed use; and,
   d. The functional characteristics of the proposed use are such that it can be made to be reasonably compatible with uses in its vicinity.

2. In permitting a new conditional use, or the modification of an existing conditional use, the hearing body, or the City Manager in the case of a minor modification, may impose conditions which are suitable and necessary to assure compatibility of the proposed use with other uses in the vicinity. These conditions may include, but are not limited to:
   a. Limiting the manner in which the use is conducted, by restricting the time an activity may take place and by minimizing such environmental effects as noise, vibration, air pollution, glare and odor;
   b. Establishing a special yard, setback, lot area or other lot dimension.
   c. Limiting the height, size or location of a building or other structure.
   d. Designating the size, number, location and design of vehicle access points.
   e. Increasing roadway widths, requiring street dedication, and/or requiring improvements within the street right-of-way.
   f. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area.
   g. Limiting or otherwise designating the number, size, location, height and lighting of signs.
   h. Limiting the location and intensity of outdoor lighting, requiring its shielding, or both.

i. Requiring berming, screening or landscaping and designating standards for its installation and maintenance.

j. Designating the size, height, location and materials for fences.

k. Protecting and preserving existing trees, soils, vegetation, water resources, wildlife habitat or other significant natural resources.

l. On and off-site public improvements.

The number of residential units allowed by the provisions of this Code on a site may be reduced only if it is found that development to that number will result in a violation of the standards stated in subsection 1 of this section.

Section 50.69.015 Procedure.

1. Application.

Application for a conditional use shall be made on forms provided by the City for that purpose and shall be signed by the property owner, or shall be accompanied by the owner's written authorization. The application shall include.

a. Name, address and telephone number of applicant,

b. Map number and/or subdivision block and lot.

c. Narrative concerning the proposed request explaining how the applicable criteria are complied with.

d. Copy of deed, signed earnest money agreement, or other document showing ownership or interest in property.

e. Vicinity map.

f. Comprehensive Plan and zoning designations.

g. One map showing existing uses and a second map drawn in the same scale showing proposed development, placement of lot lines, etc. A survey map is not required.

h. Detailed plans for the specific project (working drawings are not required).

i. Names and addresses of property owners whose property is within 300 feet of the applicant's property which is the subject of the application or contiguous property owned by the applicant.

j. Proof of payment of the applicable fees.

k. Additional drawings, topographic surveys, photographs or other material necessary to understand the proposed use, and of its relationship to surrounding properties, may be required. The City Manager shall determine the completeness of an application within seven days. Variances may be applied for and considered concurrently with a conditional use application. All notifications for the conditional use application or hearing shall specifically state that variances have been applied for and clearly describe the proposed variances in terms understandable to a person of ordinary intelligence.

2. The City Manager shall prepare a report to the hearing body evaluating the application for conformance with applicable requirements and standards, including the City Manager's recommended conditions of approval and commission action. The staff report shall be made available to the applicant, the hearing body, the public and the affected recognized neighborhood association, not less than 10 days prior to the public hearing. The staff report shall contain factual findings and information supporting its conclusions and recommendations.

3. The hearing body shall hold a public hearing within approximately 30 days of the filing of a completed application for conditional use in accordance with the hearings and notification

procedures in Articles 50.82 and 50.83..

LOC 50.69.020. Modification of Conditional Use Permit

A request by the conditional use permit holder to substantially modify a conditional use permit shall be processed in the same manner as a request for a conditional use permit. Minor modifications of permits may be approved by the City Manager. The criteria set forth in LOC 50.17.030 shall be used by the City Manager in determining whether a request to modify is substantial or minor.

LOC 50.69.025 Abandonment of Conditional Use Permit

1. A conditional use permit shall be void after two years if 15% of the structural construction has not occurred pursuant to the approval. The two year limitation does not apply to permits issued for major public facilities.

2. If a use operating pursuant to a conditional use permit is discontinued for a period of at least six months, any further use of the property shall conform to the requirements of this Code. Such a conditional use shall not operate without first obtaining a new conditional use permit.

LOC 50.69.030 Review of Conditional Use Permits; Amendment and Revocation Procedures.

1. Uses operating pursuant to a conditional use permit may be reviewed to determine whether or not the conditions applied are continuing to be met.

2. The hearing body is authorized to amend a conditional use permit or to provide for further conditions to more adequately assure compatibility of such uses to adjacent land uses, public facilities or other requirements of this Code, or to terminate a permit, if it is found that the applicable requirements or conditions are not being met.

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 50.86.030.

3. (a) Amendment or revocation pursuant to subsection 2 may only occur after a hearing before the hearing body at which the permit holder and interested persons have been given an opportunity to be heard on the question. This procedure is not exclusive and is in addition to any other procedure allowed by law.

b. The owner of record of the affected property shall be notified, by certified mail, and notice shall be posted on or within 50 feet of the property not less than 10 days prior to the date of the hearing of the public hearing. The notice shall specify the non-conformance alleged and the actions which may be taken if non-conformance is confirmed.

c. The hearing body shall hold a hearing pursuant to the provisions of LOC Article 50.82. 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 50.86.030 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 Article 50.84.

d. The hearing body's action shall be transmitted to the owner of the affected property by mail, together with an explanation of the procedures for appeal to the City Council.

Section 50.69.050 Specific Standards for Churches, Convent and Related Facility.

1. Access streets have capacity to carry the projected traffic volumes.
2. The site has adequate area for proposed parking needs.
3. The structure may exceed the maximum height limitation of the zone, to a structure height of no more than 50 feet, provided that the FAR for the project does not exceed 1.5 : 1 and the requirements of subsection 4 are met.
4. The lot is sufficient size to allow all required yards to be equal to at least two-thirds the height of the principal structure.
5. Public services are adequate to serve the facility.

Section 50.69.055 Specific Standards for Nursing or Convalescent Homes or Other Facilities Classified by the State Department of Health as Long-Term Care Facilities and Covered Under OAR Chapter 333, Division 23, Sections 700-796; the State Fire Code and Chapter 10 of the Uniform Building Code; All Referenced State Rules or Codes as Now or Hereafter Constituted.

1. Public services are adequate to serve the facility.
2. Facilities will access on arterial or collector streets.
3. Setbacks are the greater of 25 feet or the setback in an adjacent residential zone.
4. Maximum height shall not exceed 45 feet.
5. Buffering of noise and light from adjacent streets and between adjacent properties may be required.
6. Sites which could cause hazard to disoriented patients through proximity to heavily traveled streets, water hazards or ravines or steep slopes shall not be approved unless the applicant can satisfy the Commission that safety measures will be used to prevent injury to patients.
7. On parcels surrounded by existing dwellings, additional conditions may be necessary to:
   a. Mitigate the effects of traffic caused by shift changes, particularly regarding noise at night, and safety of school children in transit.
   b. Maintain neighborhood scale, particularly regarding size of structure, width of driveway, signs, exterior lighting and placement of parking facilities.
8. Conversion of existing dwellings may be allowed if State Codes and rules can be met and the conditions of this section are satisfied.

Section 50.69.060 Specific Standards for Schools.

(Public, private or parochial, elementary, secondary, preschools, nursery schools, kindergartens and day-care centers are included.)

1. Public elementary or secondary schools shall provide the site area/pupil ratio required by State law. Other schools shall provide one acre of site area for each 75 pupils of capacity or for each two and one-half classrooms, whichever is greater except as provided in subsection 2.
2. Preschools, nursery schools, day-care centers or kindergartens shall provide a fenced, outdoor play area of at least 75 sq. ft. for each child of total capacity, or a greater amount if so provided by State law. In facilities where groups of children are scheduled at different times for

outdoor play the total play area may be reduced by one-half.

3. Walkways, both on and off-site, will be provided as necessary for safe pedestrian access to schools.

4. Sight-obscuring fence of four to six feet in height shall be provided to separate the play area from adjacent residential uses.

5. Public services are adequate to serve the facility.

6. Safe loading and ingress and egress will be provided on and to the site.

Section 50.69.065 Specific Standards for Telecommunications Facilities in Residential Zones.

In addition to compliance with the approval standards in LOC Section 50.30.015(4) and (5) and the general conditional use criteria in LOC 50.69.010, telecommunications facilities designated as a conditional use shall comply with the following standards:

1. New telecommunications facilities shall not be located on a parcel containing an existing single family dwelling, duplex, rowhouse or zero lot line dwelling.

2. Antenna(e) must be located no closer than 35 feet from any habitable structure. Tower guy anchors must meet the normal setbacks of the underlying zone.

3. If the proposed facility will exceed the 50 foot height limitation of the Lake Oswego Charter in a residential zone, the applicant shall demonstrate that:

   i. The facility could not feasibly be located outside of a residential zone;

   ii. There are no alternatives available to meet the required coverage area; and

   iii. The height is no taller than necessary to provide adequate transmission.

Section 50.69.070 Specific Standards for Major Public Facilities and Institutional Uses Not Covered by Other Specific Standards.

1. Utilities, streets or other necessary improvements to the public facility or institutional use shall be provided by the agency constructing the use.

2. When located in a residential zone, access should be located on a collector street if practical. 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 2.

3. When located in a residential zone, lot area shall be sufficient to allow required yards which are at least two-thirds the height of the principal structure.

4. The height limitation of a zone may be exceeded to a maximum height of 50 feet provided the FAR does not exceed 1.5 : 1 and subsection 3 is met.

5. Noise generating equipment shall be sound buffered when adjacent to residential areas.

6. Lighting shall be designed to avoid glare on adjacent residential uses.

7. Levels of operations shall be adjusted to avoid conflict with adjacent uses where practical.

Section 50.69.075 Specific Standards for Conditional Uses Listed in Commercial or Industrial Zones and Not Covered by other Specific Standards.

1. 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.
2. Public services are or can be provided at the site.
3. All outdoor lighting except security lighting shall be extinguished at the close of business hours.
4. Any adverse impacts on adjoining residential uses such as noise, lights, loss of privacy will be mitigated by landscaping, screening or increased setbacks.
5. Parking shall meet the parking standards and may be increased if additional spaces are shown to be necessary.
6. For retail tire, batteries and accessory sales, the following criteria also apply.
   a. Must be located on an arterial street;
   b. Must be within one mile by road of an I-5 interchange.
   c. 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;
   d. 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;
   e. Only one two-way access to the arterial is allowed. A one-way internal street with two access points located at least 100' apart may be approved as an alternative.

Section 50.69.080 Specific Standards for Non-profit Conditional Uses in Certain Zones.

An application for a conditional use permit to locate a non-profit social, recreational, educational, or cultural facility or use such as recreational sites, community centers, swimming pools, tennis courts and similar uses, in the R-0, R-3 or R-5 zone 50.06.010(5) shall comply with the following standards.

1. The proposed facility or use shall be located on property adjacent on at least one side to a property of equal or larger size that is already developed with a non-profit use permitted outright or as a conditional use in the zone.
2. Members of the organization proposing and which will use the non-profit facility or use shall reside in adjacent planned developments or within 1/4 mile of a planned development with participating residents and shall not be separated from the proposed development or each other by a freeway, a major or minor arterial or the urban service boundary of the City of Lake Oswego.
3. Adequate utilities, streets or other improvements shall be provided by the developer of the facility or use.
4. When located in a residential zone, lot area shall be sufficient to comply with the lot coverage, setbacks and yards required by the zone.
5. Sound barriers, buffers or reduction techniques shall be required for noise generating activities, facilities or equipment located on properties adjacent to residential areas.
6. Lighting shall be designed to avoid glare on adjacent residential uses.
7. The time, manner or nature of operation shall be adjusted to avoid conflict with adjacent

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.

1. Public services are adequate to serve the facility.

2. The site has adequate area for the anticipated parking needs or off-site, shared use parking is available within 500 feet of the site.

3. 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 3.

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

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

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

7. 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.

Section 50.69.090 Specific Standards for Conditional Uses in the R-2 and R-6 Zones.

In addition to the criteria contained in Article 50.85 (Conditional Uses), an application to establish a new conditional use in the R-2 or R-6 zones must comply with the following criteria:

1. 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.

2. If the street upon which the new use will be located is an arterial or collector and is currently operating with in 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.

3. 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 divide by 2000 in the R-2 Zone or 6000 in the R-6 zone.

4. 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 across to the local street would improve public safety

or traffic management when compared to access from the available collector or arterial.

Article 50.70

Non-Conforming Uses.

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

1. A use or structure is considered a nonconforming use or structure if the use or structure was lawfully established, but does not comply with or would not be permitted to exist under a subsequent enactment or amendment to this Code.

2. a. A use or structure for which a variance was granted under the zoning code provisions is not considered non-conforming solely by the fact that the characteristic of the use or structure for which the variance was granted fails to comply with the requirements of this Code.. The existence of such variance does not prevent the use or structure from being classified as non-conforming if some other characteristic of the use or structure fails to comply with the requirements of this Code..

b. A residential structure which is classified as a non-conforming structure by this section may be enlarged, expanded or reconstructed in a manner which does not increase the degree of non-conformity.

3. Subject to the provisions of this Article, and except as otherwise provided by this Code., a non-conforming use or structure may be continued and maintained in reasonable repair so long as it remains otherwise lawful, but it shall not be altered in a manner to enlarge or expand or reconstruct the use or structure.

Cross Reference: Section 50.69.005(3) Uses Under Conditional Use Provisions Not Non-Conforming Uses.

Section 50.70.010 Discontinuance of a Non-Conforming Use.

If a non-conforming use is discontinued for a period of at least six months, further use of the property upon which the use was located shall conform to the requirements of this Code.

Section 50.70.015 Applicability to Approvals, Incompleted Construction.

This Code does not require any change in plans, construction or use of a non-conforming use or structure for which a final development approval, of a type listed below, was received prior to the date that the use or structure became nonconforming if construction of project structures, or completion of the development where no structures are involved, is completed and use established no later than one year after the date that the use or structure became non-conforming, or in accordance with an approved development schedule. The type of approvals effected by this section are:

1. A major development,
2. A minor development not requiring a building permit, or
3. A building permit.

All rights granted by this section are extinguished if the development permit or building permit is revoked or for any reason becomes void. The structure or use shall thereafter conform

to all applicable provisions of this code.

All rights granted by this section are extinguished if a development permit or building permit is revoked or for any reason becomes void. The structure and use shall thereafter conform to all applicable provisions of this Code.

Section 50.70.020 Destruction, Movement and Replacement of Structures.

1. If a non-conforming structure is damaged or destroyed by any means to the extent that the cost of rebuilding the damaged portions would exceed 50% of the then current replacement cost of the entire building, the rebuilding shall conform fully to City Codes and Standards. Determination of the rebuilding costs shall be made by the City Manager, who may utilize an appraisal or other suitable method to determine current replacement costs. If the damage is 50% or less of the current replacement costs, the rebuilding or reconstruction need not comply with the terms of this Code only to the extent that the destroyed portions of the structure failed to conform. In order to utilize the rights granted by this subsection the reconstruction must be commenced within one year of the date of the damage and completed within two years of such date.
2. If a non-conforming use is moved for any reason from the property on which it is located for any distance it shall thereafter conform with the requirements of this Code.

Section 50.70.025 Expansion of Non-Conforming Industrial or Commercial Uses or Structures.

A non-conforming industrial or commercial use or structure located in a commercial or industrial zone may be altered, enlarged or expanded after a conditional use permit has been issued for such activity.

Section 50.70.030 Repairs and Maintenance.

On any non-conforming structure or portion of a structure containing a non-conforming use, normal repairs or replacement on non-bearing walls, fixtures, wiring, or plumbing may be performed in a manner not in conflict with the other provisions of the City Code. Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 50.70.035 (Reserved)

Section 50.70.040 Non-Conforming Characteristics of Use.

Any matter regulated by this Code not directly related to a structure or type of use, that does not conform to the requirements of this Code may continue, but shall not be increased, enlarged, expanded or reconstructed. Any changes in such characteristics of use must not increase the nonconformity, but may take place to decrease the non-conformity. The rights granted by this

section do not apply to the matters regulated by LOC 50.21.005 (vision clearance). Any characteristics of use existing on December 16, 1982 which does not comply with LOC 50.21.005 must conform by December 16, 1983.

Article 50.71

Overall Development Plan and Schedule.

Section 50.71.005 Phasing of Major Development.

A major development may be planned and constructed in phases. A separate development permit shall be approved for each phase.

Section 50.71.010 Overall Development Plan and Schedule (ODPS).

1. Development permits for individual phases within a major development shall be approved and conditioned in accordance with the ODPS. Development permits for each phase shall assure that the development plans conform to the ODPS, as well as the Comprehensive Plan and Development Standards.

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

Section 50.71.015 Purpose of Overall Development Plan and Schedule.

The purpose of the ODPS is to:

1. Assure that the proposed development, considered as a whole, will conform to the Comprehensive Plan and Development Standards;

2. Assure that individual phases will be properly coordinated with each other and can be designed to meet the Development Standards;

3. Provide preliminary approval of the land uses, maximum potential intensities or densities, arrangement of uses, open space and resource conservation and provision of public services of the proposed development; and

4. Provide the developer a reliable assurance of the City's expectations for the overall project as a basis for detailed planning and investment.

Section 50.71.020 Density Bonus Within Phased Development.

Density bonuses, identified and allowed by the Zoning Code and Development Standards, may be granted for any phase of a development provided the cumulative bonuses for any total development may not exceed, by more than 25%, the density and intensity determination of the ODPS.

Section 50.71.025 Application Procedure.

1. Prior to submitting an application the applicant will schedule one or more preapplication conferences with staff. A check list of items discussed shall be compiled during the conference.

The applicant shall receive a copy of the check list.

2. The application shall be submitted at least 30 days prior to the requested hearing date. Such application shall include:

a. Vicinity map.

b. Maps and narrative indicating present use of land, including all natural and man-made features. A survey is not required.

c. Maps and narrative indicating types and location of land uses to be provided including park and open space sites or other reserved land.

d. General layout of streets, utilities and drainage management measures including areas reserved for water improvements.

e. General layout or siting of public transit, bicycle and pedestrian circulation.

f. Maps and/or narrative showing off-site improvements necessary to serve the proposed development.

g. An overall schedule of phasing; and the development to occur in each phase.

h. The City Manager may require additional information related to the particular circumstances of an ODPS. All maps except vicinity and detail maps shall be at the same scale.

3. Upon receipt of the application the City Manager shall review for completeness and shall accept or return with a written list of omissions within seven calendar days of the date of filing. The date of acceptance of the completed application shall be noted on all documents.

Section 50.71.030 Review of ODPS.

The City Manager shall review the ODPS for conformance with the Comprehensive Plan, the zoning code and this Code.

Within seven calendar days after acceptance of the complete application the City Manager shall determine whether the information in the ODPS is adequate to allow the Planning Commission or the Development Review Commission to make the determinations required by LOC 50.71.035. If the information is insufficient the applicant shall be so informed by written notice listing the deficiencies. If the information is adequate the City Manager shall submit a report with comments, recommendations and recommended conditions to the Planning Commission or the Development Review Commission.

Section 50.71.035 Hearing Body Action.

The appropriate hearing body shall consider the ODPS at a public hearing conducted pursuant to Article 50.83 and notice shall be given in accordance with LOC 50.82.020. The hearing body shall approve the proposed ODPS only if it finds that the plan and schedule will satisfy the requirements of LOC 50.79.035, and,

1. Provides an overall general site plan which is properly related to and preserves natural features and resources consistent with the provisions of this Code,

2. Provides for land uses and intensities that are consistent with the provisions of the Comprehensive Plan, this Code, and with the planned capacities of public facilities,

3. Provides clear guidance for the specific design and coordination of future phases.

Section 50.71.040 Content of the Approved Final Overall Development Plan and

Schedule.

The approved overall Development Plan and Schedule shall consist of the following documents:

1. A site plan showing location and type of all land uses proposed, approximate acreage and approximate number of units or square footage of uses.
2. A general utility plan showing streets, utilities, drainage management measures, bike and pedestrian ways and transit locations.
3. A statement acknowledging need for off-site improvements as required.
4. A schedule of the overall phasing and development to occur within each phase.

These documents shall be prepared subsequent to hearing body approval and shall be approved by the City Manager. If the City Manager finds that the final submittal does not accurately reflect the hearing body action, then the documents shall be returned to the hearing body for approval.

Upon approval, the documents will be stamped "Approved Final Plan" and filed in the ODPS project file.

Section 50.71.045 Changes to the Overall Development Plan and Schedule.

The City Manager shall have the authority to approve minor changes to the ODPS, including the transfer of densities within the project as a whole, which do not change the overall land uses, densities, amount of open space, decrease public facility capacities or affect the relationship of the development to adjacent land uses. Any other changes must be processed as a new application pursuant to this Article.

[Chapters 72-74 reserved]

Article 50.75

Legislative Decisions.

Section 50.75.005 Legislative Decisions Defined.

1. A "Legislative Decision" is an amendment to the policies, procedures, standards, criteria or Map designations of the Comprehensive Plan, and this Community Development Code, unless such amendment applies to a small number of identified properties only or is required to effect a particular development permit application.

2. An amendment to the policies, procedures, standards, criteria or Map designations of the Comprehensive Plan, or this Community Development Code which is not a "legislative decision" as defined in subsection 1 of this section shall be considered "quasi-judicial" and shall be processed as a major development.

Section 50.75.010 Criteria for a Legislative Decision.

A legislative decision is generally a policy decision which is up to the discretion of the City Council, but shall:

1. Comply with any applicable state law;

2. Comply with any applicable Statewide Planning Goal or Administrative Rule adopted pursuant to ORS Chapter 197; and

3. In the case of a legislative amendment to this Community Development Code, comply with any applicable provision of the Lake Oswego Comprehensive Plan.

Section 50.75.015 Required Notice to DLCD.

1. Except as provided by subsections 2 and 3 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 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.

2. Advance notice to the Director of DLCD is not required when the City determines that the Statewide Planning Goals do not apply to the proposed amendment or new regulation.

3. The City may submit the proposed amendment or new regulation with less than 45 days' notice where the City determines an emergency exists requiring expedited review.

4. Not later than five working days following a final decision pursuant to subsections 1, 2 or 3 of this section, the City shall mail a copy of the adopted text and the findings to the Director of DLCD. If the text of the amendment as adopted differs substantially from that sent to the Director of DLCD pursuant to subsection 1 of this section, the City Manager shall note the changes that have been made in the notice to the Director of DLCD. If the text and findings are mailed, they shall include a signed statement by the person mailing them indicating the date of

deposit in the mail.

5. On the same day that the text and findings are mailed or delivered, pursuant to subsections 1, 2 or 3 of this section, the City shall also mail notice of the decision to all persons who participated in the hearings leading up to the decision who have filed a written request for notice of the final decision with the City Recorder. The notice shall:

a. Briefly describe the decision;

b. State the date of the decision;

c. If delivered by mail, include a certificate of mailing containing a statement signed by the person mailing it indicating the date the notice was deposited in the mail;

d. State the date, time and place where the decision, including the text and the findings, may be reviewed; and

e. Explain the requirements for appeal of the decision pursuant to ORS 197.830 to 197.845.

Section 50.75.020 Planning Commission Recommendation Required.

1. Except in cases where a legislative amendment is mandated by state statute, a legislative decision shall be referred to the Planning Commission for review and recommendation. In cases where a legislative amendment is mandated by state statute, referral to the Planning Commission for review and recommendation is not required. If an amendment is not referred to the Planning Commission for review and recommendation, a copy of the proposed amendment shall be sent to the Planning Commission, along with notice of the City Council's hearing on the proposed amendment. In cases where part of a proposed amendment is mandated by state statute but part is not, the legislative decision shall be referred to the Planning Commission for review and recommendation pursuant to this section.

2. The Planning Commission shall hold at least one public hearing on the proposed legislative decision.

3. Notice. Notice of a Planning Commission 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:

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.

4. Conduct of the hearing. The Chair of the Planning Commission shall follow the following procedures when conducting a legislative decision hearing:

a. The Chair shall briefly explain the nature of the legislative decision.

b. The Chair shall call for the staff report. The staff shall explain the applicable criteria, if any, and the reasons for the proposed legislative amendment.

c. The Chair shall open the public hearing and take testimony or evidence presented. Any person may appear and be heard.

d. The Chair shall close the public hearing and return the matter to the table for deliberation and decision. The hearing body may ask questions of staff or any member of the public during deliberations.

5. Time Limits on Testimony. The following time limits on testimony shall be observed,

subject to the right of the Chair, with Planning Commission consent, to modify or waive the time limits: 5 minutes each for individuals and 10 minutes each for recognized neighborhood organizations, homeowner associations, government or governmental agency or other incorporated public interest organizations. The time limits shall not include time taken up by questions and response from the Planning Commission. Any person in attendance may cede his or her time for testimony to another person, but in no case shall any person's testimony be increased to greater than 10 minutes.

6. Recommendation of Planning Commission. The Planning Commission shall make a preliminary decision recommending enactment, enactment with modifications, or rejection of the proposed amendment. Within a reasonable time after making its preliminary decision, the Planning Commission shall adopt an order setting forth its recommendation and explaining the reasons for its decision.

7. A final recommendation of the Planning Commission shall be forwarded to the Council for review.

Section 50.75.025 City Council Review and Decision.

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

2. Notice. Notice of a City Council 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, 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.

3. Conduct of the hearing. The Mayor shall follow the following procedures when conducting a legislative decision hearing:

a. The Mayor shall briefly explain the nature of the legislative decision.

b. The Mayor shall call for the staff report. The staff shall explain the applicable criteria, if any, the Planning Commission's recommendation, and the reasons for the proposed legislative amendment.

c. The Mayor shall open the public hearing and take testimony or evidence presented. Any person may appear and be heard.

d. The Mayor shall close the public hearing and return the matter to the table for deliberation and decision. The Council may ask questions of staff or any member of the public during deliberations.

4. Time Limits on Testimony. The following time limits on testimony shall be observed, subject to the right of the Mayor, with Council consent, to modify or waive the time limits: 5 minutes each for individuals and 10 minutes each for recognized neighborhood organizations, homeowner associations, government or governmental agency or other incorporated public interest organizations. The time limits shall not include time taken up by questions and response from the Council. Any person in attendance may cede his or her time for testimony to another person, but in no case shall any person's testimony be increased to greater than 10 minutes.

5. Decision. The Council may approve, reject or modify the proposed amendment in whole or in part. Within a reasonable time after making its preliminary decision, the Council shall adopt findings setting forth its decision and explaining the reasons for such decision. The legislative decision shall be enacted by ordinance. The Ordinance adoption procedures of the Lake Oswego Charter shall be followed.

6. When Decision Becomes Final For Purposes of Appeal. The legislative decision shall become final for purposes of appeal on the date of enactment of the ordinance pursuant to the Lake Oswego Charter.

Section 50.75.030 Effective Date of Legislative Decision.

1. A legislative decision becomes effective on the 30th day from the date of enactment of the ordinance, or immediately if adopted by emergency, pursuant to the Lake Oswego Charter, unless a stay of application is granted by LUBA pursuant to ORS 197.845.

2. A decision on an application subject to a legislative amendment that is effective pursuant to subsection (1) of this section, but which has not been acknowledged pursuant to ORS 197.610 to 197.650, shall include findings of compliance with those statewide land use planning goals applicable to the legislative amendment. The issuance of a permit under an effective but unacknowledged comprehensive plan or land use regulation shall not be relied on to justify retention of improvements so permitted if the comprehensive plan or land use regulation does not gain acknowledgment.

Article 50.76

Development Application Hearing Procedure and Record

Section 50.76.010 Record of Proceedings,

1. The City Manager shall maintain a record of all proceedings on requests processed pursuant to this Code. The record of proceedings leading to approval of a request shall be maintained for a period of time to be determined by the City Manager, which shall not be less than two years from the date of the approval.

Section 50.76.015 Concurrent Hearings.

When more than one approval is sought for a particular property the City Manager may allow the requests to be processed concurrently. The City Manager may refuse to allow concurrent consideration if it is determined that such a process would be impractical or cumbersome, tend to create confusion before the hearing body or require a potentially unnecessary use of City resources.

Section 50.76.020 Jurisdiction of Hearing Body.

The hearing body shall be the Planning Commission, the Development Review Commission (DRC) or the Historic Resources Advisory Board (HRAB).

1. Except as provided by subsection 4 of this section, the Planning Commission shall hear:

a. Applications to develop pursuant to a mixed-use Overall Development Plan and Schedule (ODPS); and

b. Applications for a quasi-judicial zone change or quasi-judicial Comprehensive Plan or Code amendment.

2. Except as provided by subsection 4 of this section, the HRAB shall hear applications as provided by LOC Chapter 58 (Historic Preservation).

3. Except as provided by subsection 4 of this section, the Development Review Commission shall hear all other applications for a major development, including Conditional Use and single use ODPS applications and appeals of decisions of the City Manager on minor development applications.

4. Consolidated Review: If a person desires to apply for a development which requires hearings before the Planning Commission, DRC, and/or the HRAB, the City Manager may either consolidate the proceedings before one hearing body or schedule the hearings in such a manner that a decision on the development can be made within the time period for final action established by state law. The City Manager has the sole discretion to determine which hearing body shall hear the application. As a non-binding guideline, the City Manager should refer the consolidated proceeding to the Planning Commission if the City Manager believes that the application raises significant policy issues. The City Manager should refer the consolidated proceeding to the DRC if the City Manager believes the primary issue involves siting or design. The City Manager should refer the consolidated proceeding to the HRAB if the City Manager

believes that the primary issue involves a change or alteration to a property that has been placed on the Landmark Designation List pursuant to LOC Chapter 58.

Article 50.77

Application Requirements.

Section 50.77.005 Application for Development

An application for a ministerial, minor or major development shall be made on such forms and contain such information as the City Manager may require.

Section 50.77.007 Burden of Proof.

The applicant for a development permit shall bear the burden of proof that his or her application complies with all applicable review criteria or can be made to comply with applicable criteria by imposition of conditions of approval.

Cross-Reference: See additional Greenway Management Overlay review – 50.15.010, if applicable].

Section 50.77.010 Method of Application.

An application for a development permit shall be filed with the City Manager. The City Manager may charge an application fee to process a development permit application.

Section 50.77.015 Signature on Application.

The applicant shall sign the application. If the applicant is not the owner of the property subject to the development application, the property owner shall authorize the application in writing before the City Manager may accept the application for review. For the purposes of this section, "owner" includes a public body or public agency with authority to exercise the power of eminent domain.

Section 50.77.020 Preapplication Conference.

1. A preapplication conference with the City Manager is required for the following development permit applications:
   a. Minor developments described in LOC 50.79.020 (2)(f)(g).
   b. Major developments described in LOC 50.79.030 (2)(d) through (h).
2. A preapplication conference is not required for other development applications, but may be scheduled at the request of the applicant or when required by the City Manager.
3. The purpose of the preapplication conference is to discuss the proposal, the applicable criteria and the requirements for completing an application.

Section 50.77.025 Neighborhood Contact Required for Certain Applications.

Prior to submittal of an application for a partition, subdivision or a major development, the applicant shall contact and discuss the proposed development with any affected neighborhood as provided in this section. The City Manager may require neighborhood contact pursuant to this section prior to the filing of an application for any other development permit if the Director deems neighborhood contact to be beneficial.

1. Purpose. The purpose of neighborhood contact is to identify potential issues or conflicts regarding a proposed application so that they may be addressed prior to filing. This contact is intended result in a better application and to expedite and lessen the expense of the review process by avoiding needless delays, appeals, remands or denials. The City expects an applicant to take the reasonable concerns and recommendations of the neighborhood into consideration when preparing an application. The City expects the neighborhood association to work with the applicant to provide such input.

2. The applicant shall contact by letter all recognized neighborhood associations whose boundaries contain all or part of the site of the proposed development and all property owners and residents within 300 feet of the site. If no recognized neighborhood association is established, but one is in the process of forming, the applicant shall contact the forming association. For the purpose of this section, a "forming association" is a group that has approached the City in writing and begun the process to form a recognized neighborhood association, as determined by the City Manager.

3. The letter shall be sent by certified mail, return receipt requested, to the Chair of the neighborhood association or forming association, and shall be sent by regular mail to the other officers of the association and the residents within 300 feet. The letter shall briefly describe the nature and location of the proposed development, and invite the association and interested persons to a meeting to discuss the proposal in more detail. The meeting shall be scheduled during the evening after 6:00 p.m. or on the weekend not less than 20 days from the date of mailing of the notice. The meeting shall be held at a location open to the public within the boundaries of the association or at a public facility within the City of Lake Oswego. If the meeting is held at a private residence or business, it shall be posted at the time of the meeting as the meeting place and shall note that the meeting is open to the public and all interested persons may attend.

4. On the same date the letters described in subsections 1 through 3 of this section are mailed, the applicant shall provide and 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 that the site may be subject to a proposed development (e.g. subdivision, variance, condition use) and shall set forth the name of the applicant and a telephone number where the applicant can be reached for additional information. The site shall remain posted until the conclusion of the meeting.

5. An application shall not be accepted for filing unless and until the applicant demonstrates compliance with this section by including with the application:

a. A copy of the certified letter to the neighborhood association or forming association, with the a copy of return receipt;

b. A copy of the letter to officers of the association and to property owners and residents within 300 feet, including an affidavit of mailing and a copy of the mailing list containing the names and addresses of such owners and residents;

c. A copy of the required posted notice, along with an affidavit of posting; and

d. A copy of the minutes of the meetings, which shall include a record of any verbal comments received, and copies of any written comments from property owners, residents, and neighborhood association members. The applicant shall also send a copy of the minutes to the Chair of the neighborhood association. The Chair shall be allowed to supplement the record with any additional comments regarding the content of the meeting, as long as such comments are filed before the record is closed.

Section 50.77.030 Filing an Application; Determination of Completeness.

1. A minor or major development Application shall be filed along with the number of copies required by the City Manager, and the applicable filing fee.

2. The City Manager shall review the application and determine whether it is complete. A final decision on an application, including resolution of all appeals, shall be rendered within 120 days after the application is deemed complete pursuant to ORS 227.178 (referred to herein as the "120 Day Rule"). The City Manager shall mail a written notice of such determination within 30 days of the date of filing of the application. If the City Manager determines that the application is incomplete, the Director shall inform the applicant in the written notice of the additional information necessary to make the application complete. The application shall be deemed complete at such time as the additional information is submitted. The applicant shall have 180 days to complete the application. If the City Manager fails to mail notice of the determination within 30 days from the date of filing of an application the application shall be deemed complete on the 31st day following filing of the application for the purposes of the 120 Day Rule. If the applicant refuses to submit the additional information, the application shall deemed complete for the purpose of 120 Day Rule on the 31st day.

3. Nothing in this section shall be deemed to be a limitation on the City's ability to render a final decision on a land use application after the expiration of 120 days.

Section 50.77.035 Extensions or Continuances.

The applicant for a major or minor development may request an extension for filing a complete application or for a continuance of review of a complete application. A request for an extension or continuance shall be deemed a waiver of the 120 final action deadline contained in ORS 227.178 for the period of the extension or continuance, and for any additional time required for rescheduling or re-noticing review proceedings.

Section 50.77.040 Withdrawing an Application.

An applicant may withdraw an application at any time prior to adoption of a final City decision on the application. Proceedings on the application shall terminate as of the date of withdrawal. The City Manager may refund all or part of the application fee, depending on how much staff work had been completed at the time of withdrawal.

Article 50.79

TYPES OF DEVELOPMENT

AND REVIEW CRITERIA FOR EACH TYPE OF DEVELOPMENT

Section 50.79.005 Exempt Development Classification.

No development permit pursuant to this code is required for exempt development. Exempt Developments include:

1. Landscaping or landscape alterations, unless such landscaping or alterations would modify or violate a condition of approval of a prior permit. In such instance, the permit shall be processed as a modification of the prior permit.
2. Normal or emergency repair or maintenance of public or private buildings, structures, landscaping or utilities.
3. Construction of a structure that does not require a building permit.
4. Interior remodeling which does not change a structure's occupancy classification or change the structure to a use that does not qualify as a permitted use in the zone.
5. Exterior remodeling of a structure that does not require a building permit.
6. Street vacations.
7. Temporary structures and uses listed in LOC 50.14.010 or which are for relief of victims of disaster or in an emergency.

Cross Reference: Greenway Development District.

Section 50.79.010 Ministerial Development Classification.

1. A ministerial development is a development which requires a permit from the City where the decision:
   a. Is made pursuant to land use standards which do not require interpretation or the exercise of policy or legal judgment;
   b. Approves or denies a building permit issued under clear and objective land use standards; or
   c. Determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations.
2. Ministerial developments include:
   a. Exterior modification of single family detached dwellings, duplexes or zero lot line dwellings or modification of an accessory structure in the DD zone.
   b. Construction or exterior modification of a detached single family dwelling, duplex, zero lot line dwelling or a structure accessory to such structures which:
      i. Is not located within a delineated RP resource or buffer area [unless the applicant

desires to modify the buffer pursuant to LOC 50.16.070(3), in which case the application shall be processed as a minor development] or RC protection area pursuant to LOC Article 50.16.

ii. Does not impact an Historic Landmark designated pursuant to LOC Chapter 58.

iii. Does not change the nature of the use or occupancy classification to a use that does not qualify as a permitted use in the zone or as an approved conditional use; or

iv. Does not require special design review by the zone, design district, prior development approval or Overall Development Plan and Schedule (ODPS) for the development in which the subject property is located.

v. Is not located on weak foundation soils as identified in LOC 50.42.030(1).

vi. Is not located in a "Known Potential Severe Landslide Area" as defined in LOC 50.43.010.

vii. Is not located in "Areas of Special Flood Hazard".

c. Exterior modification of a structure other than a detached single family dwelling, duplex, zero lot line dwelling or structure accessory to such structures which:

i. Does not increase building footprint or height; or

ii. Does not modify more than 25% of the facade or, if the property abuts property zoned for residential use, does not modify any portion of the facade visible from the residentially zoned property; and

iii. Complies with LOC 50.79.010(2)(b)(i) through (vii).

d. Lot line adjustments which do not increase the allowable density on a site.

e. Resource enhancement projects in an RP or RC District.

f. Passive use recreational facilities within an RC or RP District if such a facility would otherwise qualify as a ministerial development.

f. Construction or alteration of public transportation or utility facilities consistent with the Comprehensive Plan and land use regulations and is not located in a delineated RP Resource or buffer or RC protection area pursuant to LOC Article 50.16.

g. Building permits for structures approved pursuant to a prior approved major or minor development.

h. A change of use from one permitted use to another that does not increase on-site parking or loading requirements or change access requirements pursuant to Article 50.55 and will not result in the construction or the increased use of private streets, driveways or parking lot aisles pursuant to Article 50.58.

i. Collocated Telecommunications Facilities.

j. Delineation of a resource boundary pursuant to LOC 50.16.035(5).

3. Ministerial decisions are made without notice or the opportunity for appeal.

Cross Reference: Greenway Development District.

Section 50.79.015 Review Criteria for Ministerial Developments.

A ministerial development shall comply with the requirements of the zone in which the subject lot or parcel is located, and shall comply with the following sections of the Development Standards:

1. LOC 50.55.010(1), (2), (7), and (8)(a)(i); 50.55.015; and 50.55.020.
2. Article 50.40.
3. LOC 50.43.015(3),(4),(5); 50.43.020; 50.43.030(5), (6), (7).

4. LOC 50.58.020.

5. If the ministerial development involves placement of a manufactured home, Article 50.48.

Cross-Reference: Greenway Management District.

Section 50.79.020

Section 49.20.110 Minor Development Classification.

1. A Minor Development is a development which requires a permit from the City that requires a more discretionary level of review than a ministerial decision. "Minor Development" is intended to include decisions defined as "limited land use decisions" pursuant to ORS 197.015(12).

2. "Minor Development" includes:

a. In the DD zone:

(i) Construction of new single family detached dwellings, duplexes, multi-family dwellings, zero lot line dwellings or exterior modification of a structure containing a non-conforming use that requires a building permit;

(ii) Expansion or reconstruction of the structures listed in subsection (i). above, that result in a change of use (e.g. from single family to duplex) or in an expansion of floor area of an existing structure by more than 50%.

b. Construction or exterior modification of a detached single family structure, duplex, zero lot line dwelling or a structure accessory to such structures which:

i. Does not qualify as a ministerial decision pursuant to LOC 50.79.010(2)(b)(i) through (xi), or

ii. Requires one or more Class 1 variances.

c. . Involves a determination by the City Manager that a use not expressly permitted in the zone may be allowed pursuant to the considerations contained in LOC 50.04.015. In such case, the required notice shall include a description of the proposed use and the reasons for the City Manager's determination.

d. Involves an improvement to an existing park or school facility that will increase the capacity of the park or school facility, generate additional traffic, or generate significant additional noise or other negative impact on the surrounding neighborhood.

e. Secondary dwelling units.

f. Construction of a structure other than a detached single family dwelling, duplex, zero lot line dwelling or accessory structure, or an exterior modification of such a structure which does not qualify as a ministerial development pursuant to LOC 50.79.010(2)(c).

g. Lot line adjustments which require one or more Class 1 Code Variances or which would increase allowable density on the site.

h. Partitions, including partitions which require one or more Class 1 Code Variances.

i. Subdivisions, including subdivisions which require one or more Class 1 Code Variances.

j. Review of development phases subject to an ODPS.

j. A change of use from one permitted use to another that increases on-site parking or loading requirements or which changes access requirements pursuant to Article 50.55 or that will result in the construction or the increased use of private streets, driveways or parking lot

aisles pursuant to Article 50.58.

k. Determining an RC District protection area pursuant to LOC 50.16.055.

3. Minor developments are initially decided by the City Manager subject to notice, the opportunity to request a hearing, and appeal as provided by LOC Article 50.81.

Cross Reference: Greenway Management District.

Section 50.79.025 Review Criteria for Minor Developments

1. A minor development shall comply with:

a. The requirements of the zone in which it is located;

b. The Development Standards applicable to minor developments;

c. Any additional statutory, regulatory or Lake Oswego Code provisions which may be applicable to the specific minor development application, such as the variance provisions, the Streets and Sidewalks Ordinance (LOC Chapter 42), the Tree Cutting Ordinance (LOC Chapter 55), the Solar Access Ordinance (LOC Chapter 57), and the Historic Preservation Ordinance (LOC Chapter 58); and

d. Any applicable condition of approval imposed pursuant to an approved ODPS or prior development permit affecting the subject property.

e. The Building Design Standard (Article 50.45) for developments in the DD Zone.

2. For the purpose of application of the Development Standards and pursuant to subsections 1(b) and 1 (c) of this section, partitions involving the creation of a public or private street, construction or alteration of structures as described in LOC 50.79.020(2)(e) and subdivisions shall be considered to be "major developments."

Cross-Reference: See additional Greenway Management Overlay review – 50.15.010, if applicable].

Partitions and Subdivisions: note subsection 2.

Section 50.79.030 Major Development Classification.

1. A Major Development is a development which requires a permit from the City involving the greatest level of review.

2. "Major Development" includes:

a. Construction or exterior modification of a permitted use, a permitted accessory structure or an prior approved conditional use in the zone in which the property is located which requires one or more Class 2 variances.

b. Lot line adjustments which require one or more Class 2 Variances.

c. Partitions which require one or more Class 2 Variances.

d. Subdivisions which require one or more Class 2 Variances.

e. Conditional uses.

f. Planned Developments (PD).

g. Any development defined as major development pursuant to this section which is proposed to be phased pursuant to adoption of an Overall Development Plan and Schedule (ODPS).

h. Any development which requires a Comprehensive Plan or Development or Zoning Code map or text amendment.

i. Construction of any public or private road, or major transportation or utility facility within a delineated RP District or buffer or RC protection area.

3. A Major Development is subject to public notice, hearing and opportunity for appeal as described in Articles 50.82 and 50.83.

Cross-Reference: Greenway Management Overlay District 50.15.

Section 50.79.035 Review Criteria for Major Developments.

1. A major development shall comply with:
   a. Any applicable regulatory policies of the Lake Oswego Comprehensive Plan;
   b. The requirements of the zone in which it is located;
   c. The Development Standards applicable to major developments;
   d. Any additional statutory or Lake Oswego Code provisions which may be applicable to the specific Major development application, such as the variance provisions, the Streets and Sidewalks Ordinance (LOC Chapter 42), the Tree Cutting Ordinance (LOC Chapter 55), the Solar Access Ordinance (LOC Chapter 57), and the Historic Ordinance (LOC Chapter 58); and
   e. Any conditions of approval imposed as part of an approved ODPS or prior development permit affecting the subject property.

Section 50.79.040 Conditions of Approval.

1. The reviewing authority may impose conditions of approval on a major or minor development permit in one or more of the following circumstances:
   a. The condition is necessary to bring the application into compliance with applicable approval criteria.
   b. The condition is required as a condition of approval, construction or implementation by the development standards, the Lake Oswego Code or state statute.
   c. The condition is reasonably related to alleviation of a need for public services or facilities created or contributed to by the proposed development. As used in this section, "public services or facilities" includes sewer, water, surface water management, parks, open space, streets, sidewalks, and pathways.
   d. The condition is reasonably related to eliminating or mitigating a negative impact on natural features or processes or on the built environment of the neighborhood which is created or contributed to by the proposed development. As used in this section, "natural features or processes" includes Distinctive Natural Areas, stream corridors and natural drainage ways, significant tree or trees, wetlands, and other natural areas.
2. Conditions of approval contemplated by subsection 1 of this section include, but are not limited to:
   a. Imposition of a development schedule.
   b. Requiring reservation or protection of land for open space or to protect significant natural features.
   c. Requiring dedication of property, rights-of-way, easements or conservation easements for public facilities such as streets, utilities, pathways, sidewalks, surface water management and street trees, or for protection of Distinctive Natural Areas, wetlands, stream corridors or other natural features. Dedications of property or property rights pursuant to this

subsection must be based upon findings pursuant to subsections 1(c) or 1(d) of this section.

d. Requiring on-site and off-site construction of or improvements to public facilities where necessary to ensure adequate capacity and where service demand will be created or increased by the proposed development. The costs of off-site improvements may be pro-rated between the applicant and the City in proportion to the increased service demand which will be created by the project when compared to the demand existing if the project were not constructed.

e. Requiring construction and maintenance guarantees to ensure that required public facilities are constructed to and will comply with City standards, regulations or conditions.

f. Requiring modifications in the design or intensity of a proposed development or to require or prohibit certain construction methods.

g. Requiring approval, inspection, or evaluation by another agency, jurisdiction, public utility or consultant.

h. Limiting the number, location or design of street accesses to a proposed development to maintain street capacity, improve safety, or otherwise comply with an approval criterion.

i. Requiring covenants, conditions or restrictions to be recorded against the property. It shall be a violation of this code for a property owner or homeowner's association to amend or rescind or fail to comply with any covenant, condition or restriction required by the City pursuant to a development approval without approval of the City.

Article 50.80

–Review of Ministerial Development Applications.

Section 50.80.005 Review by City Manager.

Ministerial Development applications shall be reviewed and approved by the City Manager pursuant to LOC 50.79.015.

Article 50.81

Review of Minor Development Applications.

Section 50.81.005 Review by City Manager.

Minor development permit applications shall be reviewed and decided by the City Manager. In the alternative, the City Manager may refer a minor development application directly to a hearing body for public hearing and decision pursuant to Articles 50.82 and 50.83.

Section 50.81.010 Notice of Minor Development Application.

1. Prior to making a final decision on a minor development permit application, the City Manager shall provide written notice to owners of property within 300 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. Notice shall also be sent to any recognized neighborhood association whose boundaries include the site. The City Manager shall certify that such notice was given.
2. The notice required by subsection 1 of this section shall:
   a. Provide a 14-day period for submission of comments prior to the decision;
   b. State the place, date and time that comments are due;
   c. State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised with sufficient specificity to enable the City to respond to the issue;
   d. List, by commonly used citation, the applicable criteria for a decision;
   e. Set forth the street address or other easily understood geographical reference to the subject property;
   f. State that copies of all evidence relied on by the applicant are available for review, and that copies can be obtained at cost; and
   g. Include the name and phone number of the City Manager or such other City staff person as may be assigned by the City Manager to review the application.

Cross-Reference: See 50.60.030 if minor development is subject to Street Connectivity Development Standard.

Section 50.81.015 Final Decision.

The City Manager shall make a final decision on a minor development application following expiration of the 14-day comment period. The City Manager shall approve, approve with conditions or deny the application based upon the applicable criteria and the evidence submitted by the applicant and other interested persons during the comment period. Approval or denial of an application shall be accompanied by written findings that explain the criteria and standards considered relevant to the decision, state the facts relied upon in rendering the decision and explain the justification for the decision based on the criteria, standards and facts set forth. The

date of the decision for purposes of appeal is the date on which the City Manager signs the written findings.

Section 50.81.020 Notice of Final Decision.

The City Manager shall send notice of a final decision on a minor development application to the applicant, all persons and neighborhood associations entitled to notice of the application pursuant to LOC 50.81.010(1), and any other persons who submitted comments during the comment period provided by LOC 50.81.010(2). The notice of decision shall:

1. Include the file number, date of the decision, and the name and address of the applicant;
2. Include an easily understood geographical description of the property and a map, if applicable;
3. Briefly summarize the decision making process and the decision made;
4. State that a copy of the decision is available for review, and that a copy can be obtained at cost; and
5. State that the decision may be appealed by filing a written request for a hearing before the appropriate hearing body with the City Recorder within fifteen calendar days of the date of the final decision. In addition, the notice shall contain the requirements for requesting a hearing pursuant to LOC 50.84.005. The name, address and phone number of the City Recorder shall be included in the notice.

Cross-Reference: 50.84.005 Appeal of Minor Development Decision

Article 50.82

Review of Major Development Applications and Appeals of Minor Development Decisions.

Section 50.82.005 Review by Hearing Body.

An application for a major development, minor developments in the DD zone pursuant to LOC 50.79.020(2)(a) or an appeal of a decision of the City Manager regarding a minor development application shall be decided by a hearing body following a public hearing held pursuant to this Code.

Cross-Reference: 50.84.005 – Appeal of Minor Development Decision

Section 50.82.010 Applicant's Evidence.

All documents or evidence relied on by the applicant for a development shall be submitted to the City and be available for inspection by the public at no cost.

Section 50.82.015 Staff Report.

The City Manager shall prepare a staff report on the application. The staff report shall contain an analysis of the applicable criteria and the evidence in the record. Based upon this review, the City Manager shall recommend approval, approval with conditions, denial, or continuance of the application. The staff report shall be completed and shall be available for public inspection at no cost at least ten days prior to the date of the public hearing.

Section 50.82.020 Notice of Public Hearing.

1. Notice of a public hearing before a hearings body shall be mailed at least twenty days before the initial public hearing:

   a. To the applicant and the owners of record on the most recent property tax assessment roll of property located within 300 feet of the subject property;

   b. To any recognized neighborhood association whose boundaries include the subject property; and

   c. If the hearing regards an appeal of a City Manager decision on a minor development application, to the appellant if different than the applicant and any person not otherwise required to be notified by this section who submitted comments during the 14-day comment period provided by LOC 50.81.010(2).

2. Nothing in subsection 1 of this section shall preclude the City Manager from providing additional public notice as City Manager deems appropriate.

3. The notice shall:

   a. Explain the nature of the application and the use or uses which could be authorized;

b. List the applicable criteria from the ordinance and plan that apply to the application at issue;

c. Set forth the street address or other easily understood geographical reference to the subject property;

d. State the date, time and location of the hearing;

e. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the hearings body an opportunity to respond to the issue precludes appeal to the City Council and the Oregon State Land Use Board of Appeals on that issue;

f. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;

g. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

h. State that a copy of the staff report will be available for inspection at no cost at least ten days prior to the hearing and will be provided at reasonable cost; and

i. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

4. At the time notice is mailed pursuant to subsection 1 of this section, a notice shall be posted on the site subject to the application at a location readily visible from a public right-of-way, if available. The notice shall state that the site is subject to an application for a development permit and the telephone number of the City department to call for further information about the application.

5. The failure of a person entitled to notice as provided in this section to receive notice shall not invalidate such proceedings if the City Manager can demonstrate by affidavit that such notice was given.

Cross-Reference: See 50.60.030 if major development is subject to Street Connectivity Development Standard.

Article 50.83

Hearings Before a Hearing Body.

Section 50.83.005 Conduct of the Hearing.

The Chair of the hearing body shall conduct the initial evidentiary hearing on a major development application or an appeal of a decision on a minor development as follows:

1. The Chair shall open the hearing by stating the general nature of the application, followed by a summary of these procedures.

2. The Chair shall ask whether any member of the hearing body has any potential bias, conflict of interest, or had ex parte contact. "Ex parte contact" is any contact regarding the subject application outside of the public hearing, including a site visit. Ex parte contact does not include contact with city staff members. Any member of the hearing body who has bias, a conflict of interest, or has had an ex parte contact shall explain the nature of such bias, conflict or ex parte contact.

3. The Chair shall next ask if there is any challenge to a hearing body member's right to consider the application. Unless the challenged is based upon information revealed pursuant to subsection 11(b) of this section, a challenging party must deliver a written document setting forth the reasons and authority for such challenge to the member challenged and the hearing body chair at least 24 hours prior to the hearing.

4. The chair shall next call for presentation of the staff report. Staff shall list the applicable substantive criteria and shall explain the reasons behind the City Manager's recommendation or decision, in the case of an appeal.

5. The Chair shall state that evidence and testimony must be directed to the applicable criteria described by staff or to other criteria in the Comprehensive Plan or land use regulations which the person believes to apply to the decision. The Chair shall also state that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond precludes appeal to the City Council or LUBA on that issue.

6. The Chair shall call for the applicant's testimony.

7. The Chair shall call for other evidence or testimony in support of the application.

8. The Chair shall call for evidence or testimony in opposition to the application.

9. The Chair shall call for neutral evidence or testimony.

10. The Chair shall call for rebuttal by the applicant. The applicant's rebuttal is limited to responding to testimony previously submitted and shall be based solely on the evidence in the record. If the applicant submits new evidence in aid of rebuttal, the Chair shall allow any person to respond to that evidence, and provide for final rebuttal by the applicant.

11. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present addition evidence or testimony regarding the application. The hearing body shall grant such request by continuing the hearing pursuant to paragraph (a) of this subsection or leaving the record open for additional written evidence or testimony pursuant to paragraph (b) of this subsection.

a. If the hearing body grants a continuance, the hearing shall be continued to a date,

time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or testimony for the purpose of responding to the new written evidence.

b. If the hearing body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the City for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record for a specific period of time. During this period, any person may submit written testimony raising new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

c. A continuance or extension granted pursuant to this section shall be subject to the 120 Day Rule (ORS 227.178), unless the continuance or extension is requested or agreed to by the applicant.

12. Unless waived by the applicant, the hearing body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.

13. If no continuance is granted and the record is not left open, or at the conclusion of such continuance or open record period and/or any additional seven day rebuttal period granted to the applicant pursuant to subsection 12 of this section, the Chair shall return the matter to the table for deliberation and decision. The hearing body's deliberations may include questions to or testimony by City staff regarding the criteria, evidence and testimony in the record. The hearing body may also direct questions to any person present. If any person other than City staff is questioned or allowed to make comments during deliberation, the Chair shall allow any other person to respond to such comments.

14. For purposes of this section:

a. "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.

b. "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.

Section 50.83.010 Time Limits on Testimony.

1. The purpose of time limits on testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony while at the same time ensuring that the hearing can be conducted in an efficient and expeditious manner. The following time limits on testimony shall be observed during a hearing conducted by a hearings body, subject to the right of the Chair, with hearing body consent, to amend or waive the time limits:

a. 20 minutes for the applicant's presentation;

b. 10 minutes for a representative of a recognized neighborhood association, government or government agency, or other incorporated public interest organization.

c. 5 minutes for other persons.

d. 5 minutes for rebuttal.

2. The time limits set forth in subsection 2(a) of this section shall not include time taken up resolving objections or by questions or response to questions from the hearing body.

3. As a general guideline, if the Chair decides to increase or decrease the time limits for testimony, the chair shall do so in equal proportion for both the appellant and the applicant. The Chair may increase the time limit for rebuttal without increasing other time limits on testimony, however, in cases where the testimony in opposition is so complex or extensive that 5 minutes would not give the applicant an adequate opportunity to respond to the testimony.

4. Any person in attendance at the hearing may cede his or her time for testimony to a representative or another person and thereby increase that representative's or other person's time for testimony. No person's or other representative's testimony may be increased to greater than 10 minutes. No person may cede his or her time to the applicant or the appellant.

Section 50.83.015 Testimony, Exhibits and Other Evidence.

1. Any person may present testimony at public hearing before a hearing body on a major development application or appeal of a minor development decision.

2. Any person may submit exhibits or written comments prior to or at the public hearing. Written comments or exhibits submitted prior to the public hearing must be received by the City Manager by 5:00 p.m. on the day of the scheduled hearing to be submitted by staff at the hearing. Written comments or exhibits submitted at the hearing must be filed with the recording secretary and placed before the hearing body. Exhibits or written comments that are merely referred to in testimony but which are not placed before the hearings body pursuant to this section shall not become part of the record of the proceedings.

3. The hearing body may take official notice of all adjudicative facts and law which may be judicially noticed pursuant to ORS 40.060 to 40.090, including an ordinance, comprehensive plan, resolution, order, written policy or other enactment of the City of Lake Oswego. Matters officially noticed need not be established by evidence and may be considered by the hearing body in determination of the matter.

Section 50.83.020 Objections.

The purpose of the hearing procedures set forth in this Code is to provided all interested persons a reasonable opportunity to participate in the hearing process and to provide a full and impartial hearing on the application or appeal before the hearing body. Any question concerning the proper conduct of a hearing held pursuant to this code may be raised by any person during the proceeding by making an objection. The Chair shall rule on any objection, subject to the right of the hearing body to overturn the Chair's ruling by majority vote.

Section 50.83.025 Preservation of Order.

The Chair shall preserve order and decorum, discourage personal attacks, and confine debate to the material issues. The Chair may eject from the hearing any person in attendance who becomes disorderly, abusive or disruptive, or who fails or refuses to obey a ruling of the Chair. The Chair may summon assistance of the Lake Oswego Police to assist in maintaining order.

Section 50.83.030 Continuances.

1. The hearing body shall continue a public hearing or leave the record open when required to do so pursuant to LOC 50.83.005(11).

2. The hearing body may elect to continue a hearing one or more times on its own motion or at the reasonable request of a party. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of the 120 Day Rule (ORS 227.178). If the initial evidentiary hearing has not been completed pursuant to LOC 50.83.005, the continued hearing shall resume at the point in the proceedings at which the hearing was continued. If the initial evidentiary hearing has been concluded and the hearing body desires a continuance to reopen the record for additional testimony, the continued hearing shall be conducted as provided in subsection 3 of this section. In the later case, the hearing body may limit evidence or testimony to a particular issue or issues, but any person shall be allowed to raise new issues which relate to the new evidence, testimony or criteria for decision making for which the hearing body continued the hearing.

3. Except as otherwise provided in subsection 2 of this section, a continued hearing shall be conducted as follows:

a. The Chair shall open the continued hearing.

b. The City Manager shall give a staff report which shall include the reason for the continuance.

c. If applicable, the Chair shall state that testimony at the hearing is limited to addressing the new documents or evidence described by staff and any new issues which relate to such documents or evidence.

d. The Chair shall call for the applicant's testimony.

e. The Chair shall call for testimony from persons in favor of the application.

f. The Chair shall call for testimony from persons opposed to the application.

g. The Chair shall call for testimony from persons neutral on the application.

h. The chair shall call for rebuttal by the applicant.

i. Unless an extension of the record is requested pursuant to LOC 50.83.005(11)(a) and or the applicant exercise his or her right to final rebuttal pursuant to LOC 50.83.005(12), the Chair shall return the matter to the table for deliberation and decision as described in LOC 50.83.005(13). If an extension of the record is requested pursuant to LOC 50.83.005(11)(a) and/or the applicant exercises his or her right of final rebuttal pursuant to LOC 50.83.005(12), the Chair shall continue deliberation to a time, date and place certain following final closure of the record.

4. 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 50.82.020.

Section 50.83.035 Decision of the Hearing Body.

1. At the conclusion of deliberations, the hearing body shall make a preliminary oral decision to approve, approve with conditions or deny an application based upon the applicable standards and criteria and the evidence and testimony in the record. The preliminary oral decision is not a final decision. At any time prior to the adoption of the final order pursuant to subsection 2 of this section, the hearing body may modify or change its decision or choose to reopen the hearing.

2. The hearing body shall adopt a final written order either immediately after making its preliminary oral decision or at a public meeting within a reasonable time after making the preliminary oral decision. The final written order shall consist of a brief statement that explains the criteria and standards considered relevant, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria, standards and facts set forth. The order shall also contain or incorporate by reference any conditions of approval deemed necessary or appropriate by the hearing body. A proposed order may be prepared by the City Manager or may be prepared by the prevailing party subject to review and approval of the City Manager. The Hearing Body shall amend the proposed order if it finds that the proposed order does not accurately articulate the hearing body's decision. Except as provided in subsection 3 of this section, the written order is the final decision on the application and the date of the order for purposes of appeal is the date on which it is adopted by the hearing body.

3. In the case of a major development which requires an amendment of the Comprehensive Plan or Zoning or Development Code text or map, the hearing body's order adopted pursuant to subsection 2 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 50.83.040 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 50.84.025 to 50.84.075, except that, for purposes of the hearing in LOC 50.84.040, the applicant shall proceed with testimony, followed by persons in favor of the application, opponents, and rebuttal by the applicant.

4. Motions for reconsideration of either a preliminary decision or final order filed by a party shall not be allowed. The City Manager may recommend reconsideration prior to adoption of the final order if the City Manager, in consultation with the City Attorney, believes reconsideration is necessary to correct a procedural error that prejudiced a party's substantial rights.

Section 50.83.040 Notice of Decision.

Notice of the decision shall be sent to the applicant and to all persons who testified either orally or in writing before the hearing body. The notice of decision shall:

1. Include the File number, date and brief summary of the final decision;
2. Include the name and address of the applicant;
3. Include an easily understood geographical reference to the subject property and a map, if applicable;
4. State that a copy of the decision is available for review, and that a copy can be obtained at cost; and
5. State that the decision may be appealed by filing a written Notice of Intent to Appeal with the City Recorder within fifteen calendar days of the date of the final decision. The notice shall include the requirements for filing a Notice of Intent to Appeal contained in LOC 50.84.010. The name, address and phone number of the City Recorder shall be included in the notice.

Article 50.84

Filing of Appeals

Section 50.84.005 Appeal of Minor Development Decision.

1. A final decision of the City Manager on a minor development application may be appealed to a hearing body by the applicant or any person aggrieved by the decision. An appeal shall be made by filing a written request for a hearing with the City Recorder within fifteen calendar days of the date of decision.

2. A written request for a hearing shall contain:

   a. A reference to the City application number and date of the final decision;

   b. A request that a hearing be held on the application;

   c. The name, address, and signature of the appellant; and

   d. A filing fee. The filing fee shall be set by resolution of the City Council, but shall be no more than authorized by state law. The filing fee shall be refunded if the appellant prevails at the hearing or on a subsequent appeal. The filing fee requirement shall not apply to appeals filed by the Oregon State Department of Land Conservation and Development or to appeals filed by recognized neighborhood associations whose boundaries include the subject property.

3. The City Recorder shall reject the appeal if it is not filed within the 15-day appeal period set forth in subsection 1 of this section, is not filed in the form required by subsection 2 of this section, or does not include the filing fee required by subsection 2 of this section. If the City Recorder rejects an appeal, the City Recorder shall so notify the appellant by letter. This letter shall include a brief explanation of the reason why the City Recorder rejects the appeal. A decision of the City Recorder to reject an appeal pursuant to this section is final and is not subject to appeal to the hearing body or the City Council. An appeal rejected pursuant to subsection 2 of this section may be corrected if it is refiled within the 15-day appeal period set forth in subsection 1 of this section.

4. An appeal of a City Manager decision regarding a minor development shall be heard de novo by the hearing body pursuant to Articles 50.82 and 50.83.

Section 50.84.010 Filing an Appeal of a Hearing Body Decision.

1. A final decision of a hearing body may be appealed to the Lake Oswego City Council by the applicant or any person who appeared before the hearing body either orally or in writing regarding the application. An appeal shall be made by filing a Notice of Intent to Appeal with the City Recorder within fifteen calendar days of the date of the hearing body's final decision.

2. A Notice of Intent to Appeal shall be in writing and shall contain:

   a. A reference to the City application number and date of the final decision;

   b. A statement that demonstrates the appellant is the applicant or appeared either orally or in writing in front of the hearing body;

   c. The name, address, and signature of the appellant or the appellant's representative;

   d. An appeal fee, if applicable; and

e. A discussion of the specific issues raised for Council's consideration and the specific reasons why the appellant contends that the hearing body decision is incorrect or not in conformance with the applicable criteria.

3. The appeal fee shall be set by resolution of the City Council. The appeal fee shall be reasonable and shall be no more than the average cost of such appeals or the actual cost of the appeal.

4. The City Recorder shall reject the appeal if it is not filed within the 15-day appeal period set forth in subsection 1 of this section, is not filed in the form required by subsection 2 of this section, or does not include the filing fee required by subsections 2 and 3 of this section. If the City Recorder rejects an appeal, the City Recorder shall so notify the appellant by letter. This letter shall include a brief explanation of the reason why the City Recorder rejects the appeal. A decision of the City Recorder to reject an appeal pursuant to this section is a final City decision as of the date of the letter and is not subject to appeal to a hearings body or the City Council. The appellant shall be allowed to correct a failure to comply with subsections 2 or 3 of this section if the correction can be made and is made within the 15 day appeal period provided in subsection 1 of this section.

Section 50.84.015 Multiple Appeals; Consolidation.

1. If more than one person files a Notice of Intent to Appeal a specific hearing body decision, the appeals shall be consolidated into one proceeding. The appeal fee shall be divided equally among the multiple appellants; any amount deposited in excess of the amount determined by the City Recorder to be owed shall be refunded on a pro rata basis.

2. The appellants shall share the appellant's time for testimony equally or may make such other split as they mutually agree, or the appellants may elect to have one person represent all appellants. If appeals are filed by opposing parties (i.e. an applicant for a project and a person opposed to the project), they may be consolidated into one proceeding but shall be heard separately prior to the decision. The Mayor, with Council consent, may decide to alter the time limits for testimony depending on the circumstances.

Section 50.84.020 Withdrawing an Appeal.

A Notice of Intent to Appeal may be withdrawn at any time prior to a final decision. Proceedings on the appeal shall terminate as of the date of withdrawal. The City Manager may refund the appeal fee either in full or in part, depending on the amount of staff work has been expended preparing the appeal for hearing.

Section 50.84.025 Preparation of Record and Staff Report; Transcript.

1. Record of Hearing Body Proceedings. Following receipt of a Notice of Intent to Appeal filed in compliance with LOC 50.84.005, the City Manager shall prepare a record for Council review containing:

a. All staff reports and memoranda prepared regarding the application that were presented to the hearing body;

b. Minutes of all hearing body proceedings at which the application was considered;

c. All written testimony and all exhibits, maps, documents or other written materials

presented to and not rejected by the hearing body during the proceedings on the application; and

d. The final written order of the hearing body.

2. Staff Report. The City Manager shall prepare a staff report on the appeal explaining the basis for the hearing body's decision as relates to the reasons for appeal set forth in the Notice of Intent to Appeal, and such other matters related to the appeal as the Director deems appropriate. The staff report shall be available for public inspection at least ten days prior to the appeal hearing.

3. Transcript. A verbatim transcript of the hearing body proceedings is not required. Any person who appeared before the hearing body on the application may prepare a certified verbatim transcript of all or part of the hearing body proceedings at that person's own expense. The City Manager may prepare a certified verbatim transcript of all or part of the hearing body proceedings at the City's expense if the Director deems a transcript necessary or advisable. A certified transcript prepared pursuant to this subsection shall be considered to be part of the record of the hearing body proceedings, and, if offered, shall be accepted into evidence and considered by the City Council.

Section 50.84.030 Notice of the Appeal Hearing.

1. Written notice of the appeal hearing before the City Council shall be sent by regular mail no later than 14 days prior to the date of the hearing to the appellant, the applicant if different from the appellant, and all persons who testified either orally or in writing before the hearing body.

2. Notice of the hearing shall:

a. Reference the applicable Planning Department File Number or Numbers;

b. Set forth the street address or other easily understood geographical reference to the subject property;

c. State the date, time and location of the hearing;

d. State that an appeal has been filed, set forth the name of the appellant or appellants and contain a brief description of the reasons for appeal;

e. State that City Council review is confined to the record before the hearing body, that only persons who testified either orally or in writing before the hearing body may testify before the City Council, and that the only issues that may be raised before the council are issues that were raised before the hearings body with sufficient specificity to enable the hearing body to respond.

f. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;

g. State that a copy of the decision being appealed, the application, all documents and evidence contained in the record, and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost; and

h. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

Section 50.84.035 Scope of Council Review.

1. Except as provided in subsections 2 and 3 of this section, Council review is limited to the evidence in the record before the hearing body. No new evidence may be presented at the

hearing before the Council and no person may testify before the Council unless that person appeared either orally or in writing before the hearing body. No issue may be raised on appeal to the Council that was not raised before the hearing body with sufficient specificity to enable the hearing body and the parties to respond.

2. The City Council may take official notice of all adjudicative facts and law which may be judicially noticed pursuant to ORS 40.060 to 40.090, including an ordinance, comprehensive plan, resolution, order, written policy or other enactment of the City of Lake Oswego. Matters officially noticed need not be contained within the record and may be considered by the hearing body in determination of the matter.

3. The Council may reopen the record and consider new evidence if such a request is made prior to or at the Council hearing by the appellant or any person who testified before the hearing body, and the requesting party demonstrates:

A. That the hearing body committed a procedural error that prejudiced the requesting party's substantial rights and that reopening the record is the only alternative to remanding the application to the hearing body to correct the error; or

B. That new evidence material to the decision on appeal exists and could not have been presented to the hearing body. A requesting party may only qualify for this exception if he or she demonstrates that the new evidence concerns an unanticipated event which occurred after the close of the hearing before the hearing body. This exception shall be strictly construed by the Council in order to ensure that all relevant evidence and testimony is submitted to the hearing body.

Section 50.84.040 Conduct of the Appeal Hearing.

The Mayor shall conduct an hearing on appeal pursuant to the requirements of this section. For the purposes of this Article, "Mayor" includes the Council President or any other Councilor who serves as presiding officer of the Council in the Mayor's absence.

1. The Mayor shall open the hearing by stating the general nature of the appeal, followed by a summary of these procedures.

2. The Mayor shall ask whether any member of the Council has any potential bias, conflict of interest, or had ex parte contact. "Ex parte contact" is any contact regarding the subject application outside of the public hearing, including a site visit. Ex parte contact does not include contact with city staff members. Any Councilor who declares bias, a conflict of interest, or an ex parte contact shall explain the nature of such bias, conflict or ex parte contact.

3. The Mayor shall next ask if there is any challenge to a councilor's right to consider the appeal. Unless the challenge is based upon information revealed pursuant to subsection 1(b) of this section, a challenging party must deliver a written document setting forth the reasons and authority for such challenge to the member challenged and the hearing body chair at least 24 hours prior to the hearing.

4. The Mayor shall next call for presentation of the staff report.

5. The Mayor shall state that City Council review is confined to the record before the hearing body, that only persons who testified either orally or in writing before the hearing body may testify before the City Council, and that the only issues that may be raised before the council are issues that were raised before the hearings body with sufficient specificity to enable the hearing body to respond.

6. The Mayor shall call for the appellant's testimony.

7. The Mayor shall call for other testimony in support of the appeal.

8. The Mayor shall call for testimony in opposition to the appeal, beginning with the applicant if the applicant is not the appellant.

9. The Mayor shall call for neutral testimony.

10. The Mayor shall call for rebuttal by the appellant. The appellant's rebuttal is limited to responding to testimony previously submitted and shall be based solely on the evidence in the record.

11. The Mayor shall return the matter to the table for deliberation and decision. The Council deliberations may include questions to or testimony by City staff regarding the criteria, evidence and testimony in the record. The hearing body may also direct questions to any person present. If any person other than City staff is questioned or allowed to make comments during deliberation, the Mayor shall allow any other person who testified during the hearing to respond to such comments.

Section 50.84.045 Time Limits on Testimony.

1. The purpose of time limits on testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony while at the same time ensuring that the hearing can be conducted in an efficient and expeditious manner. The following time limits on testimony shall be observed during an appeal hearing conducted by the Council, subject to the right of the Mayor, with Council consent, to amend or waive the time limits:

a. 15 minutes for the appellant's presentation;

b. 15 minutes for the applicant's presentation, if the applicant is not the appellant;

c. 10 minutes for a representative of a recognized neighborhood association, homeowner association, government or government agency, or other incorporated public interest organization.

d. 5 minutes for other persons.

e. 5 minutes for rebuttal.

2. The time limits set forth in subsection 2(a) of this section shall not include time taken up resolving objections or by questions or response to questions from the Council.

3. As a general guideline, if the Mayor decides to increase or decrease the time limits for testimony, the Mayor shall do so in equal proportion for both the appellant and the applicant. The Mayor may increase the time limit for rebuttal or for testimony in response to the appeal without increasing other time limits on testimony, however, in cases where the testimony in favor or in opposition to the appeal is so extensive that the allotted time period would not give the appellant or the applicant an adequate opportunity to respond to the testimony.

4. Any person in attendance at the hearing and entitled to testify on appeal may cede his or her time for testimony to another person entitled to testify and thereby increase that person's time for testimony. No person's testimony may be increased to greater than 10 minutes. No person may cede his or her time to the applicant or the appellant.

Section 50.84.050 Presenting Testimony.

1. Any person who testified either orally or in writing before the hearing body may testify either orally or in writing before the Council on appeal. Such testimony shall be limited to argument regarding issues raised before the hearing body, and shall be based solely upon the

record of the proceedings before the hearing body. Enlargements, illustrations, Maps or other exhibits may be submitted as long as they are part of the record or are entirely derived from evidence in the record.

2. Written testimony may be submitted prior to or at the public hearing. Written testimony submitted prior to the public hearing must be received by the City Recorder by 5:00 p.m. on the day of the scheduled hearing to be submitted by staff at the public hearing. Written testimony submitted at the hearing must be filed with the recording secretary and placed before the City Council. Written comments that are merely referred to read in testimony but which are not placed before the hearings body pursuant to this section shall not become part of the record of the proceedings. Written comments that attempt to present new evidence or raise new issues not presented or raised before the hearing body shall be rejected.

Section 50.84.055 Objections.

The purpose of the hearing procedures set forth in this code is to provided all interested persons a reasonable opportunity to participate in the hearing process and to provide a full and impartial hearing on the application or appeal before the hearing body. Any question concerning the proper conduct of a hearing held pursuant to this code may be raised by any person during the proceeding by making an objection. The Mayor shall rule on any objection, subject to the right of the Council to overturn the Mayor's ruling by majority vote.

Section 50.84.060 Preservation of Order.

The Mayor shall preserve order and decorum, discourage personal attacks, and confine debate to the material issues. The Mayor may eject from the hearing any person in attendance who becomes disorderly, abusive or disruptive, or who fails or refuses to obey a ruling of the Mayor. The Mayor may summon assistance of the Lake Oswego Police to assist in maintaining order.

Section 50.84.065 Continuances.

1. The Council may elect to continue a hearing one or more times on its own motion or at the reasonable request of a party. No continuance shall be granted at the request of the applicant unless the applicant waives the 120 Day Rule in writing or on the record. If the hearing has not been completed pursuant to LOC 50.84.040, the continued hearing shall resume at the point in the proceedings at which the hearing was continued. If the hearing has been concluded and the Council desires a continuance to reopen the hearing for additional testimony, the continued hearing shall be conducted as provided in subsection 2 of this section. In the later case, the Council may limit testimony to a particular issue or issues. If the appeal hearing has been concluded and the Mayor has returned the matter to the table for deliberations, the Council may continue deliberations to a date, time and place certain.

2. If an appeal hearing is continued to reopen the record for additional testimony, it shall be conducted as follows:

a. The Mayor shall open the continued hearing.

b. The City Manager shall give a staff report which shall include the reason for the continuance.

c. The Mayor shall call for the appellant's testimony.

d. The Mayor shall call for testimony from persons in favor of the appeal.

e. The Mayor shall call for testimony from persons opposed to the appeal, beginning with the applicant, if the applicant is not the appellant.

f. The Mayor shall call for testimony from persons neutral on the appeal.

g. The Mayor shall call for rebuttal by the appellant.

h. The Mayor shall return the matter to the table for deliberation and decision as described in LOC 50.84.040(11).

3. Notice. No additional notice of a continued hearing is required if the Council continues a hearing to a date, time and place certain. If a public hearing must be continued due to lack of a quorum of the Council, 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 50.84.030.

Section 50.84.070 Decision of the Council.

1. At the conclusion of deliberations, the Council shall make a preliminary oral decision. The Council may affirm, reverse or modify the hearing body's decision in whole or in part, or may remand the decision back to the hearing body for additional evidence or consideration. The preliminary oral decision is not a final decision. At any time prior to the adoption of the final order pursuant to subsection 2 of this section, the Council may modify its decision based upon the record or choose to reopen the hearing.

2. The Council shall adopt a final written order either immediately after making its preliminary oral decision or at a public meeting within a reasonable time after making the preliminary oral decision. The final written order shall consist of a brief statement that explains the criteria and standards considered relevant, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria, standards and facts set forth. The order shall also contain or incorporate by reference any conditions of approval deemed necessary or appropriate by the Council. A proposed order may be prepared by the City Attorney or may be prepared by the prevailing party subject to review and approval of the City Attorney. The Council shall amend the proposed order if it finds that the proposed order does not accurately articulate the Council's decision. The written order is the final decision on the application and the date of the order for purposes of appeal is the date on which it adopted by the Council.

3. Motions for reconsideration of either a preliminary decision or final order filed by a party shall not be allowed. The City Manager may recommend reconsideration prior to adoption of the final order if the City Manager, in consultation with the City Attorney, believes reconsideration is necessary to correct a procedural error that prejudiced a party's substantial rights.

Section 50.84.075 Notice of Decision.

Notice of the Council's decision shall be sent by regular mail to the appellant, the applicant if different from the appellant, and to all persons who testified either orally or in writing before the Council. The notice of decision shall:

1. Include the File number, date and brief summary of the final decision;

2. Include the name and address of the applicant;

3. Include an easily understood geographical reference to the subject property and a map, if applicable;

4. State that the decision is available for review, and that a copy can be obtained at cost; and

5. State that the decision may be appealed by filing a written Notice of Intent to Appeal with the Oregon State Land Use Board of Appeals (LUBA) within 21 days of the date of the final decision. The address and telephone number of the Land Use Board of Appeals shall be included in the notice.

Article 50.85

Remands.

Section 50.85.005 Remands from the Council to the Hearing Body.

1. 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.

2. The hearing body shall issue public notice and hear the application on remand as provided in Article 50.82, except that issues shall be limited as provided in subsection 1 of this section.

Section 50.85.010 Remands from LUBA to the City Council.

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

1. 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 50.84.030 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 50.84.030(2)(d), the notice shall set forth issues on remand that will be considered by the Council. The hearing shall be conducted pursuant to Article 50.83, 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.

2. 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 50.82.020 and the hearing shall be conducted pursuant to Article 50.83, 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 City Council pursuant to LOC 50.84.010.

Article 50.86

Effect of Approval or Denial of Development Permit /Modification or Revocation of Permit.

Section 50.86.005 Effective Date of a Decision.

1. Except as provided by subsection 2 of this section, a final decision approving a development permit becomes effective upon expiration of the local appeal period, unless an ordinance amendment is required in order to implement the approval. In the latter case, the approval becomes effective at the time the ordinance becomes effective pursuant to the Lake Oswego Charter. The filing of an appeal automatically stays the decision until resolution of the appeal by City appellate authorities.

2. A final decision of the City Council approving a development permit is effective immediately and is not stayed by appeal to LUBA, unless LUBA so orders pursuant to ORS 197.845.

Section 50.86.010 Effect of Decision to Approve.

An approved and effective development permit is binding upon the City, the applicant and successors in interest, unless it expires, is amended or is revoked pursuant to this code.

Section 50.86.015 Interpretation of Approvals.

2. The City Manager shall interpret the meaning and scope of approvals granted based on the record of the proceeding.

Cross-Reference: Grading, Clearing or Construction in RP or RC zone – Construction Standards 50.16.095.

Section 50.86.020 Effect of Denial; Resubmittal.

1. A final decision denying a development permit is effective immediately.

2. If an application is denied and is not appealed, or the denial is affirmed on appeal, no new application for the same or a substantially similar proposal shall be filed within six months after the date of final denial. A new application shall not be considered "the same or substantially similar" if it can be modified, and is modified, to address the reasons why the original application was denied.

Section 50.86.025 Modification of Approved Permit.

The City Manager may approve minor changes in any development permit, provided that such change:

1. Does not increase the intensity of any use, or the density of residential use; and,
2. Meets all requirements of the development standards and other legal requirements; and,
3. Does not significantly affect other property or uses; will not cause any deterioration or loss of any natural feature, process or open space; nor significantly affect any public facility; and
4. Does not affect any condition specifically placed on the development by action of a hearing body or City Council.

Any change not meeting the criteria set forth above shall be processed as a new application. A change meeting the criteria shall be processed as a minor development.

Cross-Reference: Planned Develoment zone requirement modifications – see 50.17.010(3).

Section 50.86.030 Revocation of Permit.

Upon referral by the City Manager, the Development Review Commission may hold a hearing pursuant to Articles 50.82 and 50.83 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:

1. 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:
   a. Was submitted by the applicant in support of the application;
   b. Could have been corrected by the applicant at the time of application; and
   c. Formed the sole basis for approval of the application pursuant to an applicable approval criterion.

   A "material misrepresentation of fact" does not include misstatements of fact made by City staff or caused by failure by another party to appear or adequately testify.
2. The applicant or successor in interest failed to complete the work within the time or in the manner approved without obtaining an extension of time or modification of the permit from the granting authority.
3. The applicant or successor in interest failed to maintain or use the property in accordance with the approved permit or conditions of approval.

Article 50.87

Compliance with Approved Permit.

Section 50.87.005 Certificate of Occupancy.

In order to assure completion of the work in the manner and at the time approved, the premises shall not be used or occupied for the purposes set forth in the permit until the City has issued a Certificate of Occupancy following completion of the work in substantial conformance to the permit. Prior to the final completion of all work, a certificate of occupancy may be issued for a portion of the premises or conditioned upon further work being completed by a date certain.

Section 50.87.010 Preparation and Submittal of Final Plan or Plat.

1. The final plan or plat shall be submitted within one year of the date of the order setting forth the final decision. Upon written application, prior to expiration of the one year period, the City Manager shall, in writing, grant a one year extension. Additional extensions may be requested in writing and will be submitted to the hearing body for review of the project for conformance with the current law, development standards and compatibility with development which may have occurred in the surrounding area. The extension may be granted or denied and if granted may be conditioned to require modifications to bring the project into compliance with then current law and compatibility with surrounding development.

2. A final plan or plat shall include all information required by the final decision on the Plan.

3. A final plan or plat for a subdivision shall accurately reflect the preliminary approval granted by the hearing body, with all conditions satisfied and shall also contain the following information:

A. The proposed name of the subdivision. The name shall not duplicate or resemble the name of another subdivision in the Urban Service Area.

B. Location of the subdivision by section, township and range.

C. Reference points of the existing surveys identified, related to the plat by distance and bearings, and reference to a field book or map as follows:

i. stakes, measurements or other evidence found on the ground and used to determine the boundaries of the subdivision.

ii. adjoining corners of adjoining subdivisions.

iii. other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this ordinance.

D. The location and width of streets and easements intercepting the boundary of the tract.

E. Tract, block and lot or parcel boundary lines and street rights-of-way and center lines, with dimensions, bearings and deflection angles, radii, arcs, points of curvature and points of

tangency. Flood plain or high water line for major water bodies. Plat accuracy shall be determined by the County Surveyor.

F. The width of the portion of streets being dedicated and the width of existing rights-of-way. For streets on curvature, curve data shall be based on the road center line. In addition to the center line dimensions, the radius and central angle shall be indicated on each right-of-way line. Also, arc and chord data shall be shown on each line for all lots as applicable.

G. Easements, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision lines shall be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication.

H. Lot number beginning with the number "1" and numbered consecutively in each block in the subdivision.

I. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout a subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision.

J. Identification of land to be dedicated to the public and a specific statement of the purpose of the dedication.

K. The following certificates may be combined where appropriate:

i. certificate signed and acknowledged by all parties having any recorded title interest in the land (excluding lien holders), consenting to the preparation and recording of the plat.

ii. certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision or their lessees, tenants, employees and visitors.

iii. certificate with the seal of and signed by the engineer or the surveyor responsible for the survey and final map.

iv. certificate for execution by the chairman of the Development Review Commission.

v. certificate for execution by the County Surveyor.

vi. certificate for execution by the County Tax Collector.

vii. certificate for execution by the County Assessor.

viii. other certifications now or hereafter required by law.

L. Other information as required by ORS Chapter 92.

M. Deed restrictions and covenants shall be submitted as a separate document at the time as the final plat is submitted.

Section 50.87.015 Review of the Final Plan or Plat, Filing Requirements.

1. Staff shall determine whether the final plan or plat conforms to the final decision of the hearing body, including all conditions, and other applicable state statutes and city codes.

2. If staff determines that the plan or plat is in conformance, then the appropriate signatures shall be affixed to the plan or plat, such signatures signify City approval of the plan or plat. Final plats shall be recorded with the appropriate County within 30 calendar days of signature.

Acceptance by the City of the land dedicated to the public by means of a plat occurs upon the recording of the plat. Any plat not so recorded is void.

3. If staff determines that the final plan or plat does not conform, the applicant shall be advised by a written notice which shall list the reasons for the decision.

4. The applicant shall have 30 calendar days to correct the plan or plat or to schedule a review of the final plan or plat by the Development Review Commission. When the differences have been resolved and the plan or plat approved, the procedure in subsection (2) of this section shall be followed.

5. Approval of a final plan or plat authorizes the issuance of development permits for actions or uses as approved therein.

Section 50.87.020 Obligation to Construct Public Facilities; Security; Acceptance of Improvements.

1. When an applicant for a development permit has an obligation to construct or improve public facilities imposed as a condition of the permit, the obligation shall be fulfilled prior to the issuance of a permit for building construction on the site unless the City Manager has granted a waiver in writing of this requirement and the applicant has filed with the City Manager an acknowledgment of the obligation. The acknowledgment shall state the nature of the obligation, the time within which the obligation is to be met, identify the property subject to the obligation and contain a security deposit in a form acceptable to the City Manager and in an amount equal to 120 percent of the cost of fulfilling the obligation as estimated by the City Manager for the year in which fulfillment of the obligation is anticipated. A sufficient performance bond, cash deposit or letter of credit are acceptable forms of security. Return of the security deposit shall be conditioned upon the applicant carrying out the obligation.

2. As an additional and separate part of the acknowledgment, the applicant shall agree to maintain the public facility for a period of one year following acceptance by the City Manager, to include but not be limited to repair, replacement and all things necessary to insure the operational integrity of the facility, and shall provide the City with security in the amount of 10 percent of the cost of the improvement to insure the fulfillment of this obligation.

3. The security shall be forfeited to the City if the applicant does not fulfill the requirements stated in the acknowledgment. The City may use the security to complete the obligation or any part of it. Until the obligation is completed the security shall remain in the custody of the City or shall be placed in an escrow account subject to City control.

4. Upon receipt of written notice to the City Manager that the public facility has been completed and is ready for final inspection and acceptance, the City Manager shall within ten (10) calendar days make such inspection. If the City Manager finds the work to be acceptable, there shall promptly be issued a final certificate stating that the work has been completed and is accepted.

Section 50.87.025 Failure to Fulfill Obligation, Lien Created.

1. If the City Manager determines that an applicant has failed to fulfill the obligations referred to in Section 50.87.020, written notice shall be given detailing the failure and stating the City's intention to use the security given to complete the obligation. If the City completes the

obligation and the security required by Section 50.87.020 is not sufficient to compensate the City for costs incurred, the excess amount due to the City, plus a 10% administrative charge, is a lien in favor of the City and upon the real property subject to the obligation.

2. The lien attaches upon entry in the City lien docket and the giving of notice of the claim for the amount due for the completion of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the cost of the fulfillment of the obligation, and allege the applicant's failure to complete the required obligation.

3. The lien may be foreclosed in the manner prescribed by ORS Chapter 223 for foreclosing liens on real property.

Article 50.88

Fees

Section 50.88.005 Fees and Deposits.

The City may charge fees for applications, plan reviews, inspections, appeals, or any other action pursuant to this Code. Such fees shall be no greater than the actual cost to the City to process a permit or the average actual cost of processing a class of permits. Such fees shall be established by resolution of the City Council. The City Manager shall review application fees annually and shall recommend proposed fees and fee changes to the Council.

Article 50.89 reserved.

Article 50.90

Enforcement of Permits and Penalties

Section 50.90.005 Enforcement.

It is the duty of the City Manager to enforce the provisions of this Code.

Section 50.90.010 Violations; abatement; injunction.

1. A violation of any provision of this Code is a civil violation and shall be enforced pursuant to the provisions of LOC 34.04.101 to 34.04.145. Each day that the violation exists shall constitute a separate violation.

2. Any development which occurs contrary to the provisions of this Code or contrary to any permit or approval issued or granted hereunder is hereby declared to be unlawful and a public nuisance, and may be abated pursuant to LOC 34.08.400 to 34.08.490.

3. Upon request of the City Manager, the City Attorney may institute an appropriate action in any court to enjoin the maintenance of any use, occupation, building or structure which is in violation of any provision of this Code.

4. The rights, remedies and penalties provided in this Code are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provisions of law.

Section 50.90.015 Evidence of Violation.

Proof of a violation of this Code or permit, or approval issued or granted hereunder shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the unlawful use, activity, condition, building, structure or other development exists. Prosecution, or lack thereof, of the owner of the property, the occupant, or other person in possession or control of property shall not be deemed to relieve any other responsible person.

Section 50.90.020 Cumulative Remedies.

The rights, remedies and penalties provided in this Code are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provisions of law.

Articles 50.91-50.99 reserved.