

ORDINANCE NO. 2648

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE) FOR THE PURPOSE OF CLARIFYING, CORRECTING AND UPDATING VARIOUS PROVISIONS RELATING TO SOLAR PANELS, LANDSCAPING, AND BICYCLE PARKING, AND FRONT PORCHES AND SETBACKS IN THE R-6 ZONE, FOLLOWING NOTICE PER ORS 227.186; AND ADOPTING FINDINGS (LU 14-0014B).

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

WHEREAS, additional amendments not requiring individual notice to property owners have been submitted to the City Council for separate consideration (Ordinance 2643), and

WHEREAS, some of the 2014 proposed code amendments may have an effect upon certain properties that qualify for individual notice to property owners pursuant to ORS 227.186, notice of the public hearing for consideration of this ordinance was duly given in the manner required by law, including ORS 227.186;

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions (LU 14-0014B-1857), attached as Attachment 1.

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

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

Enacted at the meeting of the City Council of the City of Lake Oswego held on the 17th day of February, 2015.

AYES: Mayor Studebaker, Bowerman, Buck, Gudman, Gustafson, Manz, O'Neill

NOES: None

ABSTAIN: None

EXCUSED: None



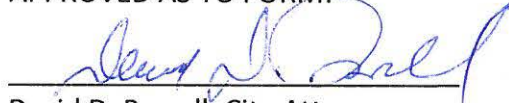
Skip O'Neill, Council President

Dated: 2/18/15

ATTEST:


Catherine Schneider, City Recorder

APPROVED AS TO FORM:


David D. Powell, City Attorney

ATTACHMENT 1

1 BEFORE THE CITY COUNCIL
2 OF THE CITY OF LAKE OSWEGO

3 A REQUEST FOR AMENDMENTS TO THE COMMUNITY DEVELOPMENT CODE TO CLARIFY, CORRECT AND UPDATE VARIOUS PROVISIONS
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LU 14-0014B-1857 CITY OF LAKE OSWEGO	FINDINGS AND CONCLUSIONS
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NATURE OF PROCEEDINGS

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

- LOC 50.04 Dimensional Standards
- LOC 50.05 Overlay and Design Districts
- LOC 50.06 Development Standards.

Proposed amendments also address inadvertent changes by the recent Code re-organization and by previous ordinances, as well as needed amendments identified by staff through use and application of the Code.

Additional proposed amendments to the CDC were a part of the application but were separated for review and adopted as LU 14-0014A (Ordinance 2643).

HEARINGS

The City Council considered this matter at a study session on December 9, 2014. On January 20, 2014, the City Council held a public hearing on the proposed amendments and made a tentative decision.

CRITERIA AND STANDARDS

A. City of Lake Oswego Comprehensive Plan:

- Community Culture – Civic Engagement Policies 1, 2, 4 and 5
- Land Use Planning – Land Use Administration Policy D-1
- Inspiring Spaces and Places, Goal 1 Policy 7

B. City of Lake Oswego Community Development Code:

Page 1 – FINDINGS AND CONCLUSIONS (LU 14-0014B-1857)

ATTACHMENT 1

1	LOC 50.07.003.16.a	Legislative Decisions Defined
	LOC 50.07.003.16.c	Required Notice to DLCD
2	LOC 50.07.003.16.d	Planning Commission Recommendation Required
3	LOC 50.07.003.16.e	City Council Review and Decision

4 **FINDINGS AND REASONS**

5 As findings supporting its decision, the City Council incorporates the September 2, 2014,
6 staff report, with all exhibits, the October 28, 2014, Council Report, the December 4, 2014, and
7 December 9, 2014, staff memoranda to the City Council, and the Findings, Conclusions and
8 Order of the Planning Commission, supplemented by the further findings and conclusions
9 below. If there is any inconsistency between the City Council’s supplemental findings below
10 and the incorporated matters, the supplemental findings control.

11 Following are the supplemental findings and conclusions of this Council:

12 Relating to the proposed Code Amendments about orientation of front porches, front
13 main entries, front entry paths, and front setbacks on corner lots in the R-6 Zone, the Planning
14 Commission, staff and representatives of the First Addition Neighborhood Association each
15 recommend adoption of the approach described as Option 1. In addition to the proposed
16 amendment requiring that, for corner lots, the front setback must be measured on the narrow
17 street frontage, Option 1 adds that the front porch and main entry must be provided on the
18 narrow frontage, and that a front entry path must provide direct access from the front porch to
19 the public street or sidewalk on the narrow street frontage.

20 The City Council agrees that the amendments identified as Option 1 will best maintain
21 the traditional streetscape envisioned when the First Addition Neighborhood Plan and
22 implementing Code provisions were adopted. Option 1 also fulfills the original neighborhood
23 objective of appropriately bringing down the perceived scale of development when viewed
24 from the street, and creating front porches with orientations that encourage interaction among
25 neighbors.

26

ATTACHMENT 1

1 The Council also received testimony asserting that the proposed amendment to LOC
2 50.06.003.1.g, which will make the prohibition against street access less than 100 ft. from the
3 nearest intersection of street centerlines apply to all applicable development except partitions,
4 is not “clear and objective” and therefore should not be adopted. The Council finds to the
5 contrary that the proposed amendment does not create a subjective or discretionary standard.
6 LOC 50.06.003.1.g currently, and as proposed, is stated in clear and objective terms.

7 **CONCLUSION**

8 The City Council concludes that LU 14-0014B as recommended by the Planning
9 Commission, with Option 1, meets all applicable criteria and should be approved. The City
10 Council also concludes that Ordinance 2648, which implements LU 14-0014B with Option 1,
11 should be enacted.

ATTACHMENT 2

50.04.003.4.a (EXCEPTIONS, PROJECTIONS, AND ENCROACHMENTS / GENERAL EXCEPTION TO STRUCTURE HEIGHT LIMITATIONS / General Exceptions)

a. General Exceptions

In addition to any other exceptions permitted to the maximum building height limitation of a zone, the following type of structures or structural parts are not subject to the structure height limitations of this Code in the following zones:

TABLE 50.04.003-1: EXCEPTIONS TO HEIGHT LIMITATIONS	
Zone	Structures or Structural Parts Exempt from Height Limitations
Residential Zones – Residential Uses	<ul style="list-style-type: none"> a. Chimneys, flagpoles, radio and television antennas, ham radio aerials, and other structures. b. Roof-mounted solar system (panels)¹.
Residential Zones – Nonresidential Uses	<ul style="list-style-type: none"> a. Chimneys, church spires, belfries, domes, monuments, radio and television antennas, fire and hose towers, flagpoles, and other similar structures. b. Roof-mounted solar system (panels)¹.
Commercial, Public Use, and Industrial Zones	<ul style="list-style-type: none"> a. Chimneys, tanks, church spires, belfries, domes, monuments, radio and television antennas, fire and hose towers, observation towers, masts, ham radio aerials, cooling towers, elevator shafts, smokestacks, flagpoles, radio and television towers, and other similar structures. b. Roof-mounted solar system (panels)¹.
FMU Zone	<ul style="list-style-type: none"> a. Radio and television antennas and other similar structures, and public safety facilities. b. Any structure exempt from height limitation in residential zone (residential or nonresidential use) in subsection (a) above that has a width, depth, or diameter of five ft. or less may exceed the zone’s height limitation by no more than ten ft., or five feet above the highest point of the roof, whichever is greater. c. Rooftop elevator mechanical equipment may extend up to 16 ft. above the height limit. d. Stairwell enclosures and rooftop mechanical equipment (excluding elevator mechanical equipment) which cumulatively covers no more than 10% of the roof area may extend ten ft. above the height limit. e. Small wind turbines² that meet subsection 4.b.iii of this section are exempt from the height requirement. f. Roof-mounted solar systems (panels)¹.
<p>¹ See LOC 50.04.003.4.b.ii for maximum height exception.</p> <p>² <u>See LOC 50.04.003.4.b.iii for maximum height exception.</u></p>	

ATTACHMENT 2

b. Aerials and Collocated Telecommunications Facilities and Solar Panels; Wind Turbines in the FMU Zone

ii. Roof-mounted solar systems (panels) may exceed the maximum building height limitation by the following:

(1) Roof slopes 2:12 or less – no more than four ft. above the maximum building height or existing building height, whichever is less, or

(2) Roof slopes greater than 2:12 – no more than one ft. above the maximum building height or the existing roof height, whichever is less.

iii. In the FMU zone, small wind turbines are permitted and are not subject to the height requirements subject to the following standards:

(1) Wind turbine poles must be no greater than 30 ft. high;

(2) Wind turbine poles shall have a maximum outside diameter of 2.5 ft.;

(3) Wind turbines shall have a maximum fan diameter of ten ft.;

(4) All wind turbine components shall be painted white; and

(5) No more than four wind turbines may be installed per site.

50.05.004.8 [Downtown Redevelopment / Landscaping and Site Design Requirements

f. Green Landscaping.

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

(1) Use 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; nuisance and invasive plants, as identified in the Lake Oswego Master Plant list in Appendix 50.11.004-D and the Invasive Tree Species List on file at the Planning Department, are prohibited.

ATTACHMENT 2

50.05.007.6 [Lake Grove Village Center Overlay/ Site Planning Standards/Landscape Requirements]

e. Landscape Requirements

These standards reinforce village scale and character, buffer dissimilar uses, and ensure a unified streetscape theme and continuity within the Lake Grove Village Center Overlay District as illustrated in the Village Theme section of the Lake Grove Village Center Design Handbook.

ii. Regional Trees and Vegetation

The landscape plan shall incorporate large-scale native northwest trees such as Douglas-fir (*Pseudotsuga menziesii*), western red cedar (*Thuja plicata*), western hemlock (*Tsuga heterophylla*), California incense cedar (*Calocedrus decurrens*), Oregon white oak (*Quercus garryana*) or bigleaf maple (*Acer macrophyllum*). Drought resistant plant materials that are either native or have naturalized to the locale shall be featured. Nuisance and invasive plants, as identified in Appendix 50.11.004-D and the Invasive Tree Species List on file at the Planning Department, are prohibited. Emphasis shall be on informal, natural arrangements of plant materials that, over time, will form groves of trees around buildings, parking lots, and within required landscaped buffers.

ATTACHMENT 2

50.06.002.2; Table 50.06.002-6

ii. The minimum number of required bicycle parking spaces are listed in Table 50.06.002-6; provided, however, that the owners of institutional categories under Table 50.06.002-6 may defer installation of a portion of the required bicycle parking facilities if:

(2) The owner executes and records with the County Clerk of the county in which the property is located a covenant to undertake bicycle parking studies, and install a percentage of required bicycle parking facilities, as follows:

TABLE 50.06.002-6: MINIMUM REQUIRED BICYCLE PARKING SPACES		
Use Categories	Specific Uses	Number of Required Spaces
FMU ZONE:		
All Residential Uses		1 space per dwelling unit
Nonresidential Uses	Retail and restaurant uses	2, or 1 per 2,500 sq. ft. G.F.A.
	All other nonresidential uses	2, or 1 per 10,000 sq. ft. G.F.A.
ALL OTHER ZONES		
RESIDENTIAL CATEGORIES		
Household Living	Multi-family	1 per 4 units
Group Living		2, or 1 per 20 residents
	Dormitory	1 per 8 residents
INSTITUTIONAL CATEGORIES		
Preschool		2, or 1/2 per classroom
Schools	Grades 1 through 12	2 per classroom
Colleges	Excluding dormitories (see Group Living, above)	2, or 1 per 20,000 sq. ft. G.F.A.
Transit Centers	Park and ride lots	5% of auto spaces
Religious Institutions		2, or 1 per 4,000 sq. ft. G.F.A.
Hospitals		2, or 1 per 40,000 sq. ft. G.F.A.
Libraries, Museums, etc.		2, or 1 per 4,000 sq. ft. G.F.A.
COMMERCIAL		
Retail Sales and Services	Includes groceries and financial institutions	2, or 1 per 2,500 sq. ft. G.F.A.
Auto-Oriented Services	With or without mini-market	2, or 1 per 5,000 sq. ft. G.F.A.

ATTACHMENT 2

TABLE 50.06.002-6: MINIMUM REQUIRED BICYCLE PARKING SPACES		
Use Categories	Specific Uses	Number of Required Spaces
Office	Includes doctor, dentist	2, or 1 per 5,000 sq. ft. G.F.A.
Restaurant	Includes drive-ins	2, or 1 per 5,000 sq. ft. G.F.A.
Theaters, Auditoriums		1 per 60 seats
INDUSTRIAL CATEGORIES		
Warehouse and Freight Movement		2, or 1 per 40,000 sq. ft. G.F.A.
Manufacturing and Production		2, or 1 per 15,000 sq. ft. G.F.A.
Industrial Park	Other than manufacturing and warehousing	2, or 1 per 10,000 sq. ft. G.F.A.
<p>Notes:</p> <p>1. Wherever this table indicates two numerical standards, such as 2, or 1 per 3,000 sq. ft. of gross floor area, the larger number applies.</p> <p>2. 100% of all required bicycle parking spaces for residential and industrial categories shall be covered. Bicycle parking spaces for employees of commercial, public use, and institutional categories are encouraged to be covered and secured. Cover for bicycle parking may be accommodated by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings or dwelling units or freestanding shelters.</p> <p>FMU Zone: Of the required number of bicycle parking spaces, 10% shall be located in a location visible from and in close proximity to the main entrance, for visitor use, either outside or inside of the building on the ground floor. All other bicycle parking spaces may be provided within a building.</p> <p>All Other Zones: These bicycle parking spaces may be provided within a building.</p> <p>3. Fractional space requirements shall be counted as the next highest whole space.</p> <p>4. G.F.A. (Gross Floor Area): The area included within the surrounding exterior walls of a building or portion thereof excluding allowable projections, decks, patios, uncovered exit stairways or uncovered above-grade driveways.</p>		

vi. ~~FiftyOne hundred~~ percent of all required bicycle parking spaces shall be covered, unless it can be demonstrated that compliance is not practicable. These required bicycle parking spaces may be provided within a building. Cover for bicycle parking may be accommodated by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings or freestanding shelters.

50.06.003.1.g [Circulation and Connectivity / Access/Access Lanes (Flag Lots)]:

g. Distance between Access and Nearest Intersection

Except for partitions, Access from a major development to a collector or an arterial shall be not less than 100 ft. from the nearest intersection of street centerlines.

ATTACHMENT 2

50.06.004.1 (Development Standards/Site Design/Landscaping, Screening and Buffering)

c. Standards for Installation and Construction

viii. Plant materials listed as nuisance or invasive in Appendix 50.11.004-D and the Invasive Tree Species List on file at the Planning Department shall be prohibited as required landscaping.

ixviii. When a tree is located within a sidewalk, the tree base shall be protected from damage by pedestrians and other causes in a manner that complies with the City Engineer's specifications and applicable federal and state law, i.e., Americans with Disabilities Act.

xix. Plant material used for screening and buffering shall:

50.06.005.3.b [PARK AND OPEN SPACE CONTRIBUTIONS / STANDARDS FOR APPROVAL]

b. Required Open Space – How Provided

Open space land in commercial, institutional, public use, industrial and office campus ~~areas~~ development may be provided as a combination of reserved land and landscaping. Where no RP or RC district resources or public park land is located on the site, the open space requirement can be met by protecting nondesignated natural resource areas and/or providing landscaping which meets the requirements of the landscaping standard.

ATTACHMENT 2

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

ii. R-6 Yard Setback Standards

(1) Required Setbacks

TABLE 50.04.001-5: MINIMUM YARD SETBACKS – R-6 ZONE				
	Primary Structures (ft.)	Accessory Structures (ft.) [1]	Other Accessory Structures (ft.)	Garage-Vehicle Opening (ft.)
Front	20 [3]	20 [3]	20 [3]	15 [2]
Side Adjacent to a Street	Arterial/Collector: 20; Local: 7.5 [3]	Arterial/Collector: 20; Local: 7.5 [3]	Arterial/Collector: 20 Local: 7.5 [3]	Arterial/Collector: 20; Local: 15
Side	7.5	5	7.5	7.5
Rear	15	5	15	15
Notes:	[1] < 600 sq. ft. and with walls < 10 ft. in height below the eave. [2] Behind the front building line of the house (excluding a porch). [3] Provided there is no less than 20 ft. between the road surface and the structure. [3] On corner lots, the front setback shall be measured on the narrow street frontage.			

50.06.001.3.b [Building Design/Structure Design – Residential/R-6 Additional Requirement/Front Porch Required]

b. Front Porch Required

- i. All new primary dwellings shall include a covered front porch at the main entry that has a minimum depth of six ft. and a minimum width of either 50% of the building width, as measured within 40 ft. of the front lot line, or 15 ft., whichever is greater. See Figure 50.06.001-K: Minimum Front Porch Width.
- ii. On corner lots, the covered front porch and main entry shall be provided on the narrow street frontage. On lots with more than two street frontages, the front porch and main entry shall be provided on the front yard providing the full depth required by the zone, as determined by LOC 50.04.003.6.
- iii. Porch supports shall be provided on the front porch and shall be wood or masonry or a solid material with the appearance of wood or masonry.

ATTACHMENT 2

- iv. A front entry path shall provide direct access from the front porch to the public street / sidewalk. On corner lots, the front entry path shall connect to the public street / sidewalk on the narrow street frontage.

Figure 50.06.001-K: Minimum Front Porch Width

