

ORDINANCE NO. 2526

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL MAKING AMENDMENTS WITH POLICY IMPLICATIONS TO PORTIONS OF THE LAKE OSWEGO CODE CHAPTER 50 (COMMUNITY DEVELOPMENT CODE), FOR THE PURPOSE OF CLARIFYING CORRECTING AND UPDATING VARIOUS PROVISIONS; AND ADOPTING FINDINGS. (LU 08-0054)

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

WHEREAS, in work sessions during 2008, the Lake Oswego Planning Commission found these sections to have possible policy implications beyond mere housekeeping; and,

WHEREAS, during the City Council's review of Ordinance No. 2525 (also amendments to LOC Ch. 50, but which the Planning Commission had determined to be housekeeping or to have minor policy implications) on October 4, 2011, amendments on the following subjects recommended by the Planning Commission were remanded back to the Planning Commission for further review:

1. Pedestrian trails as permitted development in RC Districts (Tree Groves) and RP Districts (Stream Corridors and Wetlands);
2. Definition of "Public Transportation Facility" (related to community connector and local trails); and
3. Parks and Open Space Maintenance Standards.

And following the Planning Commission's further review, the Planning Commission's recommendations were included in its recommendations for Ord. 2526;

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

WHEREAS, a combined public hearing was held before the Planning Commission on September 22, 2008 for this Ordinance and its companion Ordinance No. 2525, to consider and make recommendations to amend LOC Chapter 50; and,

WHEREAS, the Planning Commission conducted additional public hearings on this Ordinance on the following dates: Sept 22, 2008, Jan. 25, 2010, August 30, 2010, July

11, 2011, August 8, 2011, Sept. 26, 2011, Oct. 24, 2011, Nov. 14, 2011, Nov. 28, 2012, Jan. 23, 2012, and April 9, 2012; and,

WHEREAS, a public hearing was held before the Lake Oswego City Council on Oct. 30, 2012, to review the Planning Commission's recommendation to amend LOC Chapter 50; and,

NOW THEREFORE, The City of Lake Oswego ordains as follows:

Section 1. Adoption of Findings and Conclusion: The City Council hereby adopts the Findings and Conclusions (LU 08-0054) attached as Attachment "A".

Section 2. Amendments to LOC Ch. 50 (Community Development Code): The Lake Oswego Code is hereby amended by deleting the text shown by ~~double strike-out~~ and adding new text shown in double underline as set forth in Attachment "B".

Section 3. Severability: The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date of the Amendments to LOC Ch. 50:

a. The amendment to LOC 50.04.002.3 stated in Section 2, Attachment B, shall take effect upon the effective date of a new LOC 42.03.135, relating to establishment of the Special Street Setback Reference Line.

b. With the exception of the amendment to LOC 50.04.002.3, all other amendments to LOC Ch. 50 stated in Section 2, Attachment B shall take effect upon the effective date of this Ordinance.

Section 5. Effective Date of Ordinance. Pursuant to Lake Oswego City Charter, Section 34, this ordinance shall be effective on the 30th day after its enactment.

Section 6. Mailing Copies of this Ordinance:

a. Within 20 days following the date of adoption, pursuant to ORS 197.615 the City Recorder is hereby directed to mail a copy of this ordinance to the Dept. of Land Conservation and Development.

b. Within 30 days following the date of adoption, the City Recorder is hereby directed to mail a copy of this ordinance to all persons and governmental entities that appeared at the public hearing and requested a copy of the ordinance following adoption.

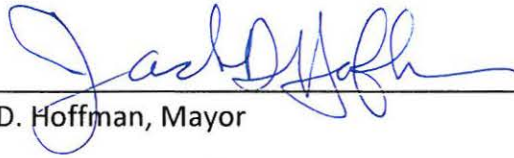
Read by title only and enacted at the regular meeting of the City Council of the City of Lake Oswego held on 18th day of December, 2012.

AYES: Mayor Hoffman, Gudman, Jordan, Kehoe, Moncrieff, Tierney

NOES: Olson

ABSTAIN: None

EXCUSED: None



Jack D. Hoffman, Mayor

Dated: 12/19/12

ATTEST:



Catherine Schneider, City Recorder

APPROVED AS TO FORM:



David Powell, City Attorney

BEFORE THE CITY COUNCIL

OF THE CITY OF LAKE OSWEGO

1
2
3 A REQUEST FOR COMMUNITY DEVELOPMENT)
4 CODE AMENDMENTS TO CLARIFY AND) LU 08-0054-1798
5 UPDATE VARIOUS SECTIONS THAT MAY HAVE) (CITY OF LAKE OSWEGO)
6 POLICY IMPLICATIONS)
7) FINDINGS & CONCLUSIONS
8 [ORDINANCE No. 2526])

NATURE OF PROCEEDINGS

9 This matter came before the City Council pursuant to recommendation of the Planning
10 Commission to amend the Lake Oswego Community Development Code to clarify and update
11 various sections. These provisions have been identified as having policy implications.

HEARINGS

12
13
14 The Planning Commission held public hearings and work sessions and considered this
15 application at its meetings of 09/22/08, 01/26/09, 03/23/09, 08/10/09, 09/30/09, 01/25/10,
16 02/08/10, 04/26/10, 07/12/10, 08/23/10, 08/30/10, 10/25/10, 01/10/11, 02/14/11, 04/11/11,
17 05/09/11, 06/13/11, 07/11/11, 08/08/11, 09/26/11, 10/24/11, 11/14/11, 11/28/11, 01/23/12,
18 02/27/12, 04/09/12 and 05/30/12. The City Council considered this application at a study session
19 on 09/25/12 and held a public hearing on 10/30/12, after which the Council made a tentative
20 decision to approve the application with one modification. The Council made a second tentative
21 decision, further modifying the Planning Commission’s recommendation, on November 27, 2012.
22
23

CRITERIA AND STANDARDS

24 A. City of Lake Oswego Comprehensive Plan

25 Goal 1: Citizen Involvement, Policies 1 and 5
26

- 1 Goal 2: Land Use Planning, Section 1, Land Use Policies and Regulations, Policy 23
- 2 Goal 7: Natural Disasters and Hazards, Section 3, Landslides, Erosion and
- 3 Goal 15: Willamette River Greenway

4 B. City of Lake Oswego Community Development Code¹

- 5 LOC 50.75.005 Legislative Decision Defined.
- 6 LOC 50.75.010 Criteria for Legislative Decision
- 7 LOC 50.75.015 Required Notice to DLCDC
- 8 LOC 50.75.020 Planning Commission Recommendation Required
- 9 LOC 50.75.025 City Council Review and Decision

9 C. Statewide Planning Goal or Administrative Rule adopted pursuant to ORS Chapter 197

- 10 Goal 1 Citizen Involvement
- 11 Goal 2 Land Use Planning
- 12 Goal 7 Areas Subject to Natural Hazards
- 13 Goal 15 Willamette River Greenway

13 **FINDINGS AND REASONS**

14 The City Council incorporates the staff report, dated October 11, 2010, and the

15 supplemental reports and staff memoranda dated January 15, 2010, July 21, 2010, August 3,

16 2010, July 5, 2011 and April 2, 2012, together with the Council Reports dated September 25,

17 2012 and October 30, 2012, with all exhibits attached thereto, as support for its decision. To

18 the extent they are consistent with the approval granted herein, the City Council adopts by

19 reference its oral deliberations on this matter.

20

21

22

23 ¹ Chapter 50 of the Lake Oswego Code was reorganized and renumbered effective April 19, 2012. The code references in these

24 Findings, Conclusions and Order are to the prior version of Chapter 50 because those were the standards in effect at the time

25 the application was filed. The prior version of Chapter 50 is available at:

26 <http://www.codepublishing.com/OR/LakeOswego/html2/LakeOswego50X/LakeOswego50X.html>

1 Since the consolidation of the Zoning Code and Development Code in 2002, the City has
2 endeavored to process regular updates to the Community Development Code. Because of a
3 number of intervening projects, a hiatus occurred following the updates adopted in 2006,
4 resulting in a significant backlog. The Planning Commission subsequently divided the update
5 effort into four parts. The first three -- infill amendments, sensitive lands amendments and
6 "minor policy housekeeping" amendments -- have all been adopted. This application is the final
7 update installment: amendments that may have more significant policy implications.
8

9 The Council finds that two adjustments should be made to the Code amendments as
10 recommended by the Planning Commission.
11

12 The current Community Development Code drainage standard [LOC 50.06.006.3] has
13 two subsections: one applicable to Ministerial and Minor Development (subsection a) and one
14 applicable to Major Development (subsection b). Major Development, for development
15 standard purposes, was previously defined in LOC 50.79.020(2)(g) to include "partitions
16 involving the creation of a private or public street." Partitions not involving the creation of a
17 street would be Minor Developments. The Planning Commission recommended that all
18 partitions -- regardless of whether or not the partition creates a street-- should be reviewed
19 under the same drainage standard. Staff noted at the public hearing that the Planning
20 Commission's recommendation regarding the drainage applicability text in subsection 3.b
21 ("partitions involving the creation of a private or public street") was narrower than its title
22 ("Drainage Standards for Major Developments, Partitions, Subdivisions, and Certain
23 Structures"). The Council finds that the Planning Commission intended to make the subsection
24 3.b drainage standard applicable to both types of partitions, and thus the recommended text
25
26

1 for LOC 50.06.006.3.b.i(2) should be modified as follows: “partitions ~~involving the creation of a~~
 2 ~~private or public street~~”.

3 The City Council also finds that, in order to increase maximum parking opportunities,
 4 the proposed version of LOC 50.06.002.a.ii.(3), which provides for maximum parking standard
 5 of “125% of the minimum number of required spaces,” should be amended to provide that the
 6 percentage applies to the number of spaces required *before* applying any of the parking
 7 requirement modifiers, as follows:

9 (3) Except for residential parking requirements, the maximum number of parking
 10 spaces shall not exceed either 125% of the minimum number of parking spaces the
 11 number of parking spaces required under Table 50.06.002-2 (without applying the
 12 Parking Requirement Modifiers, Table 50.06.002-3), or the required number of parking
 13 spaces determined by the Parking Study Method above.

14 The City Council finds that the Code amendments as proposed in LU 08-0054 and
 15 recommended by the Planning Commission, with the modifications described in these findings,
 16 improve the Code by appropriately clarifying, correcting, and updating provisions, as well as
 17 codifying current practices and interpretations. The Council also finds that the proposed
 18 amendments comply with all applicable legislative criteria, for the reasons stated in the
 19 incorporated materials.

20 CONCLUSION

21 The City Council concludes that LU 08-0054, as modified to be consistent with these
 22 findings, complies with all applicable criteria and should be approved. The Council also
 23 concludes that proposed Ordinance 2526, which implements LU 08-0054, should be enacted.
 24

**Ordinance No. 2526
ATTACHMENT B**

50.02.002 COMMERCIAL, INDUSTRIAL, MIXED USE ZONES

2. SPECIFIC STANDARDS FOR COMMERCIAL, MIXED-USE, AND INDUSTRIAL ZONES

e. Effect of Multiple Zone Designations.

e. Effect of Multiple Zone Designations.

If a lot has been designated with both a commercial zone and a residential zone, e.g., R-0/EC, the requirements of residential density and FAR relating to the designated residential zone shall apply for residential uses on the lot; the commercial zone requirements shall be applied for all other purposes.

50.03.002 USE TABLE

2. RESIDENTIAL USE TABLE

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

[8]. If lot has multiple zones, e.g., R-0/EC, see LOC 50.02.002.2.e.

**Attachment B
(12/18/12)
LU 08-0054**

50.03.002 USE TABLE

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

TABLE 50.03.002-2: COMMERCIAL, MIXED-USE, INDUSTRIAL & SPECIAL PURPOSE DISTRICTS USE TABLE																		
P = Permitted Use Blank = Not Permitted C = Conditional Use																		
[x] Table notes located at the end of the table																		
Use Cat.	Use Type	Commercial, Mixed-Use, Industrial											Special Purpose		Use Specific Standards			
		NC [42]	G C	H C	OC [42]	EC [42]	C R & D	M C	WLG- [32]				I P	I P		C I	P F	P N A
									O C	R M U	R- 2. 5	R L W						

COMMERCIAL USES																		
Vehicle/equipment sales and services	Boat sales, boat repair ;													p	<u>P</u>			
	boat storage														<u>P</u>	<u>P</u>		

Animal and related services	Pet care, daily, fully conducted within building	C	P	P	C	P	C	C						<u>P</u>	<u>P</u>			
Commercial Services	Crematorium													<u>P</u>	<u>P</u>			
	Upholstery shop	P	P			P								P	P	[3]		

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

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

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

Use Cat.	Use Type	Commercial, Mixed-Use, Industrial											Special Purpose			Use Specific Standards		
		NC [42]	GC	HC	OC [42]	EC [42]	CR & D	MC	WLG- [32]				IP	CI	PF		PNA	
									OC	RMU	R-2.5	RLW						
Office, Business, or Professional [12]	Offices accessory to any use permitted in the IP zone, excluding offices accessory to Professional Office space manufacturing, warehousing or research uses												P					
Retail Sails	Sign shop		P			P							P	P				[3]
MANUFACTURING																		
	Facilities for the manufacturing, wareho												P					

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

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

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

Use Cat.	Use Type	Commercial, Mixed-Use, Industrial											Special Purpose			Use Specific Standards	
		NC [42]	GC	HC	OC [42]	EC [42]	CR & D	MC	WLG- [32]				IP	CI	PF		PNA
									OC	RMU	R-2.5	RLW					
	using processing or assembling of products																
PUBLIC, INSTITUTIONAL, AND CIVIC USES																	
Health Care Facilities	Ambulance Services	P	P			P							P [3]				

[3] < 5,000 sq. ft. ~~max~~ in floor area, totally enclosed within a building.

[14] Greater than 3,000 sq. ft. in floor area

[15] Less than 5,000 sq. ft. in floor area.

[42]. If lot has multiple zones, e.g., R-0/EC, see LOC 50.02.002.2.e.

50.03.003 USE-SPECIFIC STANDARDS

1. RESIDENTIAL USES – HOUSEHOLD LIVING

f. Secondary Dwelling Unit

f. Secondary Dwelling Unit

i. Generally Applicable Standards

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 maximum size of the secondary dwelling unit is limited to 800 sq. ft. ~~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 sq. ft., 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, including any adjustments and additions listed in the base zone, is located within a lawful non-conforming structure, or the zone requirements have been varied or excepted pursuant to LOC 50.08 (provided however that any variance for the structure was not obtained solely to locate a secondary dwelling unit on the site; the inability to site a secondary dwelling unit on a parcel is not an unnecessary hardship). ~~the site development requirements of the underlying zone.~~

~~(6) The following minimum area standards shall be met:~~

~~(a) One person — 250 sq. ft.~~

~~(b) Two persons — 500 sq. ft.~~

~~(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, 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.

(87) The reviewing authority may impose conditions regarding height modifications, landscaping, buffering and orientation of the secondary unit to protect privacy of the neighbors.

50.03.003 USE-SPECIFIC STANDARDS

3. CONDITIONAL USE STANDARDS FOR PUBLIC, INSTITUTIONAL, AND CIVIC USES, INCLUDING STANDARDS FOR TELECOMMUNICATIONS FACILITIES

e. Telecommunications Facilities

e. Telecommunications Facilities

i. Purpose

The purpose of this section is to establish design and siting standards for telecommunication facilities that:

- (1) Reduce visual impacts of antennas, towers and ancillary facilities through careful design, siting, and vegetative screening;
- (2) Avoid damage to adjacent properties from tower failure and falling ice, through engineering and careful siting of tower structures;
- (3) Maximize use of any new transmission tower and any existing suitable structures to reduce the need for additional towers; and
- (4) Allow transmission towers in residential areas only when necessary to meet functional requirements of the telecommunications industry.

ii. Applicability

These standards shall apply to new telecommunication facilities and collocated telecommunication facilities and not pre-existing towers or pre-existing antennae.

iii. Approval Criteria for Collocated Facilities

(1) 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.~~

(2) ~~Suitable~~ Facilities for Collocation

(a) Priorities for Facilities. Collocation shall occur in the following order of ~~suitable~~ facilities:

(i). Facilities where the collocated facility will project not more than 10' higher than the highest point of the existing facility:

(iA) Previously approved telecommunication tower;

(iB) Existing nonconforming telecommunications tower;

(iC) Existing buildings ~~suitable for collocation~~; or

(iD) Utility (electric, cable, telephone, etc.) and light poles.

(ii). Facilities where the collocated facility will project more than 10' higher than the highest point of the existing facility:

(A) Previously approved telecommunication tower.

(B) Existing non-conforming telecommunication tower.

(C) Utility (electric, cable, telephone, etc.) and light poles.

(D) Existing buildings.

(b) Suitability of Facility for Collocation. To determine the suitability of the existing facility for the proposed collocation facility or structure, ~~The~~ the applicant ~~shall~~ must show that:

(i). ~~there~~ There are no reasonably feasible telecommunication facilities in a higher classification under subsection (a) above that can meet the requirements of this subsection for a collocated facility and provide the necessary telecommunication service.

(ii). 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 (iii)(3) below;

(iii). The collocation improvements must satisfy the standards for the underlying zone, except as provided by subsection (iii)(3) below;

(iv). The existing structure, if structurally enhanced in order to permit collocation, does not result in a decrease of the setback of the reconstructed structure as described in subsection (iii)(1) above and the height of the reconstructed facility complies with height limit contained in subsection (iii)(3) below as applied to the existing structure prior to replacement or reconstruction; and

(v). The collocation may not involve the removal of any previously approved landscaping/buffering.

~~for collocation within the necessary service area to be approved for a collocated telecommunication facility lesser classification subject to compliance with the following:~~

~~A. No increase in the height of the existing telecommunication support structure is proposed;~~

~~B. The proposed collocated antenna is no more than 20 feet higher than the existing tower and antenna;~~

~~C. The collocation improvements must satisfy the standards for the underlying zone; and~~

~~D. The collocation may not involve the removal of any previously approved landscaping/buffering.~~

~~v. 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.~~

~~vi. Existing structures may be 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.~~

(3) Height Limit

Collocated facilities are exempt from the height limits of the underlying zone, but shall be no more than ten ft. taller than the existing structure in a residential zone, a mixed residential/commercial zone, or Public Functions Zone, or no more than 20 ft. taller than the existing structure in a commercial, public use, 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.

(4) Visual Impact

(a) All ancillary facilities shall be screened, hidden or disguised.

(b) Antennae shall be screened, hidden or disguised, or shall be painted or colored to blend into the structure or surroundings.

(5) Processed as New Facility

A proposed collocated facility that does not comply with ~~subsection (3) of this section~~ [the approval criteria for collocated facilities](#) shall be processed as a new facility.

iv. Approval Criteria for New Facilities

(1) Site Size

A new facility shall be sited on a parcel of a size and shape that complies with the following criteria:

(a) Setbacks - [Tower](#)

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:

(i) 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;

(ii) The reduction in setback is the minimum required to best camouflage the facility;

(iii) Adequate clearance between the facility and property line can be provided to accommodate landscaping and fencing; and

(iv) The reduction in setback will not cause a greater visual impact to adjacent uses.

(b) Setbacks – Ancillary Facilities.

Ancillary facilities shall be setback the same as required for primary structures of the zone, except that the side or rear yard setback may be reduced in a residential zone if the ancillary facilities meet the criteria in LOC 50.03.004.2.b.

(bc) 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.

(de) 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.

(de) 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:

TABLE 50.03.003-1: SEPERATION FROM PRE-EXISTING TOWERS				
	Lattice (ft.)	Guyed (ft.)	Monopole ≥ 80 ft. in height (ft.)	Monopole ≤ 80 ft. in height (ft.)
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole ≥ 80 ft. in height	1,500	1,500	1,500	750
Monopole ≤ 80 ft. in height	750	750	750	750

(2) Collocation to be Explored; Accommodated

(c) 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.

(d). Ancillary facilities for collocated facilities shall be setback the same as required for primary structures of the zone, except that the side or rear yard setback may be reduced in a residential zone if the ancillary facilities meet the criteria in LOC 50.03.004.2.b.

50.03.004 ACCESSORY STRUCTURES AND USES

1. ACCESSORY USES

1. ACCESSORY USES

~~c. 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 sq. ft.~~

50.03.004 ACCESSORY STRUCTURES AND USES

2. ACCESSORY STRUCTURES

a. Structure Specific Regulations

a. Structure Specific Regulations

- i. Pool covers shall not exceed 15 ft. in height.
- ii. "Dish" type antenna may only be placed in rear yards, on the ground, and must be screened by landscaping.
- iii. Except as provided in LOC 50.05.010, Sensitive Lands Overlay District, boat houses and docks along Oswego Lake and its canals may be placed on a property line.

iv. Heat pumps, or similar mechanical equipment shall meet the required setbacks of the zone, except as provided under subsection (b)(i) below.

50.03.004 ACCESSORY STRUCTURES AND USES

2. ACCESSORY STRUCTURES

b. Setback Reduction for Accessory Structures

b. ~~Setback~~ Reduction of Side or Rear yard Setbacks for Accessory Structures

i. Regular Lot. On a non-flag lot, A rear yard setback may be reduced to three ft. and a side yard may be reduced to five ft. for an accessory structure in a residential zone if the structure complies with the following ~~four~~ criteria:

(1) The accessory structure is erected more than 40 ft. from any street. For the purposes of this subsection, 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 three ft. or to the degree the garage maintains access that provides an outside front wheel turning radius of at least 25 ft., whichever is greater.

(2) For an accessory structure less than four ft. in height, The the accessory structure is detached from other buildings by ~~five~~ three ft. or more.

(3) The accessory structure does not exceed a height of ten ft. nor an area of 600 sq. ft. footprint.

~~(4) The parcel is zoned other than R-6.~~

ii. Flag Lots. A side or rear yard setback may be reduced to six ft. on a flag lot when the above criteria in subsection (i)(1-3) are met.

iii. The setback exception authorized by ~~this~~ subsection (i) or (ii) does not apply to:

(1). ~~setbacks~~ Setbacks required by LOC 50.04.002, Special Street Setbacks;

(2). ~~The setback exception also does not apply to n~~ Noise producing accessory structures such as heat pumps, swimming pool motors, etc., unless abutting property owners of the proposed site of the proposed noise producing accessory structure agree in writing that said accessory structure may be located within the accessory structure setback exception permitted under this subsection.

(3). Lot is zoned R-6.

(4). Accessory structures used as secondary dwelling units.

iii. 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 ft. on a flag lot when the above criteria in LOC 50.03.004.2.b.i(1-4) are met.

50.04.001 DIMENSIONAL TABLE

1. RESIDENTIAL LOW DENSITY ZONES

a. Dimensional Standards

a. Dimensional Standards

Development in the R-7.5, R-10, and R-15 zones shall conform to the dimensional standards in Table 50.04.001-1 except as modified below.

TABLE 50.04.001-1: RESIDENTIAL – LOW DENSITY ZONES DIMENSIONS				
	R-7.5	R-10	R-15	Comments/Additional Standards

MIN. LOT DIMENSIONS [3]				50.04.001.1.c
Area (sq. ft.)	7,500	10,000	15,000	
Width (ft.)	50	65	80	Except PD [3]
Depth (ft.)	100 <u> </u>	100 <u> </u>	100 <u> </u>	

MAX. BASE HEIGHT (FT.)				
Primary Structure	[4]	[4]	[4]	50.04.001.1.g
Flat Lot	28	30	35	
Lot with sloping	32 [5]	34 [5]	35	

TABLE 50.04.001-1: RESIDENTIAL – LOW DENSITY ZONES DIMENSIONS				
	R-7.5	R-10	R-15	Comments/Additional Standards
topography				
Sloped Lot	35	35	35	
Accessory Structure	Lesser of 24 or height of roof form of primary structure	Lesser of 24 or height of roof form of primary structure	Lesser of 24 or height of roof form of primary structure	50.04.001.1.g[6]

[6] Building height exceptions shall not exceed the building height of the primary structure.				

50.04.001 DIMENSIONAL TABLE
2. RESIDENTIAL MEDIUM DENSITY ZONES
a. Dimensions

a. Dimensions

Development in the R-DD, R-5, and R-6 zones shall conform to the dimensional standards in Table 50.04.001-3 except as modified below:

TABLE 50.04.001-3: RESIDENTIAL – MEDIUM DENSITY ZONES DIMENSIONS				
	R-6	R-5	R-DD	Comments/Additional Standards

MIN. LOT DIMENSIONS				50.04.001.2.c
Area (sq. ft.)	6,000 per du	5,000 per du	SF/Duplex. 5,000 (total); MD 15,000 (total) [4]	Except PD
Width (ft.)	50	--	--	
Depth (ft.)	100	--	--	

TABLE 50.04.001-3: RESIDENTIAL – MEDIUM DENSITY ZONES DIMENSIONS				
	R-6	R-5	R-DD	Comments/Additional Standards

MAX. HEIGHT (FT.)				50.04.001.2.g
Primary Structure	28	--	28	
Flat Lot	28	28	--	
Sloping Lot	[5]	[5]	--	
Sloped Lot	32	35	--	
Accessory Structure	Lesser of 24 <u>ft.</u> or height of roof form of primary structure	<u>Lesser of 24 ft. or height of roof form of primary structure</u>	28	

50.04.001 DIMENSIONAL TABLE
2. RESIDENTIAL MEDIUM DENSITY ZONES
d. Floor Area – Additional Standards

d. Floor Area – Additional Standards

iii. R-6 Zones

(1) Habitable Areas of Accessory Structures

Provided only one garage is located on the site, habitable areas of detached accessory structures that would normally be counted as floor area for purposes of floor area calculations, shall be exempt as follows in the floor area calculations, as follows:

- (a) For lots less than or equal to 10,000 sq. ft. in area – up to 200 sq. ft.
- (b) For lots greater than 10,000 sq. ft. in area – up to 400 sq. ft.

(2) ~~Floor Area of~~ Size of Accessory Structures

An accessory structure ≤ 18 ft. in height shall not exceed a total of 800 sq. ft. in size or the square footage of the ~~ground floor area footprint~~ of the primary structure, whichever is less. An accessory structure > 18 ft. in height shall not exceed a total of 600 sq. ft. or the square footage of the ~~ground floor area footprint~~ of the primary structure, whichever is less.

50.04.001 DIMENSIONAL TABLE
2. RESIDENTIAL MEDIUM DENSITY ZONES
g. Height – Additional Standards

g. Height – Additional Standards

i. R-5 Height Restrictions for Primary Structures

(1) Projects > 1/2 Acre

For attached development in the R-5 zone, the primary structure height ~~may average 40 ft. over the project lot(s) with no individual structure exceeding 50 ft.~~ shall not exceed:

<u>No. of primary structures on site</u>	<u>Maximum base height for primary structures</u>
<u>One:</u>	<u>50 ft.</u>
<u>Two or more:</u>	<u>40 ft. average, with no individual primary structure exceeding 50 ft. base building height.</u>

(2) Base Height

Except as provided in LOC 50.04.001.2.g.i(1) above, and LOC 50.04.001.2.g.i(4) and LOC 50.04.001.2.g.ii below, the base height of a structure in the R-5 zone shall not exceed:

(a) Flat Lots – 28 ft.

(b) Lots with Sloping Topography – See g.iii, below.

(c) Sloped Lots – 35 ft.

(3) In the R-5 zone, a structure shall not exceed the base height standards set forth in LOC 50.04.001.2.g.i(2), above, if the structure is closer than 60 feet to a lot carrying a residential designation other than R-0, R-3, or R-5.

(4) Exceptions to Base Building Height

A greater height than otherwise permitted is allowed for single-family dwellings – building height may be increased by one foot for every five additional feet in yard setback on all sides, beyond the underlying zone code standards provided in LOC 50.04.001.2.g.i(1) and (2), above.

ii. Exceptions to the Base Building Height Applicable to All Zones [and to Projects > 1/2 Acre in R-5 Zone.](#)

A greater height than otherwise permitted is allowed for roof forms, or architectural features, such as cupolas or dormers provided that these roof forms or features:

(1) Do not extend more than six ft. above the maximum specified base height;

(2) Do not, in total, exceed one-third of the width of the building for an individual roof form or projection or do not exceed one-half of the width of the building for two or more separate roof forms or projections, as measured on any elevation drawing; and

(3) Do not, in total, cover more than 20% of the roof area on which they are located, as viewed from directly above for an individual roof form or projection or 30% for multiple roof forms or projections.

Examples of permitted exceptions are illustrated in Figure 50.04.001-B.

50.04.001 DIMENSIONAL TABLE
3. RESIDENTIAL HIGH DENSITY ZONES

a. Dimensions

a. Dimensions

Development in the R-W, R-3, R-2, and R-0 zones shall conform to the development standards in Table 50.04.001-11 except as modified below:

TABLE 50.04.001-11: RESIDENTIAL – HIGH DENSITY ZONES DIMENSIONS					
	R-W	R-3	R-2	R-0	Comments/Additional Standards
DENSITY					50.04.001.3.b
Minimum	80% of max. [1]	80% of max. [1]	12 lots <u>or</u> <u>units</u> /acre [2]	20 lots <u>or</u> <u>units</u> /acre [2]	
Maximum (units/acre)	[3]	[3]	--	--	

MAX. LOT COVERAGE					50.04.001.3.d
Lot Coverage	100	50	Table 50.04.001-12	40 <u>55</u>	

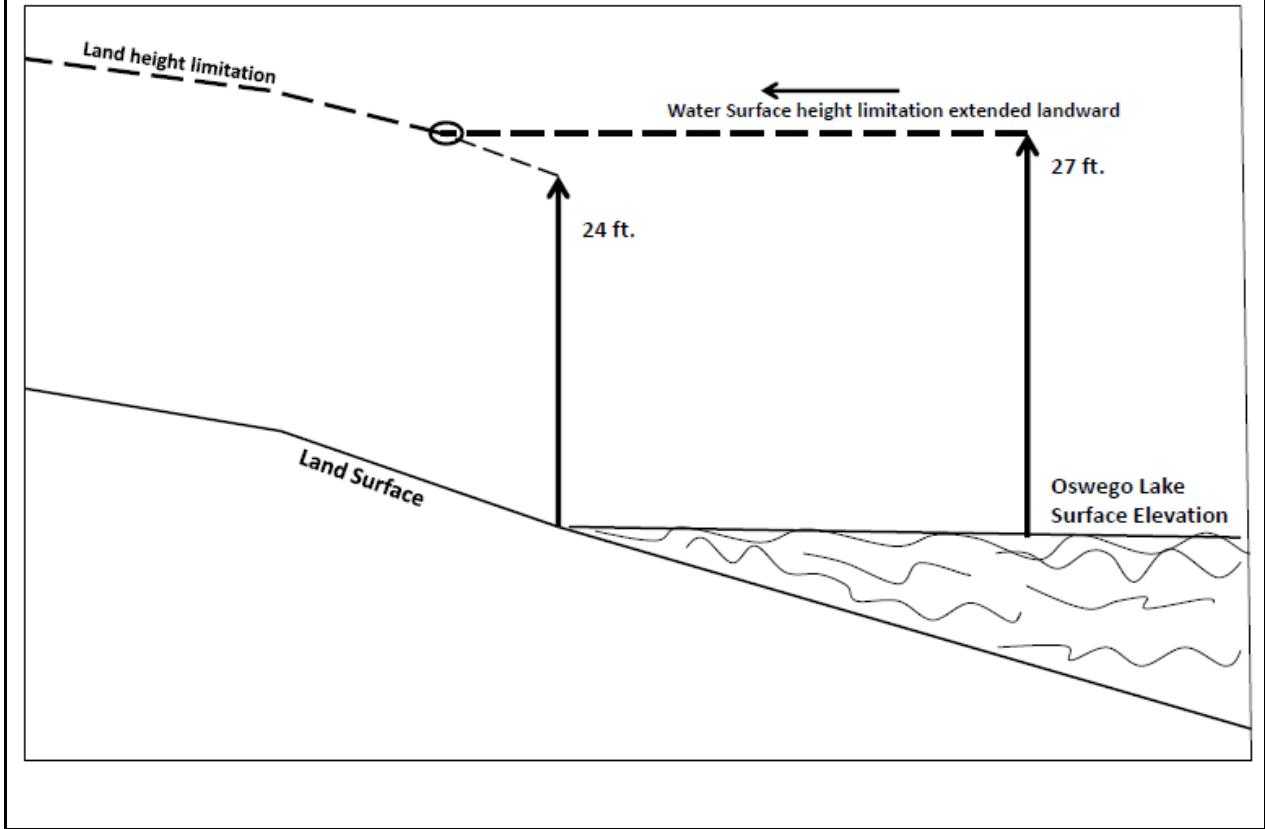
MAX. BASE HEIGHT (FT.)					50.01.004.3.f
Flat Lot	--	28	28	28	
Lots with Sloping Topography	--	[4]	[4]	[4]	
Sloped Lot	--	35	35	35	
From the mean water level surface of Oswego Lake <u>Surface Elevation</u>	24/ <u>27</u> <u>[5]</u>	--	--	--	

<u>Accessory Structure</u>		<u>Lesser of 24 or height of roof form of primary structure</u>	<u>Lesser of 24 or height of roof form of primary structure</u>	<u>Lesser of 24 or height of roof form of primary structure</u>	<u>50.04.001.1.f.v</u>
----------------------------	--	---	---	---	------------------------

[1] The number of lots required shall be determined by dividing the net developable ~~square footage~~acre by the minimum lot size or per-units required in the underlying zone, and multiplying this number by 0.8. The result shall be rounded up for any product with a fraction of 0.5 or greater and rounded down for any product with a fraction of less than 0.5. The requirements of this subsection are subject to the exceptions contained in LOC 50.04.003, Exceptions, Projections, and Encroachments.

[5]. For any portion of the lot above the Oswego Lake Surface Elevation, maximum building height shall not exceed 24 ft. For any portion of the lot at or below the Oswego Lake Surface Elevation, maximum building height shall not exceed 27 ft above the Oswego Lake Surface Elevation. The maximum building height of 27 ft above the Oswego Lake Surface Elevation shall extend landward until it meets the 24 ft height limit for the portion of the lot above the Oswego Lake Surface Elevation. See Figure 50.04.001-11[5].

**Figure 50.04.001-11[5]
Height Measurement for R-W Zoned Lots**



**50.04.001 DIMENSIONAL TABLE
3. - RESIDENTIAL HIGH DENSITY ZONES -
e - Yard Setback – Additional Standards**

ii. R-2 Yard Setbacks

TABLE 50.04.001-13: R-2 YARD SETBACKS				
Structure Type	Front (ft.)	Side		Rear
		Exterior	Attached	
Duplex	10	7	0	10
Zero-lot Line	10	7	0	10
Rowhouse	10	7	0	10

TABLE 50.04.001-13: R-2 YARD SETBACKS				
Structure Type	Front (ft.)	Side		Rear
		Exterior	Attached	
Detached Dwelling	20	Single story dwelling: 5 ft. Multi-story dwelling: 15 feet cumulative, 5 feet minimum on a side [1]		20
Other Primary Structures and all Accessory Structures	10	10	10	
<u>Accessory Structures</u>	<u>Same as for Primary Structure Type</u>	<u>Same as for Primary Structure Type</u>		<u>10 ft.</u>

50. 04.001 DIMENSIONAL TABLE
3. RESIDENTIAL HIGH DENSITY ZONES
f. Height – Additional Standards

i. Projects > 1/2 Acre

(1) On a lot or lots developed as one project of 1/2 acre or greater in total area for the R-0 and R-3 zones, the primary structure height shall not exceed: may average 40 ft. over the project lot(s) with no individual structure exceeding 50 ft.

<u>No. of primary structures on site</u>	<u>Maximum base height for primary structures</u>
<u>One:</u>	<u>50 ft</u>
<u>Two or more:</u>	<u>40 ft average, with no individual primary structure exceeding 50 ft. base building height.</u>

(2) 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 primary structure height ~~may average 32 ft. over the project lot(s) with no individual structure exceeding 35 ft.~~ shall not exceed:-

<u>No. of primary structures on site</u>	<u>Maximum base height for primary structures</u>
<u>One:</u>	<u>35 ft</u>
<u>Two or more:</u>	<u>32 ft average, with no individual primary structure exceeding 35 ft. base building height</u>

iv. Height in the R-W Zone

~~No structure in the R-W zone can exceed 24 ft. in height. Height is measured from the mean water level surface (elevation 98.6) of the water.~~

iv. Exceptions to Base Building Height

In addition to the maximum structure height determined by subsections (i) – (iii) above, ~~A~~ a greater height than otherwise permitted is allowed as follows:

(1) Single-family dwellings – building height, inclusive of projections permitted by the building height exceptions under subsection (2) below, may be increased by one foot for every five additional feet in yard setback on all sides, beyond the underlying zone code standards provided in LOC 50.04.001.4.f.i and f.ii above; or

(2) Any primary structure – for roof forms, or architectural features, such as, cupolas or dormers, provided that these roof forms or features:

(a) Do not extend more than six feet above the maximum specified base height;

(b) Do not, in total, exceed one-third of the width of the building or buildings as measured on any elevation drawing for an individual roof form or projection or do not exceed one-half of the width of the building for two or more separate roof forms or projections; and,

(c) Do not, in total, cover more than 20% of the roof area on which they are located as viewed from directly above for an individual roof form or projection or 30% for multiple roof forms or projections.

50. 04.001 DIMENSIONAL TABLE

4. COMMERCIAL, MIXED USE, AND INDUSTRIAL ZONES

b. West Lake Grove Zones

i. WLG Town Home Residential (WLG R-2.5)

i. WLG Town Home Residential (WLG R-2.5)

1) Site Development Limitations

Yard Setbacks. The following exterior wall setbacks shall be required in the WLG R-2.5 zone, except as modified by LOC [50.04.003.1](#), Additional Dimensional Exceptions.

TABLE 50.04.001-15: WLG R-2.5 YARD SETBACKS		
Structure Type	Yard Type	Setback Distance
<u>Abutting Single Family Residential Zone</u>		
Permitted <u>Primary Use</u>	Front (from property line)	10 ft.
	Rear and Side (abutting a single-family residential zone)	25 ft.
	Rear and Side (not abutting a single-family residential zone)	10 ft.
<u>Accessory Structures</u>	<u>Front, Rear, and Side</u>	<u>15 ft.</u>
<u>Not Abutting Single Family Residential Zone</u>		
<u>Primary Use</u>	<u>Front</u>	<u>10 ft.</u>
	<u>Rear</u>	<u>10 ft.</u>
	<u>Side – exterior wall</u>	<u>10 ft.</u>
	<u>Side – common wall</u>	<u>0 ft.</u>
<u>Accessory Structures</u>	<u>Front</u>	<u>10 ft.</u>
	<u>Rear and Side</u>	<u>0 ft.</u>

(2) Height of Structures

(i). Primary Structures: The maximum height of any primary structure in the WLG R-2.5 zone shall not exceed 35 ft.

(ii). Accessory Structures: The height of the roof form of the primary structure or 24 ft., whichever is less.

50. 04.001 DIMENSIONAL TABLE

4. COMMERCIAL, MIXED USE, AND INDUSTRIAL ZONES

b. West Lake Grove Zone

ii. WLG Residential Live/Work Zone (WLG RLW)

ii. WLG Residential Live/Work Zone (WLG RLW)

(1) Conditions for Commercial Use

(a) A person who conducts business within the WLG RLW zone must also reside within the same building. No more than one additional employee is allowed.

(b) The business must be conducted in a specifically delineated area on the first floor of the structure and occupy no more than 700 sq. ft.

(2) Site Development Limitations

(a) Yard Setbacks

The following exterior wall setbacks are required within the WLG RLW zone, except as modified by LOC 50.04.003.1, Additional Dimensional Exceptions.

TABLE 50.04.001-16: WLG RLW YARD SETBACKS		
Structure Type	Yard Type	Setback Distance
Permitted <u>Primary Use</u>	Front (from property line)	10 ft.
	Rear and Side (abutting a single-family residential zone)	25 ft.
	Rear and Side (not abutting a single-family residential zone)	10 ft.
<u>Accessory Structures – Not Abutting Residential Zones</u>	Front	10 ft.
	Rear	0 ft.
	Side	0 ft.
<u>Accessory Structures - Abutting</u>	Front	15 ft.
	Rear	15 ft.

TABLE 50.04.001-16: WLG RLW YARD SETBACKS		
Structure Type	Yard Type	Setback Distance
Residential Zones	Side	15 ft.

(b) Height of Structures

(i). The maximum height is 35 ft., except that the primary building height may be increased by one ft. for every five additional ft. in yard setback on all sides, beyond the minimum code standards for the zone.

(ii). Accessory Structures: The height of the roof form of the primary structure or 24 ft., whichever is less.

50. 04.001 DIMENSIONAL TABLE

4. COMMERCIAL, MIXED USE, AND INDUSTRIAL ZONES

b. West Lake Grove Zones

iii. WLG Residential Mixed Use (WLG RMU)

iii. WLG Residential Mixed Use (WLG RMU)

(1) Site Development Limitations

(a) Professional Office Uses and Minor Public Facilities

A single building which provides for Professional Office uses or Minor Public Facilities shall be limited to a total floor area of 8,000 sq. ft. in a multi-story building, with no more than 5,000 sq. ft. on any floor.

(b) Yard Setbacks

The following yard setbacks are required in this zone, except as modified by LOC 50.04.003.1, Additional Dimensional Exceptions.

TABLE 50.04.001-17: WLG RMU YARD SETBACKS			
Structure Type	Yard Type	Setback Distance	Special Setback Distance
Attached Town Homes	Front (from property line)	10 ft.	
	Rear and Side (abutting a single-family residential zone)	25 ft.	
	Rear and Side (not abutting a single-family residential zone)	10 ft.	
Primary Structures (all other)	Setbacks of structures abutting residential zones	25 ft.	Structures shall be set back at least six ft. from the meandering pathway or sidewalk along Boones Ferry Road (see Figure 50.05.005-D, WLG Pedestrian Facilities and Pathways)
	Setbacks of structures not abutting residential zones	0 ft.	
Accessory Structures	Same setbacks as for type of primary structure		
<u>Accessory Structures – Not Abutting Residential Zones</u>	<u>Front</u>	<u>10 ft.</u>	
	<u>Rear</u>	<u>0 ft.</u>	
	<u>Side</u>	<u>0 ft.</u>	
<u>Accessory Structures - Abutting Residential Zones</u>	<u>Front</u>	<u>15 ft</u>	
	<u>Rear</u>	<u>15 ft.</u>	
	<u>Side</u>	<u>15 ft.</u>	

(c) Height of Structures

(i). Primary Structures: 35 ft.

(ii). Accessory Structures: 24 ft., or the height of the roof form of the primary structure, whichever is less.

50.04.001 DIMENSIONAL TABLE

4. COMMERCIAL, MIXED USE, AND INDUSTRIAL ZONES

b. West Lake Grove Zones

iv. WLG Office Commercial (WLG OC)

iv. WLG Office Commercial (WLG OC)

(1) Site Development Limitations

(a) Setbacks

Buildings shall be set back at least six ft. from the sidewalk along Boones Ferry Road (See Figure 50.05.005-D, WLG Street Pedestrian Facilities and Pathways). The provisions of LOC 50.04.003.1, Additional Dimensional Exceptions shall not be applied in this zone.

(b) Height of Structures

i. Primary Structures: The maximum height of any primary structure shall not exceed 35 ft. The maximum height of the wall plane shall be no greater than 30 ft. measured from grade at the exterior wall of the building to the gutter line.

ii. Accessory Structures: The height of the roof form of the primary structure or 24 ft, whichever is less.

50.04.002 SPECIAL STREET SETBACKS

1. PURPOSE

To assure an adequate front yard setback is available in the event of possible ~~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.

2. ESTABLISHMENT OF SPECIAL STREET SETBACK REFERENCE LINE

~~A "special street setback reference line" is hereby established for the streets identified in LOC 50.04.002.5 below. On these streets, required yards shall be measured from the special street~~

~~setback reference line.~~ The City Engineer establishes the centerline from which the Special Street Setback Reference Line is measured, pursuant to LOC 42.03.135.

3. METHOD OF MEASUREMENT

The Special Street Setback shall be measured from the Special Street Setback Reference Line (as established pursuant to LOC 42.03.135), ~~reference line shall be established by measuring the prescribed Special Setback distance in subsection 5 from the center of the right of way or as described in the special street setback requirement.~~

4. 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.

5. SPECIAL STREET SETBACK LIST

The special street setbacks set forth in Table 50.04.002-1 shall not be reduced.

TABLE 50.04.002-1: SPECIAL STREET SETBACKS			
Affected Streets	From	To	Special Setback
Bangy Rd.	South of Alyssa Terrace		30 ft.
Bergis Rd.	Cornell St.	Stafford Rd.	30 ft.
Bergis Rd.	Cornell St.	Skylands Rd.	25 ft.
Boones Ferry Rd.	Mercantile Dr.	West Sunset Dr.	50 ft., but will be superseded by the City Council's adoption of a corridor study.
Bonita Rd.			30 ft.
Bryant Rd.	Boones Ferry Rd.	Lake View Blvd.	40 ft.
Bryant Rd.	Lake View Blvd.	Childs Rd.	30 ft.
Burma Rd.			25 ft.
"C" Ave.	State St. alley	Country Club Rd.	30 ft.
Carman Drive		North and east of Kruse Way	30 ft.
Carman Drive		South and west of Kruse Way	40 ft.
Cornell St.	Larch St.	Bergis Rd.	30 ft.

TABLE 50.04.002-1: SPECIAL STREET SETBACKS			
Affected Streets	From	To	Special Setback
Egan Way	East/west leg only		20 ft.
Fielding Rd.			20 ft.
Firwood Road			30 ft. between Boones Ferry Rd. and Waluga Dr.; 20 ft. west of Waluga Dr.
Gassner Ln.			20 ft.
Inverurie Rd.	North of Washington Ct.		20 ft.
Knaus Rd. from	County Club Rd.	North City Limits	30 ft.
Lake Grove Ave.			20 ft.
Lake View Blvd.	Bryant Rd.	Iron Mt. Blvd.	25 ft., except between South Shore Blvd. and Summit Ct.
Lamont Way			20 ft.
Lanewood St.		Through south leg of Douglas Circle	20 ft.
Laurel St.	Dyer St.	Hallinan St.	30 ft.
Lower Dr.			20 <u>25</u> ft.
McVey Ave.	State St.	South Shore Blvd.	40 ft.
Madrona St.	Boones Ferry	Bryant Rd. (south from railroad right-of-way)	50 <u>25</u> ft.
North Shore Rd.	Abutting the railroad right-of-way		30 ft. measured from the south line of the railroad right-of-way
Oakridge Rd.	Quarry Rd.	Bonaire Ave.	25 ft.
Oakridge Rd.	Quarry Rd.	Boones Ferry Rd.	30 ft.
Overlook			30 ft.

TABLE 50.04.002-1: SPECIAL STREET SETBACKS			
Affected Streets	From	To	Special Setback
Dr.			
Pilkington Road	South of Rosewood St.		Special street setback line shall be measured 30 ft. from the east line of Rosewood Plat.
Quarry Rd.	Boones Ferry Rd.	Galewood St. and extension to Carman Dr.	30 ft.
Reese Rd.	Boones Ferry Rd.	Upper Dr.	30 ft.
Rosewood St.	Pilkington Rd.	Tualatin St.	25 ft.
South Shore Blvd.			40 ft.
Stafford Rd.	South Shore Blvd.	south City limits	40 ft.
State Street			50 ft.
Summit Dr.	Lake View Blvd.	Ridgewood Rd.	20 ft.
Sunset Dr.			20 ft.
Tualatin St.			20 ft.
Twin Fir Rd.	Boones Ferry Rd.	Upper Dr.	30 ft.
Upper Dr.	Iron Mt. Blvd.	City limits	25 ft.
Waluga Dr.	South of Firwood <u>Oakridge Rd.</u>	<u>North of Madrona St.</u>	20 ft.
West Sunset Dr.	West of <u>West</u> Lake Grove Design District Boundary		20 ft.

50.04.003 EXCEPTIONS, PROJECTIONS, AND ENCROACHMENTS

5. ONE YEAR EXCEPTION TO HEIGHT/SETBACK/LOT COVERAGE REQUIREMENTS FOR NEW SUBDIVISION LOTS

~~5. 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.~~

50.04.003 EXCEPTIONS, PROJECTIONS, AND ENCROACHMENTS

8. GENERAL EXCEPTIONS FOR BUILDING PROJECTIONS, DECKS, AND WALKWAYS AND PATHWAYS TO SETBACKS

8. GENERAL EXCEPTIONS FOR BUILDING PROJECTIONS, DECKS, AND WALKWAYS AND PATHWAYS TO SETBACKS

a. Projections from Buildings

Cornices, eaves, gutters, bay windows located on the ground floor (but not more than six ft. wide, with a maximum of two bay windows per building elevation), decorative metal balconies (but not more than six ft. in length), flower boxes, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than two ft. into a required yard (as adjusted by LOC 50.04.003.3.a) or into required open space as established by lot coverage standards. Canopies, sunshades, chimneys, and flues may project not more than two ft. into a required yard or into required open space as established by coverage standards, but in no event may the projection be within five ft. of a side lot line.

b. Patios and Decks

Patios and decks on or above grade, but no more than 30 in. above grade, may project into a required yard, but may not be closer than three ft. to any property line. Patios and decks above 30 in. shall be subject to the zone setback. 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.

c. Access Walkways and Pathways, Driveway Bridges, Trams and Staircase

i. Walkways and pathways, regardless whether on grade or elevated, that provide principal access from the adjacent public right-of-way to a dwelling or as a public entrance(s) to a commercial, industrial, or public facility building are permitted in the required yard, so long as the elevation of the walkway or pathway is at or below the elevation of the driveway or parking area for the dwelling or building. If the walkway or pathway is elevated, it shall be the most direct route practicable.

ii. Bridges that form the driveway from the abutting street to the garage are permitted in the required yard, provided the driveway bridge is used for the most direct route practicable.

iii. Trams and staircases that provide access to Oswego Lake, and its bays and canals, and to the Willamette River are exempt from the Oswego Lake Setback, if applicable, and rear yard setback;

d. Equipment for public service, e.g., utility meters, transformers, telephone switching equipment (but excluding such structures as pump houses) are permitted in a required yard provided the service provider can show that another location or undergrounding of equipment is not possible.

50.05.004 DOWNTOWN REDEVELOPMENT DESIGN DISTRICT

8. LANDSCAPING AND SITE DESIGN REQUIREMENTS

8. LANDSCAPING AND SITE DESIGN REQUIREMENTS

~~—All developments subject to this Article shall comply with the following landscape and site design requirements.~~

a. Purpose. Landscaping shall be designed to enhance building design, enhance public views and spaces, define the street, provide buffers (screening) and transitions, and provide for a balance between shade and solar access.

b. Amount of Landscaping Required.

i. Landscaping on the site, visible from the ground, shall comply with the following amounts:

(1). Residential and Live/Work: 15% of the lot

(2) Non-Residential development: 10% of the lot.

ii. Vines on espaliers shall be placed along at least one building wall.

iii. In addition to the landscaping required in subsection i above, landscaping for screening and buffering shall be required:

(1) To screen public or private utility and storage areas and parking lots.

(2) As a separation between dissimilar uses.

c. Style and Design.

i. Landscaping shall be coordinated with the building design so that landscaping compliments the building design. Landscape design shall incorporate elements such as iron/steel plant balconies, metal fences, railing and gates, masonry walls, window boxes, hanging plant brackets and other similar features that compliment the character of the building design.

ii. Landscaping may be placed in pots, raised planters, or flower boxes.

iii. Courtyards visible from the street or sidewalk shall be used to break up the scale and proportion of structures. (See LOC 50.05.004.6 Building Design.) Courtyards shall contain landscaping or features that compliments the design of the building and the surrounding structures and landscaping. Courtyard amenities, including

art or fountains, may be required as part of the design by the reviewing authority.

iv. Landscaping design shall be compatible with abutting or adjacent properties and shall consider the relationship of plantings, site furnishings and materials on those properties and the proposed site.

d. Street Trees. Street trees shall be planted in conformance with the Street Tree List in the Lake Oswego Plant List, and City/LORA specifications for spacing, planting, root barriers, irrigation, lighting (uplighting and holiday lighting), etc.

e. Ground Floor Residential Use. Residential uses at the ground floor shall be separated from sidewalks by a landscaped buffer (see LOC 50.05.004.6.d). The landscape buffer may include stairs, railings, walls, pilaster columns or other similar features.

f. Green Landscaping.

i. Landscape Design shall incorporate the following environmental-friendly design and planting concepts to the maximum degree possible:

(1). Utilize plant materials that are best suited for the areas of the site, e.g. water, soil, sun and shade

(2). Use plant materials, soils, and soil amendments which minimize the use of fertilizers, particularly ones containing phosphate.

(3). Use drought tolerant plants, when possible, to minimize water usage.

(4). Incorporate native plantings and utilize plant materials which are grown in the Pacific Northwest.

(5). Use plant materials that are pest and disease resistant to minimize or avoid the use of pesticides and fungicides.

(6). Irrigation shall use methods and watering schedules which minimize water consumption. These may include drip, micro-spray or bubbler emitters for trees and shrub beds. Irrigation systems shall be designed with solar powered controllers when practicable.

(7). Design tree and vine placement to provide shade on ground and wall surfaces during warm months.

ii. The landscape plans shall include instructions for the continued maintenance of the landscaping, which shall include the following:

(1). When necessary, utilize soil amendments and soil mulches to preserve moisture content.

(2). Irrigation shall avoid systems which throw water into the air especially during high wind or high temperature periods. Watering should occur between 6 PM and 9 AM.

(3). Plant during seasons when plants will be less stressed and requires less initial watering.

(4). Plant trees "bare root" when possible.

(5). When possible, plant turf by seed (not sod), to promote deep root development which will make the turf more drought tolerant.

ag. Street Furniture and Lighting ****

~~b. Street Trees.~~

~~Street trees shall be required to be installed in compliance with the Downtown Street Tree Plan as a condition of approval.~~

~~e~~h. Brick Paving ****

~~e~~i. Walls ****

~~e~~j. Gates and Hangers ****

~~f~~k. Hanging Baskets ****

~~g~~l. Art ****

~~h~~m. Protecting Pedestrians ****

~~i. Landscape Design~~

~~i. 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.~~

~~ii. 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.~~

~~iii. 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.~~

~~iv. 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 Figure 50.05.004 H: Street Furniture and Lighting).~~

~~jn. Undergrounding of Utilities. Overhead utilities shall be placed underground, unless the City Engineer determines that undergrounding is not practical based upon site conditions ~~in conjunction with the construction of a new building.~~~~

50.05.009 GREENWAY MANAGEMENT OVERLAY DISTRICT

2. DEVELOPMENT REVIEW

Subsection b.

b. In reviewing applications for development in the GM Overlay District, in addition to the requirements of LOC 50.07, Review and Approval Procedures, and except as provided in subsection (c) below, the ~~Development Review Commission~~ reviewing authority shall ~~consider the following objectives and shall make findings as applicable~~ determine that the following criteria are met:-

- i. Significant fish and wildlife habitats will be protected.
- ii. Significant natural and scenic areas, viewpoints and vistas will be protected ~~and enhanced~~.
- iii. Areas of ecological, scientific, historical or archeological significance will be protected, ~~restored, or enhanced~~ to the maximum extent possible.
- iv. The quality of the air and water in and adjacent to the Willamette river ~~River~~ will be maintained ~~or enhanced~~ in the development, change of use, or intensification of use of land within the GM Overlay.
- v. 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.
- vi. 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.
- vii. 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.
- viii. ~~Any Recreational~~ recreational needs proposed by the development 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.
- ix. Public safety and protection of public and private property will be ~~provided~~ maintained to the maximum extent practicable, especially from vandalism and trespass.

x. Non-water related or dependent structures shall be located west of and no closer than 25 ft. to the following setback lines⁷:

(1) 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.

(2) 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.

(3) 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.

~~xi. Necessary public access will be provided to and along the river including pedestrian, bicycle and water related uses.~~

(c) It is recognized that all of the criteria listed in subsection (b) 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 Willamette River, and the resources located along its banks, from the effects of development, to the greatest extent possible.

50.05.009 GREENWAY MANAGEMENT OVERLAY DISTRICT

3. PERMITTED USES

3. PERMITTED USES

The following uses are permitted within the GM District.

~~a. 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.~~

~~b.~~ Activities to protect, conserve, enhance and maintain scenic, historical and natural uses on public lands.

~~eb.~~ Parks and other recreational facilities, including those ~~as~~ designated in the Comprehensive Plan. ~~Any other recreational development shall be reviewed by the Development Review Commission.~~

~~dc.~~ Erosion control operations not requiring a permit from the Division of State Lands.

~~ed.~~ ~~The cutting of trees~~ Tree removal for public safety, erosion control, or personal non-commercial use, ~~subject to the LOC 50.07, Review and Approval Procedures and LOC Chapter 55, Tree Code.~~

~~f. Reasonable emergency procedures necessary to protect an existing use or facility for the safety or protection of persons or property.~~

~~g. Maintenance and repair as necessary for the continuance of an allowed existing use or improvement.~~

~~he.~~ ~~Landscaping, construction~~ 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.~~

~~if.~~ 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.

~~gj.~~ Single-family dwellings and accessory structures associated with such dwellings.

50.05.010 SENSITIVE LANDS OVERLAY DISTRICTS

5. STANDARDS APPLICABLE TO RC DISTRICTS

c. RC District Development Standards

iii. Development Standards

iii. Development Standards

If the proposed types of development are permitted within the RC District, the development activity, use or activity shall comply with the following standards, and the Construction Standards set forth in LOC 50.05.010.4.d:

(1) Streets, Driveways, Lake Trams, and Public Transportation Facilities

(b) Public or private streets, trams to access Oswego Lake, and public transportation facilities shall be set back at least five ft. from, and shall not be placed in or through an RCPA unless:

(iv) For regional, community connector, or local access trails (designated ~~as a regional trail~~ on the City's Trails and Pathway Master Plan), they may be located within an RCPA provided the trail width shall be no greater than 12 feet wide (as determined by the standards in the City's Trails and Pathway Master Plan),

50.05.010 SENSITIVE LANDS OVERLAY DISTRICTS

6. STANDARDS APPLICABLE TO RP DISTRICTS

c. RP District Development Standards

(d) Streets, Driveways, Lake Trams and Public Transportation Facilities

(d) Streets, Driveways, Lake Trams and Public Transportation Facilities

(iv) Public streets and public transportation facilities shall not be placed in or through an RP District unless:

(B) For public transportation facilities (other than regional trails), there is no other suitable location nearby for siting the public transportation facilities which would provide equal or greater public use of the public transportation facilities.

(iv) For regional, community connector trails, or local access trails (designated ~~as a regional trail~~ on the City's Trails and Pathway Master Plan), they may be located within an RCPA provided the trail width shall be no greater than 12 feet wide (as determined by the standards in the City's Trails and Pathway Master Plan),

50.06.001 BUILDING DESIGN

5. COMMERCIAL, INDUSTRIAL, AND MULTI-FAMILY DEVELOPMENT AND MINOR DEVELOPMENT IN THE R-DD ZONE STANDARDS FOR APPROVAL

b. Design Standards

b. Design Standards

~~ix. 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).~~

50.06.002 PARKING

2. STANDARDS FOR APPROVAL

a. Vehicle Parking

a. Vehicle Parking

i. 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.

ii. **Number of Required Parking Spaces.**

The number of required parking spaces under this Article shall be determined by either the Numerical Method [subsection (1)] or the Parking Study method [subsection (2)] below.

(1) Numerical Method.

Refer to Tables 50.06.002-1, -50.06.002-2, and 50.06.002-3 to determine the number of parking spaces required. The minimum number of parking spaces specified for each type of use shall include reductions to parking requirements pursuant to subsection (v)(1) below and Table 50.06.002-3~~are the minimum standards. Fractional space requirements shall be counted as the next highest whole space.~~

<u>Table 50.06.002-1: Numerical Method of Determining Minimum Parking Spaces Required</u>	
<u>Determine:</u>	<u>Method of Determining:</u>
<u>Floor Area Amount</u>	<u>From Table 50.06.002-2, determine if floor area is used to calculate the number of parking spaces required for the use(s). (Floor Area per Parking Space)</u>
<u>Number of Employees</u>	<u>Determine number of full-time, temporary, part-time and contract employees, or independent contractors, if employee count is used in Table 50.06.002-2 to calculate the number of parking spaces required. (Employee Per Space amount)</u>
<u>Gross Parking Requirement</u>	<u>1. Multiply the adjusted Floor Area Amount by the Floor Area per Parking Space.</u> <u>2. Multiply the Number of Employees by the Employee Per Space amount.</u> <u>3. Add the results of (1) and (2) above together.</u>
<u>Reductions</u>	<u>1. See Table 50.06.002-3 for possible reductions.</u>

	<u>2. Apply reduction percentages to Gross Parking Requirement.</u>
<u>Mixed Uses</u>	<u>The total requirements for mixed uses on a site shall be the sum for the various uses computed separately.</u>
<u>Rounding</u>	<u>Any fractional space amount determined following the application of Reductions and Mixed Uses above shall be rounded up to the next highest whole space.</u>
<u>Minimum Parking Requirement</u>	<u>The minimum parking requirement is the “rounded” number above.</u>

(2). Parking Study Method. Use the parking study methodology for determining the parking needs of the proposed use as provided in subsection (5) below.

~~(23)~~ Except for residential parking requirements, the maximum number of parking spaces shall not exceed either 125% of the number of parking spaces required under Table 50.06.002-2 (without applying the Parking Requirement Modifiers, Table 50.06.002-3) , ~~minimum number of required spaces~~ or the required number of parking spaces determined by the Parking Study Method above.

~~(34)~~ Handicapped parking and ramps shall be provided in accordance with the Uniform Building Code.

~~(4) 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.~~

(5). When Use Not Expressly Listed. When the proposed use is not expressly listed within Table 50.06.002-2, the minimum number of required parking spaces shall be determined by using either “the use most similar” to the proposed use or a parking study, pursuant to Table 50.06.002-2(H). If the applicant elects to determine the number of parking spaces required by a parking study, the parking study shall comply with the following:

(a). The total number of parking spaces required shall equal the number of spaces determined to be necessary to accommodate the average peak parking demand generated by the business or development use(s). “Peak parking demand” means the maximum number of parking required during the hours for the normal use of the development or business. The parking study shall be conducted by a registered traffic engineer.

(b). In preparing the parking study, the traffic engineer shall consider relevant references, guides, and factors that aid in the average peak parking demand determination. Such references, guides, and factors may include, but are not limited to:

(i). The factors and considerations recommended by the ITE Industry Standards.

(ii). Availability and projected use of alternative transportation modes (common-use vehicle, carpooling, bicycle, pedestrian, transit, etc.).

(iii). Parking demands at similar types of facilities, in similar types of locations, either within the City or elsewhere.

(c). Notwithstanding any other provision of this Code to the contrary, the minimum number of parking spaces determined to be necessary pursuant to this subsection shall not be eligible for reduction pursuant to subsection (v)(1) below or Table 50.06.002-3.

TABLE 50.06.002-12: MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS	
Type of Use	Parking Space Required
(A) RESIDENTIAL	
1. Single-family dwelling and duplex	1 space per dwelling unit
2. Secondary dwelling unit	1 space per unit (in addition to 1 space required for main dwelling unit)
3. Multi-family	25% of the required parking for multi-family use shall be located to provide for common or visitor use
i. Studio/Efficiency	1 space per unit
ii. 1 Bedroom	1.25 spaces per unit
iii. 2 or more Bedrooms	1.5 spaces per unit
4. Rooming and boarding house; Bed and Breakfast	1 space per each guest room plus one for owner
(B) COMMERCIAL RESIDENTIAL	
1. Hotel or Motel	1 space per unit
2. Assisted living facility	0.5 space per unit plus one per three employees
3. Hospital	1.5 spaces per bed
(C) PLACES OF PUBLIC ASSEMBLY	

TABLE 50.06.002-12: MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS

Type of Use	Parking Space Required
1. Churches, clubs, lodges, meeting rooms, and auditoria	1 space per 4 seats of maximum capacity, or 1 space per each 5 occupants based on maximum capacity as calculated under the provisions of the Uniform building Code
2. Library, reading room, museum, art gallery	1.88 spaces per 1,000 sq. ft. plus one space per 2 employees on the peak shift
3. Nursery, day or child care facility, kindergarten	2.5 spaces per 1,000 sq. ft. G.F.A
4. Elementary or middle school or equivalent private or parochial school	16.6 spaces per 1,000 sq. ft. G.F.A in the auditorium or 2 spaces per classroom, whichever is greater
5. Senior high and equivalent private or parochial school	0.2 spaces per number of students and staff
6. College; commercial school for adults	3 spaces per 1,000 sq. ft. G.F.A (excluding dorms)
7. Schools such as martial arts, music, dance, gymnastics	1 space per 100 sq. ft. of G.F.A of lesson activity floor area plus 0.5 space per employee
(D) COMMERCIAL AMUSEMENTS	

(E) COMMERCIAL	
1. Office, including business and management services except medical or dental	3.33 spaces per 1,000 sq. ft. G.F.A
2. Medical and Dental Offices or clinics including accessory laboratories for medicine, dentistry, veterinarian practice or other practices of the healing arts	3.9 spaces per 1,000 sq. ft. G.F.A
3. Bank	2.5 spaces per 1,000 sq. ft. G.F.A
4. Supermarket	2.9 spaces per 1,000 sq. ft. G.F.A
5. Convenience food store	2.2 spaces per 1,000 sq. ft. G.F.A
6. Specialty food stores, such coffees, bagels, juice bars (Take-out food/drink primarily	6.6 spaces per 1,000 sq. ft. G.F.A
7. Eating or drinking establishment	13.3 spaces per 1,000 sq. ft. G.F.A
8. Eating or drinking establishment with drive	9.9 spaces per 1,000 sq. ft. G.F.A

TABLE 50.06.002-12: MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS	
Type of Use	Parking Space Required
up window	
9. Barber shop, beauty salon, personal care services, such as nail, tanning, and therapeutic massage salons	4 spaces per 1,000 sq. ft. G.F.A plus 0.5 space per station
10. Retail sales and rentals, except as otherwise specified herein	3.3 spaces per 1,000 sq. ft. G.F.A
11. Heavy equipment rentals, such as yard and tool equipment	1 spaces per 1,000 sq. ft. G.F.A plus 0.5 per employee
12. Service or repair shop, such as electronic and home appliance repair, upholstery	1.6 spaces per 1,000 sq. ft. G.F.A
13. Automotive repair garage and service station	1.6 spaces per 1,000 sq. ft. G.F.A plus 0.5 per employee
14. Mortuary	1 space per 5 seats based on maximum auditorium capacity plus 1.5 space per employee
15 . Martial arts, music, dance, gymnastics, yoga studios	1 space per 100 square feet G.F.A. of lesson activity floor area, plus .5 space per employee

(H) USES NOT SPECIFICALLY MENTIONED	
Parking requirement for uses not specifically mentioned in this section shall be determined by the requirements for off-street parking facilities for the listed use which, as determined by the City Manager, is most similar to the use not specifically mentioned, or by an analysis of the parking needs generated by the type of use [See LOC 50.06.002.2.a.ii(5)]. parking study.	

iii. On-Site Location of Required Parking Spaces

(1) All required parking shall be off-street. Parking may not be located in a required yard or special street setback [except where there are specific yard setback requirements for parking established by the zone.](#)

(2) 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.

iv. Off Street Parking Options

(1) Off-Site Parking

Within commercial, public use, industrial and campus institutional zones, parking may be provided on remote lots within said zones which are within 500 ft. 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 ft. of the property line of the use to be served. If the remote parking lot is not owned by the owner of the property of the use to be served, said owner shall obtain an exclusive permanent easement in the remote lot so as to permit parking from the use to be served on the remote lot.

(2) Shared Parking

(a) Shared parking is allowed when a parking study demonstrates that ~~if the application can demonstrate that the combined peak use is provided for by a parking study that demonstrates:~~

~~(i) There are a sufficient number of parking spaces to accommodate the requirements of the individual businesses; or~~

~~(ii) That the peak hours of operation of such establishments do not overlap, and~~

~~(iii) That an exclusive permanent easement over a delineated area has been granted for parking space use.~~

there are a sufficient number (by actual or estimated count) of parking spaces to accommodate the parking needs generated by the applicant and other parking lot users during the applicant's period(s) of use of the parking lot. A new parking study shall be submitted upon any one of the following events:

(i) Change from one type of use to another that has higher number of parking spaces required by Table 50.06.002-2 for the new use.

(ii) Where one use expands into the area of another use and it results in:

(A). A 10% or more increase in the number of parking spaces that would be required for the use under the Numerical Method, as if that method were

applied to the use to determine the parking needs, rather than through a parking study; or

(B). For an “eating or drinking establishment” or a type of commercial amusement business, any increase in the number of parking spaces that would be required for the use under the Numerical Method, as if that method were applied to the use to determine the parking needs, rather than through a parking study.

(b) 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.

v. Reduction for Parking Space Requirements

(1) Parking space requirements ~~may~~ shall be reduced in developments where compensating factors exist which would offset the parking demand (such as Access to Transit Facilities, Pedestrian and Bicycle Access, Development Size, or combined, or the Parking Study provision). Refer to Table 50.06.002-~~2~~3 for reduction options.

TABLE 50.06.002- 2 <u>3</u> : PARKING REQUIREMENT MODIFIERS	
Reduction for Access to Transit Facilities	
COMMERCIAL AND INDUSTRIAL USES (BASED ON DEVELOPMENT SIZE ON A SINGLE SITE (DS))	
GROSS FLOOR AREA	MULTIPLIER
0—20,000 sq. ft.	No reduction
20,000 plus sq. ft.	.85 x requirement
AVAILABILITY OF TRANSIT ACCESS (TA)	
Transit shelter more than 500 ft. from building	No reduction
Transit available with shelter within 500 ft. of building	.95 x requirement
Transit available on fronting street without shelter	.90 x requirement
Transit available on fronting street with shelter within 50 ft. of building	.85 x requirement
Reduction for Pedestrian and Bicycle Access (PA)	
COMMERCIAL AND INDUSTRIAL USES	MULTIPLIER
No hard surfaced pedestrian/bicycle access	No reduction
Hard surfaced pedestrian and bicycle access to 100 or more residential units within 1000 ft. of the site.	.90 x requirement

TABLE 50.06.002-23: PARKING REQUIREMENT MODIFIERS

Reduction Permitted Based on Parking Study

The Parking Study shall demonstrate sufficient number of parking spaces:

- a. For shared parking with other multiple uses per LOC 55.010(1)(d)(ii)
- b. Based on similar uses elsewhere in the City or the same use at other sites.

Parking requirement modification shall be calculated as followed: Minimum requirement by type use x DS (Development Size) x TA (Transit Access) x PA (Pedestrian Access) = modified parking requirement.

Definitions:

Transit Access: Availability of transit services as delineated above.

Pedestrian Access: The means by which pedestrians have safe, adequate and usable ingress and egress to a property or use.

<u>Types of Modification</u>	<u>Modification Requirements and Modifiers</u>			
<u>Development Site Size (DS)</u>	<u>Commercial, Public, and Industrial Uses (Based on Development Size on a Single Site (DS))</u>			
	<u>Gross Floor Area</u>	<u>Multiplier</u>		
	<u>1 - 20,000 Sq. ft.</u>	<u>No reduction</u>		
	<u>> 20,000 Sq. ft.</u>	<u>.85 x requirement</u>		
<u>Access to Transit Facilities (TA)</u>	<u>Transit Shelter</u>	<u>On Fronting Street</u>	<u>Within 50 feet of building</u>	<u>.85 x requirement</u>
	<u>Transit Shelter</u>		<u>Within 500 feet of building</u>	<u>.90 x requirement</u>
	<u>Transit Facilities</u>	<u>On Fronting Street</u>	<u>Within 500 feet of building</u>	<u>.90 x requirements</u>
<u>Downtown Redevelopment District</u>	<u>See below</u>			
<u>Pedestrian and Bicycle Access (PA)</u>	<u>Commercial, Public and Industrial Uses</u>			

TABLE 50.06.002-23: PARKING REQUIREMENT MODIFIERS	
	<u>100 or more residential units within 1000 feet</u> <u>.90 x requirement</u>
<u>Downtown Redevelopment District</u>	<u>See below</u>
<u>Downtown Redevelopment District</u>	<u>.75% x requirement</u>
<u>Parking Study</u>	<u>The parking study shall demonstrate sufficient number of parking spaces for Shared Parking with other multiple users per LOC 50.06.002.2.a.iv(2).</u>

~~(a) Within the East End General Commercial zone only, only the parking modifiers permitted by LOC 50.05.004, Downtown Redevelopment District Design Standards, and Development Size, or the Parking Study provision are permissible for reduction options.~~

50.06.002 PARKING

2. STANDARDS FOR APPROVAL

b. Bicycle Parking

b. Bicycle Parking

***vi. 100% of all required bicycle parking spaces ~~for industrial categories~~ shall be covered. These required bicycle parking spaces may be provided within a building. ~~Bicycle parking spaces for employees of commercial, public use, 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 free standing shelters.

50.06.005 PARK AND OPEN SPACE CONTRIBUTIONS

4. STANDARDS FOR CONSTRUCTION

4. STANDARDS FOR CONSTRUCTION

{Reserved}

a. Maintenance.

i. Natural Areas.

Natural areas shall remain in natural condition existing at the time of their designation, except as follows:

- (1) Removal of invasive plants (i.e., see the Lake Oswego Master Plant List).
- (2) Removal of litter.
- (3) Installation and maintenance of any soft surface trails (note: see LOC 50.05.010 (5)(c)(iii)(5) and 50.05.010.6.c.ii(e)(i)(c)).
- (4) Irrigation and maintenance of trees and vegetation as necessary for their survival.
- (5) Planting of trees and vegetation necessary to maintain the functions and values of the natural resource, but primarily not for decorative landscaping purposes.
- (6) Repair of any natural waterway or wetland which is necessary to maintain the functions and values of any waterway or wetland resource within the natural area.
- (7) Installation of any signage that identifies or protects the natural resource, natural vegetation, and passive recreation facilities.
- (8) Removal of any hazardous trees, pursuant to LOC Article 55.02 (note: condition of approval may require tree to be converted to a wildlife tree).
- (9) Installation and maintenance of fencing that complies with the following:
 - (a) No taller than three ft.
 - (b) Non-sight obscuring, and
 - (c) No wire mesh or cyclone fence.Such fencing shall be compliant with the provisions of LOC 50.06.004.2 regarding Standards for Construction and Standards for Maintenance of fences, and, if applicable, LOC 50.05.010 (5) or (6).

ii. Parks.

Parks shall be maintained by undertaking the following:

- (1) Any activities permitted in Natural Areas above.
- (2) Repair of any natural waterway or wetland which is necessary to maintain the functions and values of any waterway or wetland resource within the park.
- (3) Installation of any signage that identifies or protects the park facilities or vegetation.
- (4) Installation and maintenance of recreation facilities.

b. Responsibility and Enforcement.

Maintenance of private open space shall be the common responsibility of the lot owners, which may be exercised through a homeowners association. If not maintained in accordance with this section, the City of Lake Oswego may enforce the maintenance obligations against the association and lot owners as provided in the covenants.

50.06.006 GEOLOGIC HAZARDS AND DRAINAGE

1. WEAK FOUNDATION SOILS

1. WEAK FOUNDATION SOILS

a. Applicability

This section applies in areas identified as "Potential Weak Foundation Soils to all:

- i. Minor and major development which will involve proposed structures, or
- ii. Ministerial construction of structures where the requirements of this Article have not been previously applied to the development site. ~~located in areas identified as "Potential Weak Foundation Soils."~~

d. Standards for Approval

The actual 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.

50.06.006 GEOLOGIC HAZARDS AND DRAINAGE

2. HILLSIDE PROTECTION

2. HILLSIDE PROTECTION

a. Applicability

This section applies in areas identified as "Slide Area," Slide Hazard," or parcels that have undisturbed slopes in excess of 12%, and where:

- i. Minor and major development will involve proposed structures, or
- ii. Ministerial construction of structures where the requirements of this Article have not been previously addressed.

~~to all development which includes hillsides or areas with erosion potential.~~

d. Standards for Approval

i. All developments on undisturbed slopes shall be designed to minimize the disturbance of natural topography, vegetation and soils.

~~ii. Designs shall minimize cuts and fills.~~

iii. Cuts and fills shall conform to the minimum requirements of LOC Chapter 45.

iv. Development Prohibited

(1) 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 (2), below.

(2) Exceptions. A licensed geotechnical engineer, registered civil engineer experienced in soils engineering, or licensed engineering geologist shall certify that methods of rendering a known hazard site safe for construction are feasible for a given site. The applicant shall establish that 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.

iv. Cuts and Fills

On land with unretained undisturbed slopes in excess of 12%, cuts and fills shall be regulated in accordance with LOC Chapters 45 and 52, and as follows:

(1) Toes of cuts and fills shall be set back from boundaries of separate private ownerships at least three ft., 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.

(2) Cuts shall not remove the toe of any slope where a severe potential landslide or erosion hazard exists (as defined in this standard).

(3) 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.

(4) Retaining walls shall be constructed in accordance with the Oregon State Structural Specialty Code, as enacted on January 1, 2002, or as thereafter amended by the Oregon Building Codes Division.

(5) No more than 65% of area in undisturbed slopes of 20% - 50% shall be graded or stripped of vegetation.

vi. 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 42.

vii. Land over 50% undisturbed slope shall be developed only where density transfer is not feasible. The development will provide that:

(1) At least 70% of the site will remain free of structures or impervious surfaces.

(2) Emergency access can be provided.

(3) Design and construction of the project will not cause erosion or land slippage.

(4) Grading, stripping of vegetation, and changes in terrain are the minimum necessary to construct the development.

e. Construction Standards

i. All development activity on undisturbed slopes shall minimize stripping or other soil disturbance and shall provide prevention measures in accordance with LOC Chapter [52](#), Erosion Control Standards.

ii. Plastic mulch may be used only temporarily, during construction activities.

iii. Slope stabilization and re-vegetation measures:

(1) 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.

(2) The developer shall be responsible for the proper execution of the approved grading plan.

~~(3) No more than 65% of area in undisturbed slopes of 20% – 50% shall be graded or stripped of vegetation.~~

50.06.006 GEOLOGIC HAZARDS AND DRAINAGE

3. DRAINAGE STANDARDS

a. Drainage Standards for Ministerial and Minor Development

a. Drainage Standards for ~~Ministerial and~~ Minor Development Other Than Partitions, Subdivisions and Certain Structures.

i. Applicability

This section shall be applicable to all ~~Ministerial Development Decisions and~~ Minor Development Decisions within the City, except partitions, subdivisions, and construction or alteration of structures as described in LOC 50.07.003.14.a.ii.6.

50.06.006 GEOLOGIC HAZARDS AND DRAINAGE

3. DRAINAGE STANDARDS

a. Drainage Standards for Ministerial and Minor Development

ii. Standards for Approval

ii. Standards for Approval

Development shall be conducted in such a manner that alterations of drainage patterns (streams, ditches, swales, and surface runoff) do not adversely affect:

- (1) ~~other~~ Other property;
- (2). RC Districts on adjacent property; or
- (3). RP Districts on adjacent property.

50.06.006 GEOLOGIC HAZARDS AND DRAINAGE

3. DRAINAGE STANDARDS

a. Drainage Standards for Ministerial and Minor Development

iii. Standards for Construction and Maintenance

iii. Standards for Construction and Maintenance

Same as for Drainage Standard for ~~Major Development~~, subsection 3.b below.

50.06.006 GEOLOGIC HAZARDS AND DRAINAGE

3. DRAINAGE STANDARDS

b. Drainage Standard for Major Development

b. Drainage Standard for Major Developments, [Partitions, Subdivisions, and Certain Structures](#)

i. Applicability

This section is applicable to:

- (1) ~~all~~ Major developments;
- (2) Partitions;
- (3) Subdivisions; and
- (4) Construction or alteration of structures as described in LOC [50.07.003.14.a.6.](#)

ii. Standards for Approval

(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:

- (a) ~~other~~ Other properties;
- (b) RC Districts on adjacent property; or
- (c) RP Districts on adjacent property.

50.07.001 SUMMARY PROCEDURES TABLE

50.07.001 SUMMARY PROCEDURES TABLE

TABLE 50.07.001-1: SUMMARY PROCEDURES TABLE										
Type of Decision	Code Section	Pre-Application Conference Required?	Neighborhood Meeting Required?	Notice Required?	Public Hearing Required?	Authority				
						R = Recommendation; D = Decision; A = Appeal				
						City Manager	Planning Commission	DR C	HR AB	City Council
Chapter 50.07 Review and Approval Procedures										
Ministerial Development	50.07.003.13	No	No	No	No	D				
Minor Development [2]	50.07.003.14									

Development in the Willamette River Greenway		Yes	[1]	Yes	Yes	R		D		A

50.07.003 REVIEW PROCEDURES

13. MINISTERIAL DEVELOPMENT DECISIONS

a. Ministerial Development Classification

ii. Ministerial Development Types

ii. Ministerial Development Types

(2) Construction or exterior modification of a detached single-family dwelling, duplex, zero lot line dwelling or a structure accessory to such structures which:

(a) Is not processed through the Residential Infill Design Review process pursuant to LOC 50.08.007;

(b) Is not located within a delineated RP resource or RC protection area pursuant to LOC 50.05.010, Sensitive Lands Overlay District;

(c) Does not impact an Historic Landmark designated pursuant to LOC 50.06.009;

(d) 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;

(e) 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; or

~~(f) Is not located on Weak Foundation Soils as identified in LOC 50.06.006.1.b;~~

~~(g) Is not located in a "Known Potential Severe Landslide Area" as defined in LOC 50.06.006.2, Hillside Protection; or~~

~~(h)~~ Is not located in the Greenway Management Overlay District, as identified in LOC 50.05.009.

50.07.003 REVIEW PROCEDURES

13. MINISTERIAL DEVELOPMENT DECISIONS

e. Review and Decision

ii. Review Criteria for Ministerial Developments

ii. Review Criteria for Ministerial Developments

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

(1) Parking, LOC 50.06.002.

~~(2) Drainage Standards for Ministerial and Minor Development, LOC 50.06.006.3.a.~~

~~(3) Hillside Protection, LOC 50.06.006.2.d.iii-v; LOC 50.06.006.2.e; and LOC 50.07.004.3.a.i, and ii.~~

(4) On-Site Circulation – Driveways and Fire Access Roads, LOC 50.06.003.2.

(5) If the ministerial development involves placement of a manufactured home, Manufactured Homes, LOC 50.03.003.1.c.

(6) Building Design Standard LOC 50.06.001.5.b.viii [mechanical equipment screening].

(6). Weak Foundation Soils, LOC 50.06.006.1, for construction of structures where the requirements of LOC 50.06.006.1 have not been previously addressed for the development site.

(7) If located in the Flood Management Area, LOC 50.05.011.

50.07.004 ADDITIONAL SUBMISSION REQUIREMENTS

10. WEAK FOUNDATION SOILS DETERMINATION PROCEDURES

10. WEAK FOUNDATION SOILS DETERMINATION PROCEDURES

~~a. 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.~~

ba. Report Required

i. If a development is located in an area of ~~potential~~ Potential ~~weak~~ Weak ~~foundation~~ Foundation ~~soils~~ 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 proposed use and ~~intended types of~~ structure(s).

Exception: At the discretion of the Building Official for small projects, e.g., small addition, hot tubs / spas, the registered professional soils engineer or engineering geologist may submit a letter, based on observation of the soil condition, that the soils are adequate for the proposed use and structure.

ii. If soils characteristics are determined by the applicant's registered professional soils engineer or engineering geologist not to be adequate for the proposed use or structure(s) without compensating for the effect of the soils, ~~The~~ 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.

iii. If the site has been previously evaluated under this Standard, the construction of a structure shall be deemed to comply with this standard if either:

(1). The soils engineer or engineering geologist concluded that the soil is adequate for the proposed use and structure(s); or

(2). The building plans for the structure comply with the corrective measures recommended under subsection (ii) above.

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.

~~eb.~~ City Manager Review

i. If soils characteristics are determined by the applicant's registered professional soils engineer or engineering geologist to be adequate for the proposed use and structure(s), no further consideration of compensating design shall be necessary.

ii. Pursuant to the Building Code:

(1) The ~~City Manager~~ Building Official shall specifically review design or engineering features in the development application which are intended to compensate for Weak Foundation Soils.

~~iii(2).~~ The ~~City Manager~~Building Official 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.~~

50.07.007 LAND DIVISIONS

2. FLAG LOTS

d. Lot Configuration Requirements

d. Lot Configuration Requirements

iii. Lot Depth

~~iii. Lot Depth~~

~~The lot depth shall be measured at the mid-point of the front and rear property lines of the "flag."~~

~~iv~~iii. 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.

50.07.007 LAND DIVISIONS

2. FLAG LOTS

e. Building and Site Design Standards

e. Building and Site Design Standards

vi. ~~Width~~Lot Width and ~~Depth~~ Requirements

~~The standard zoning dimensional requirements for lot depth do not apply to flag lots. No~~The lot width ~~or depth~~ dimension of a flag lot shall be not less than the ~~standard width dimension listed for lot under its respective zone~~minimum lot width requirements of the underlying zone.

50.07.007 LAND DIVISIONS

2. FLAG LOTS

f. Screening, Buffering and Landscape Installation

f. Screening, Buffering and Landscape Installation

iii. The rear and side yards of the flag lot ~~where the new development occurs~~ shall be screened from ~~adjacent abutting property lots outside of the partition site~~ with a six ft. tall fence, except where a four ft. fence is required by LOC 50.06.004.2.c.i, Fences, 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 ft. in width shall be created along the rear property line and planted with a deciduous or evergreen hedge, a minimum four ft. in height at planting which shall grow to a height of six ft. within two years and shall be maintained at a minimum of that height, except where the abutting ~~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 or railroad rights of way.

iv. Tree Removal Mitigation

A minimum of one evergreen or deciduous tree, ~~of a species which will attain a minimum of 30 ft. 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 as a part of the creation of the lot or for the first dwelling constructed on the lot. The mitigation trees shall be of a species which will attain a minimum of 30 feet in height. Deciduous trees at planting shall be a minimum of two in. caliper and evergreen trees shall be a minimum of eight ft. tall.

50.07.007 LAND DIVISIONS

4. PLANNED DEVELOPMENT OVERLAY

c. Procedures

c. Procedures

i. Multi-Phase PD Overlay Approval

The establishment of a PD overlay for projects containing more than one phase shall occur in conjunction with the approval by the ~~Planning Commission~~ reviewing authority of an Overall Development Plan and Schedule (ODPS) pursuant to the provisions of LOC 50.07.006. The ODPS shall contain a section which identifies the zone requirements and uses to be applied in the PD Overlay. These requirements may be adopted by referring in the Final Order to existing provisions of this section or by creating special zoning standards pursuant to this section.

ii. Single-Phase PD Overlay Approval

A request for a PD overlay for a project that will contain only one phase may be considered by the ~~Development Review Commission~~ reviewing authority. No ODPS shall be required, but the requirements of subsection (i), above, for the adoption of zone requirements in the Final Order shall be complied with.

iii. Following Approval of a PD Overlay:

(1) A subsequent request for modification from the underlying zone requirements for any lots within the planned development shall be processed in the following manner:

(a) PD Modified At Least One Lot Requirement In Subdivision

If any modifications were made to the above ~~from the underlying~~ zone requirements ~~for lot area, dimensions, setback, residential FAR, garage appearance and location, front building plane, side yard elevation or lot coverage for any lots within the planned development,~~ then any subsequent request for modification to these ~~standards~~ zone requirements ~~by variance~~ shall be processed either as:

(i). a A Planned Development ~~modification to the development permit granting the PD Overlay,~~ pursuant to LOC 50.07.003.11; no variance (LOC 50.08.002 or 50.08.003) is permitted; ~~or~~

(ii). further exceptions to the modified underlying zone requirements are permissible through the A Residential Infill Development (RID), pursuant to process (LOC 50.08.007); to the extent RID permits exceptions to certain zone standards, no Planned Development permit modification is required ~~without modification of the PD Overlay.~~

(2b) PD Modified None of the Lot Requirements In Subdivision

If no modifications were made from the ~~underlying zone requirements for lot area, dimensions, setbacks, residential maximum floor area, FAR, garage appearance and location, front building plane, side yard elevation or lot coverage for any lots within the planned development~~, then any subsequent request for modification to these ~~zone requirements of the underlying zone~~ shall be processed as:

(i). ~~A~~ variance pursuant to LOC ~~LOC 50.08.002 or 50.08.003~~ ~~50.08~~ or,

(ii). ~~A~~ for qualified residential developments, processed according to the provisions of LOC Article 50.08.007, RID.

(32) PD Applications Filed Prior to August 14, 2003

For PD applications filed prior to August 14, 2003, the following standards do not apply:

(a) The maximum floor area standards of LOC 50.04.001.1, Residential Low Density Zones;

(b) The maximum floor area standards of LOC 50.04.00.1.2, Residential Medium Density Zones – R-5 only;

(c) The height exception, front setback plane, side yard setback plane, and garage appearance and location standards for all residential districts.

(3). Maximum Structure Height In PD

The maximum height of structure permitted in the zone at the time of approval of the PD Overlay, and the methodology for determining the maximum height, shall be applied to structures within the PD Overlay.

50.07.007 LAND DIVISIONS

4. PLANNED DEVELOPMENT OVERLAY

d. Authorization

d. Authorization

i. Underlying Zone

(1) In considering an application for a PD Overlay, the reviewing authority shall apply the ~~height, maximum floor area, lot coverage, garage appearance and location, use, open space and density~~ requirements of the underlying zone. The

maximum floor area and lot coverage requirements may be applied with reference to the total area.

(2) If the proposed PD is part of an approved ODPS as described in LOC Article 50.07.006, 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), above, for the PD.

ii. Dimensional Exceptions

(1) The reviewing authority may grant exceptions to ~~the lot size, front setback plane, maximum side yard plane, lot dimension and front and rear setback requirements of the underlying zone~~ requirements (except for the zone requirements and limitations listed below) 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. The reviewing authority shall consider the factors listed in subsection (2) below in determining whether to approve the exceptions. ~~The considerations in granting the exceptions are set forth in subsection (2) below:~~

(a). No exceptions shall be approved for the following zone requirements:

- (i). The special setback requirements for steeply sloped lots in the R-5 zone [LOC 50.04.001.2.e.i.(2)] and R-0, R-2, and R-3 zones [LOC 50.04.001.3.e.vi],
- (ii). Height of building;
- (iii). Use;
- (iv). Open space; and
- (v). Density.

(b). Lot Coverage and Floor Area Limitations.

- (i). The aggregate lot coverage for all of the lots shall not exceed the maximum lot coverage based on the net developable acre of the project.
- (ii). The total floor area of all lots shall not exceed the aggregate of the floor areas as determined based upon the respective lot area and the floor area methodology required by the zone.

(2) In making the determination under subsection (1), the reviewing authority may consider:

(a) Whether the applicant has reserved or dedicated more than the minimum amount of open space required by [Park and Open Space Contributions \[LOC 50.06.005\]](#)~~the Park and Open Space Development Standard;~~

(e) Whether the requested exception will provide better linkage with adjacent neighborhoods, ~~parks and~~ open space areas, pathways, and natural features; or

(f) Whether the requested exception will allow the development to be designed more compatibly with the topography and/or physical limitations of the site.

50.07.007 LAND DIVISIONS

4. PLANNED DEVELOPMENT OVERLAY

d. Authorization

iii. PD Standards

iii. PD Standards

(1) Lots which are located on the perimeter of a development located in a R-0, R-2, R-2.5, R-3, R-5, R-6, 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 [city](#) zone upon which are constructed single-family dwellings, may be not less than:

(a) Development in R-0, R-2, R-2.5, R-3, R-5, R-6 zones: 75% of the minimum lot area per unit of the adjacent zone [or the minimum lot size of the zone in which the development is located, whichever is less.](#)

(b) Development in R-7.5, R-10, and R-15 zones: 80% of the minimum lot area per unit of the adjacent zone [or the minimum lot size of the zone in which the development is located, whichever is less.](#)

(c) Housing types located on the perimeter lots described in (1), above, 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.

(d) In a PD located in a R-0, R-2, R-2.5, R-3, R-5, or R-6 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.

50.08.002 MINOR VARIANCE

3. CLASSIFICATION OF VARIANCES

3. CLASSIFICATION OF VARIANCES

a. Variance from front, rear, side, and street side yard setback requirements of the zone and from the Oswego Lake setback for a single-family dwelling, zero lot line dwelling or ~~its~~ associated accessory structures that does not comply with the three criteria set forth in LOC 50.03.004.2.b.i(1)-(3):

i. 20%, or less, provided the resulting side yard setback is no less than five ft. in width; or

ii. The request is the minimum necessary to preserve a tree and both:

(1) The resulting yard setback is no less than 50% of standard required by the zone

(2) Side yards are not reduced to less than five ft.

j. Variances to street frontage (LOC 50.06.003.1.c) , at the time of creation of subdivision lots.

50.10.003 DEFINITIONS

2. DEFINITION OF TERMS

2 DEFINITION OF TERMS

The following terms shall mean:

Accessory Structure (Accessory Building). Any detached ~~building-structure~~ the use of which is subordinate and consistent with that of the ~~main-primary building-structure~~ and which is consistent with the ~~buildings-structures~~ and uses allowed in the zone in which it is located. Examples: play structures, sheds, and gazebos.

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 watercraft and accessories. Incidental uses of a boat house

include, but are not limited to: sanitary facilities (including shower), cooking facilities, rooftop decks (including stairs, whether interior or exterior). The following uses are not permitted within a boat house: habitable room(s); office; sleeping facilities; eating facilities.

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 the FEMA 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, and
- e. Area to be dedicated as part of the development for public open space and parks.

Detached: A horizontal separation of three feet or more, between the subject structure and nearby structures. The separation shall be from eave to eave, or where there are no eaves, the separation shall be measured between the closest elements (excluding breezeways, air conditioning units, heat pumps, and similar attached or connected fixtures to the structure) of the two structures. (If the distance of separation is less than three feet between two structures, they shall be deemed to be “attached”.)

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

a. A detached accessory structure that contains all of the elements of a dwelling unit within the accessory structure and the accessory structure complies with LOC 50.03.003.1.f, or

b. A portion of the dwelling structure contains the elements of a secondary dwelling unit pursuant to LOC 50.03.003.1.f, and the other portion of the dwelling structure meets the definition of “dwelling unit”, and the two portions are physically separated from each other by means of a wall or other permanent barrier, so that the usual and customary use of the two portions of the dwelling structure is as separate dwelling units, not as a single, interconnected housekeeping unit.

Floor Area. The gross building floor area excluding:

- a. [attic \(the unfinished space between the ceiling joists of the top story and the roof rafters\)](#)
- ab. Vent shafts,
- bc. Court yards,
- cd. Garages, except as modified in:
 - i. The R-5 zone (Section LOC 50.06.035 (1)(b)(i), for residential development);
 - ii. The R-6 zone (Section LOC 50.07.037 (1), for outright permitted residential development);
 - iii. The R-7.5, R-10, and R-15 zones (LOC Section 50.08.042 (1), for single family dwellings);
- de. Allowable projections,
- ef. Decks,
- fg. Patios,
- gh. Uncovered exit stairs, and
- hi. Uncovered, above-grade driveways.

Gross Building Floor Area. The combined square footage area (measured from the exterior of the surrounding exterior wall framing) of a building or portions thereof of all stories of a building. [Where a square footage limitation is imposed by this Code upon a building or structure, the method of measuring the square footage shall be presumed to be by “gross building floor area” unless otherwise stated.](#)

Floor Area Ratio (FAR) The ratio of the floor area to the ~~net buildable acre~~ [lot size](#). The greater the ~~ratio~~ [FAR](#), the greater the floor area relative to the size of the lot. 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.

Guest House. An accessory structure of less than 400 square feet with no cooking or kitchen facilities, [used for occasional temporary lodging of persons, and for which no payment or compensation is given in whole or part for lodging or use of the guest house.](#)

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 highest point of the gable of a pitched or hipped roof.

The reference points are determined as follows:

- a. If, for purposes of construction of a structure, an artificial elevation of the ground surface results: the elevation of any ground surface prior to construction at or within the exterior wall of the building.
- b. If, for purposes of construction of structure, there is an alteration or artificial lowering of the ground surface: the elevation of any ground surface after construction at or within the exterior wall of the building. See Measurement of Building Height figure below.
- c. On Lots within the Flood Management Area:
 - (i). 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, except that if the structure elevates the ground surface to the minimum required for the purpose of raising the floor level above the base flood elevation consistent with LOC 50.05.011, Flood Management Area, then the reference point shall be the elevated ground surface.

(ii) Residential - Waterfront Cabanas (R-W) Zone: the Oswego Lake Surface Elevation.

d. On Lots Within Planned Developments: For the purposes of determining building height, ground surface shall mean the elevation of the:

- i. Natural ground surface; or
- ii. Altered ground surface, as a result of the prior planned development approval.

Exception: The ground surface of a window well shall be deemed to be the same as the adjacent ground surface when the dimensions of the window well do not exceed three ft. by six ft. and the cumulative width of the window well(s) on a building façade do not exceed 40%.

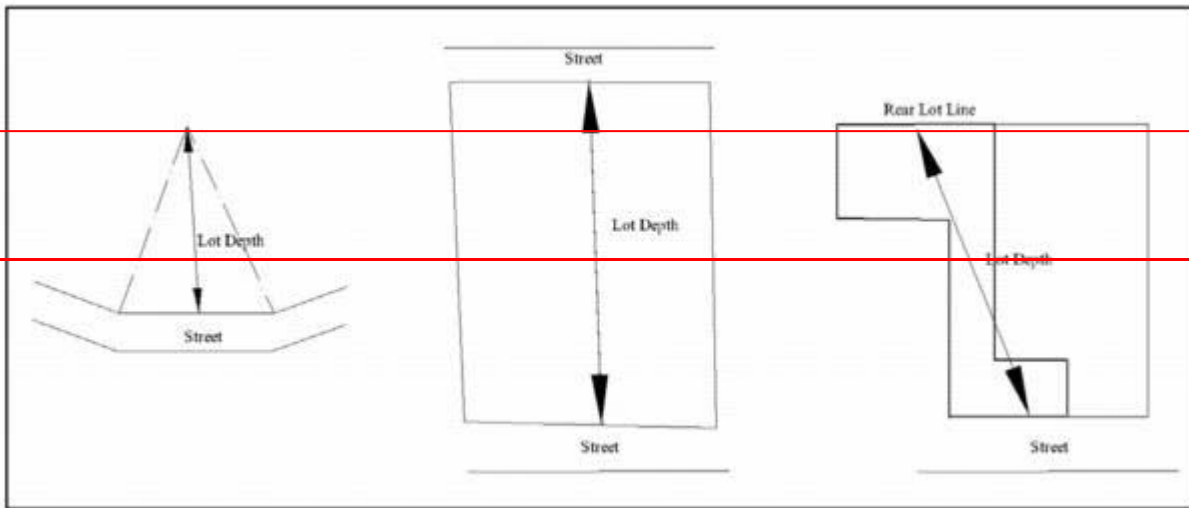
Lot Coverage

The ratio of A to B where A is the area of ~~the polygon formed by the surrounding exterior walls of all permanent~~ structures or portions thereof over 30 inches in height ~~with or without exterior walls~~, but exclusive of:

- a. ~~vent~~ Vent shafts;
- b. Portions of eaves that extend two ft. or less from exterior walls of the building and
- c. Open-roofed courtyards;
- d. Flowerboxes not exceeding two ft. in depth and 110% of the width of the adjoining window / door;
- e. Decorative metal balconies, i.e., wrought iron, not exceeding two feet in depth and 110% of the width of the adjoining window / door;
- f. Arbor or trellises used as a support for climbing or hanging plants. The trellis may have side(s) or a roof which do not exceed 75% opacity, except if a trellis side is also a side of a building, then that side is not subject to the 75% opacity requirement. ;
- g. Boat houses;
- h. Fences and retaining walls.
- i. Other structures similar to the structures above, except boat houses.

and B is the gross acreage of the site, ~~excluding area in street right-of-way, private streets and access easements (calculated in the same manner as provided in “Net Buildable Acre”).~~

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. In the case of a triangular lot, the lot depth is the horizontal distance from the midpoint of the front lot line to the furthest most intersection of the side lot lines. In the case of a through lot, the lot depth is the horizontal distance from the midpoint of one front lot line to the other front lot line. Lot depth measurement illustrations follow:



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

a. the area in street right-of-way or access easements, [except that the area of a vehicular access easement created by a minor partition shall not be deducted.](#) 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 vehicular access easements use actual acreage of easement; and:-

b. public open space easement or dedication, if accepted by the City.

Public Transportation Facilities

Those facilities that are associated with a transportation system, such as bus stops, transit centers, light rail, trails designated as a regional, community connector, or local access trails on the City's Trails and Pathway Master Plan, and similar facilities, but excluding public or private streets.

~~**Secondary Dwelling Unit.** A second dwelling unit, either attached or separate, located on a lot already containing a dwelling unit, which complies with LOC 50.03.003.1.f, Secondary Dwelling Unit.~~