

ORDINANCE 2909

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE) FOR THE PURPOSE OF CLARIFYING AND UPDATING VARIOUS PROVISIONS (2022); AND, ADOPTING FINDINGS (LU 22-0038).

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

WHEREAS, a public hearing before the Planning Commission was held on November 28, 2022, at which the staff report, testimony, and evidence were received and considered; and

WHEREAS, the Planning Commission has recommended that LU 22-0038 be approved by the City Council; and

WHEREAS, a public hearing on LU 22-0038 was held before the City Council of the City of Lake Oswego on January 17, 2023, at which the staff report, testimony, and evidence were received and considered; and

WHEREAS, these amendments to the Lake Oswego Code, Chapter 50 (Community Development Code) are intended to remove ambiguous and conflicting language, correct the text, and add clarifying text that is consistent with past interpretations;

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions (LU 22-0038), attached as Attachment 1.

Section 2. The Lake Oswego Code, Chapter 50 (Community Development Code) is hereby amended by deleting the text shown by ~~striketrough~~ type and adding new text shown **in 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.

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Section 4. Effective Date. As provided in Section 35C of Chapter VII of the Lake Oswego Charter, this ordinance shall take effect on the thirtieth day following enactment.

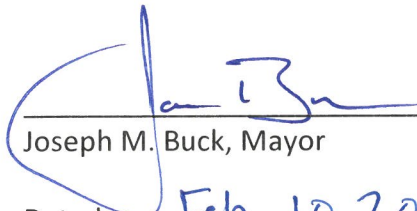
Enacted at the meeting of the City Council of the City of Lake Oswego held on the 7th day of February, 2023.

AYES: Mayor Buck, Mboup, Verdick, Rapf, Afghan, Corrigan, Wendland

NOES: None

ABSTAIN: None

EXCUSED: None



Joseph M. Buck, Mayor
Dated: Feb. 10, 2023

ATTEST:



Kari Linder, City Recorder

APPROVED AS TO FORM:



Ellen Osoinach, City Attorney

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

3 A REQUEST FOR AMENDMENTS TO THE 4 COMMUNITY DEVELOPMENT CODE FOR THE 5 PURPOSE OF CLARIFYING AND UPDATING VARIOUS PROVISIONS (2022), AND ADOPTING FINDINGS.	LU 22-0038 CITY OF LAKE OSWEGO FINDINGS AND CONCLUSIONS
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7 **NATURE OF PROCEEDINGS**

8 This matter came before the Lake Oswego City Council on the recommendation of the
9 Planning Commission for legislative amendments to the Community Development Code (CDC)
10 for the purpose of clarifying and updating various provisions. The proposed amendments are
11 to:

11 LOC 50.10.003.2	Establish a Threshold for Distinguishing “Sides” vs. “Rears” on Irregularly Shaped Lots
12 LOC Table 50.03.002-1 13 LOC 50.10.003.2 14 LOC Table 50.03.002-1 [Footnote 5] 15 LOC 50.03.003.5.a	Correct Uses Categories, Use Types, Use-Specific Standards, and Definitions for Day Care, Institutional Uses, & Private Educational Uses
16 LOC 50.05.004.13.b	Update Downtown Redevelopment Design District: Ensure “Clear & Objective” Track Applicability Language is Consistent with the “Discretionary” Track
17 LOC 50.05.004.6.b 18 LOC 50.05.004.13.f.ii	Downtown Redevelopment Design District: Storefront Appearances
19 LOC 50.04.001.1.f.i 20 LOC 50.04.001.2.f.i(1)(a) 21 LOC 50.04.001.2.f.ii(1) 22 LOC Table 50.01.004-11	Clarify How Height Is Measured for Lot Coverage Purposes
23 LOC Table 50.04.001-1 24 LOC Table 50.04.001-3 25 LOC Table 50.04.001-11	Clarify “Footprint, Sloped” vs. “Sloped Lot”
26 LOC Table 50.04.001-1 [Footnote 5] LOC Figure 50.04.001-A LOC Table 50.04.001-3 [Footnote 5] LOC 50.04.001.2.g.iii(1) LOC Table 50.04.001-11 [Footnote 4] LOC 50.04.001.3.f.ii(2)	Clarify Methodology for “Lot with Sloping Topography” Height Measurement
LOC 50.06.004.2.b.i LOC 50.07.003.13.a.ii(18) LOC 50.08.002.2.e	Fence/Wall/Retaining Wall Combination Height & Allowed Variances

1	LOC 50.07.003.1.a.ii	Unified Site & Parking
2	LOC 50.07.003.9.a.i	Clarify Construction Timing & Bonding of Required Public Improvements
3	LOC 50.07.004.3.a.iv LOC 50.07.004.10.b.i	Update Geotechnical Reports & Registered Professionals
4	LOC 50.07.003.16.c.v LOC 50.07.003.16.e.iv	Clarify Recipients of Legislative Notice of Decision
5	LOC 50.06.008.4.d.vii	Clarify Scope of Undergrounding of Utilities
6	LOC 50.05.004.9.a.i(2)	Ensure Gender-Neutral Pronouns
7	LOC 50.05.004.13.h.i(1)(b)	
8	LOC 50.05.010.2.f	
9	LOC 50.07.003.1.b	
10	LOC 50.07.003.4.b.iv	
11	LOC 50.07.003.4.f.iii(9)	
12	LOC 50.07.003.7.h.iii(2)	
13	LOC 50.07.003.16.d.v	Remove Outdated Term: "Private Streets"
14	LOC 50.10.003.2	
15	LOC 50.05.010.5.c.iii(1)(b)(iv)	
16	LOC 50.06.004.2.b	
17	LOC 50.07.007.2.c.ii	Carports & Gross Building Floor Area Calculation
18	LOC 50.08.002.2.f	
19	LOC 50.10.003.2	Update Definition of "Group Care Home"
20	LOC 50.06.001.5.g.i(2)	PF & PNA Zones - Exemption to Building Orientation
21	LOC 50.03.004.2.a.iv	Clarify Setbacks for Residential Noise-Producing Accessory Structures
22	LOC Table 50.04.003-2	Clarify Property Line Offsets for "At-Grade" Patios & Decks
23	LOC 50.04.003.8.b	
24	LOC 50.05.004.6.c.ii	Design & Overlay District Materials – Engineered & Composite Wood for Exterior Cladding
25	LOC 50.05.004.13.f.i(2)(a)(iii)	
26	LOC 50.05.004.13.f.iii(2)	
27	LOC 50.05.005.4.k.ii(2)	
28	LOC 50.05.005.9.d.x(2)(a)(iii)	
29	LOC 50.05.005.9.d.x(2)(c)(iv)	
30	LOC 50.05.005.9.d.x(3)(a)	
31	LOC 50.05.006.4.b.i(2)(e)	
32	LOC 50.05.006.4.b.ii(2)(e)	
33	LOC 50.05.007.5.g.i	Accessory Dwelling Units & Minor Variances
34	LOC 50.03.004.1.b.vi(1)(d)	
35	LOC 50.08.002.2.q	Uplands Overlay – Driveway Consolidation Flexibility
36	LOC 50.05.012.8.a	

1 **HEARINGS**

2 The Planning Commission held a public hearing and considered this application at its
3 meeting on November 28, 2022. The Commission adopted its Findings, Conclusion and Order
4 recommending approval of LU 22-0038 on December 13, 2022.

5 The City Council held a public hearing and considered the Commission’s recommendation
6 on January 17, 2023.

7 **CRITERIA AND STANDARDS**

- 8 A. City of Lake Oswego Comprehensive Plan
 - 9 Land Use Planning - Policies A-1, A-2, C-1, C-3 and D-1
 - 10 Community Culture - Policies 1, 2, 3, 4, 5 and 8
 - 11 Inspiring Spaces and Places - Goal 1, Policies 1, 2, 3 and 8; Goal 2, Policies 4 (d and e)
 - 12 Complete Neighborhoods & Housing - Policies A-4, A-5 and C-7
 - 13 Economic Vitality - Policy B-1 (b, c, and d)
 - 14 Community Health and Public Safety - Sound Quality - Policy 1
 - 15 Community Health and Public Safety - Access to Local Food – Policy 1
 - 16 Healthy Ecosystems - Oswego Lake - Policies 1 and 2
- 17 B. City of Lake Oswego Community Development Code
 - 18 LOC 50.07.003.3.c. Published Notice for Legislative Hearing
 - 19 LOC 50.07.003.16.a Legislative Decisions Defined
 - 20 LOC 50.07.003.16.b Criteria for Legislative Decision
 - 21 LOC 50.07.003.16.c Required Notice to DLCD
 - 22 LOC 50.07.003.16.d.iii Planning Commission Recommendation Required
 - 23 LOC 50.07.003.16.e City Council Review and Decision

24 **FINDINGS AND REASONS**

25 The City Council incorporates the Planning Commission Staff Report dated November
26 16, 2022, with all exhibits, and the Findings and Conclusions in the Commission’s December
27 13, 2022 Findings, Conclusions and Order, for LU 22-0038, as support for the Council’s
28 decision.

29 **CONCLUSION**

30 The Council concludes that LU 22-0038 / Ord. 2909, as recommended by the Planning
31 Commission, complies with all applicable criteria and should be approved.

LOC 50.03 USE REGULATIONS AND CONDITIONS

LOC 50.03.002 USE TABLE

2. RESIDENTIAL USE TABLE

TABLE 50.03.002-1: RESIDENTIAL DISTRICTS USE TABLE P = Permitted Use Blank = Not Permitted C = Conditional Use A = Accessory Use [x] Table notes located at the end of the table												
Use Category	Use Type	Residential										Use-Specific Standards
		R-15	R-10	R-7.5	R-6	R-5	R-DD	R-W	R-3 [3]	R-2	R-0 [3] [4]	
PUBLIC, INSTITUTIONAL, AND CIVIC USES												50.03.003.5
Day Care	Certified or registered family child care home	P	P	P	P	P	P	P	P	P	P	
	Day Care Center	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	<u>C</u>	<u>C</u>	50.03.003.5
Institutional Uses	Institutional Use	C	C	C	C	C	C		C	C	C	50.03.003.5 ; R-2 and R-6 zones: 50.03.003.3
Education	Educational Institutions, Private	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>	<u>C</u>	<u>C</u>	50.03.003.5

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

TABLE 50.03.002-2: COMMERCIAL, MIXED USE, INDUSTRIAL AND SPECIAL PURPOSE DISTRICTS USE TABLE P = Permitted Use Blank = Not Permitted C = Conditional Use A = Accessory Use [x] Table notes located at the end of the table	
	/// [5] In the portion of the IP zone depicted on Figure 50.03.003-B , additional permitted uses are: community institution institutional use , personal services, commercial recreational facility < 5,000 sq. ft. gross floor area, and retail ≤ 35,000 sq. ft. gross floor area subject to use-specific limitations in LOC 50.03.003.6 . Additional conditional uses are: Pet day care partially conducted outside during daytime hours. ///

LOC 50.03.003 USE SPECIFIC STANDARDS

5. STANDARDS FOR PUBLIC, INSTITUTIONAL AND CIVIC USES

a. ~~Community Institution~~ Religious Institution and Related Facilities

- i. Access streets have capacity to carry the projected traffic volumes.
- ii. The structure may exceed the maximum height limitation of the zone, to a structure height of no more than 50 ft.
- iii. The lot is sufficient size to allow all required yards to be equal to at least two-thirds the height of the principal structure.

///

LOC 50.03.004 ACCESSORY STRUCTURES AND USES

2. ACCESSORY STRUCTURES

a. Structure Specific Regulations

///

iv. Residential heat pumps, air conditioners or similar noise-producing mechanical equipment shall meet the required front setbacks of the zone. ~~Notwithstanding the side and rear setbacks of the zone, the~~ The equipment shall be set back from the side, street side and rear property lines as follows:

- (1) Interior Side Yard: 5 ft.
- (2) Street Side Yard, Local Street: 10 ft.
- (3) Street Side Yard, All Other: 15 ft.
- (4) Rear: 10 ft.

Exception: if the minimum required side, street side, or rear setbacks of the zone are less than the setbacks listed above, then the less restrictive setback(s) shall apply.

///

b. Standards for Specific Uses

///

vi. Accessory Dwelling Unit

- (1) **Generally Applicable Standards**

///

(d) The unit is in conformance with the site development requirements of the underlying zone, including any allowed adjustments and additions listed in the base zone, or is located within a lawful nonconforming structure, or the ADU is located in a structure that was previously granted a variance pursuant to LOC Article [50.08](#) (~~provided, that any variance for the structure was not obtained solely to locate an ADU on the site; the inability to site an ADU on a parcel is not an unnecessary hardship~~). **Per Article LOC 50.08.002.2, a minor variance is allowed to the ADU-design standards per subsection e, to applicable zone dimensional standards, or to the Oswego Lake setback in order to locate an ADU on the site. Major Variances and Design Variances solely to locate an ADU on the site are not allowed.**

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LOC 50.04.001 DIMENSIONAL TABLE

1. RESIDENTIAL LOW DENSITY ZONES

a. Dimensional Standards

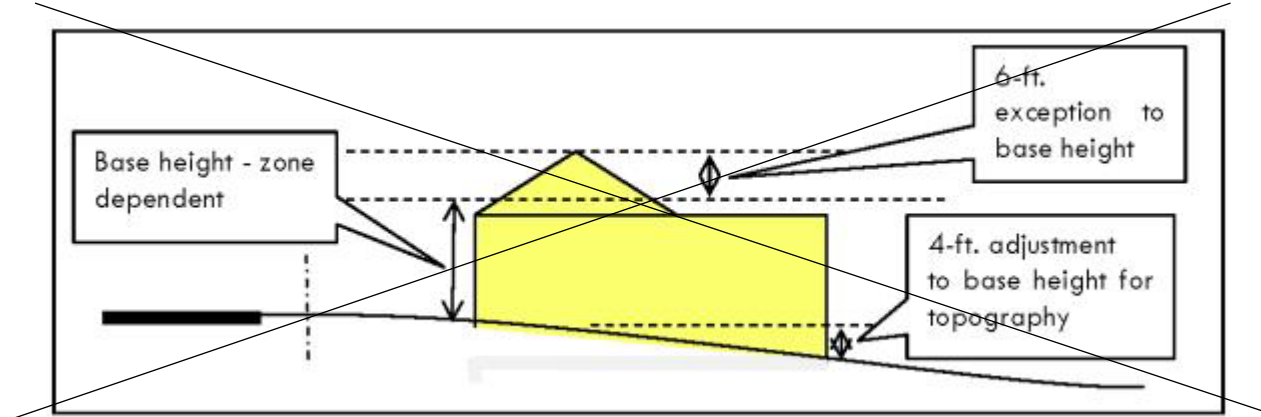
Development in the R-7.5, R-10, and R-15 zones shall conform to the dimensional standards in Table [50.04.001-1](#) except as modified below.

TABLE 50.04.001-1: RESIDENTIAL LOW DENSITY ZONES DIMENSIONS					
		R-7.5	R-10	R-15	Comments/Additional Standards
MAX. BASE HEIGHT (FT.)					
Primary Structure		[4]	[4]	[4]	50.04.001.1.g
Flat Lot		28	30	35	
Lot with Sloping Topography		<u>28-32</u> [5]	<u>30-34</u> [5]	35	
Footprint, Sloped Sloped Lot		35	35	35	
Accessory Structure		Lesser of 24 ft. or height of roof form of primary structure	Lesser of 24 ft. or height of roof form of primary structure	Lesser of 24 ft. or height of roof form of primary structure	50.04.001.1.g [6]
Additional Standards and Modifications		50.04.001.1.b – g			
<p>///</p> <p>[5] Maximum base height across the site shall be established by a flat plane measured at 28 ft. (R-7.5 zone) or 30 ft. (R-10 zone) above the highest point of the natural grade ground surface within the building envelope, unless the natural ground surface is lowered, in which case the height is measured from the lowered ground surface per the definition of “Height of Building” in LOC 50.10.003.2. except that in no case shall the base height be greater than exceed 32 ft. (R-7.5 zone) or 34 ft. (R-10 zone) above the natural grade. See Figure 50.04.001-A: Height Adjustment for Sloping Topography.</p> <p>///</p>					

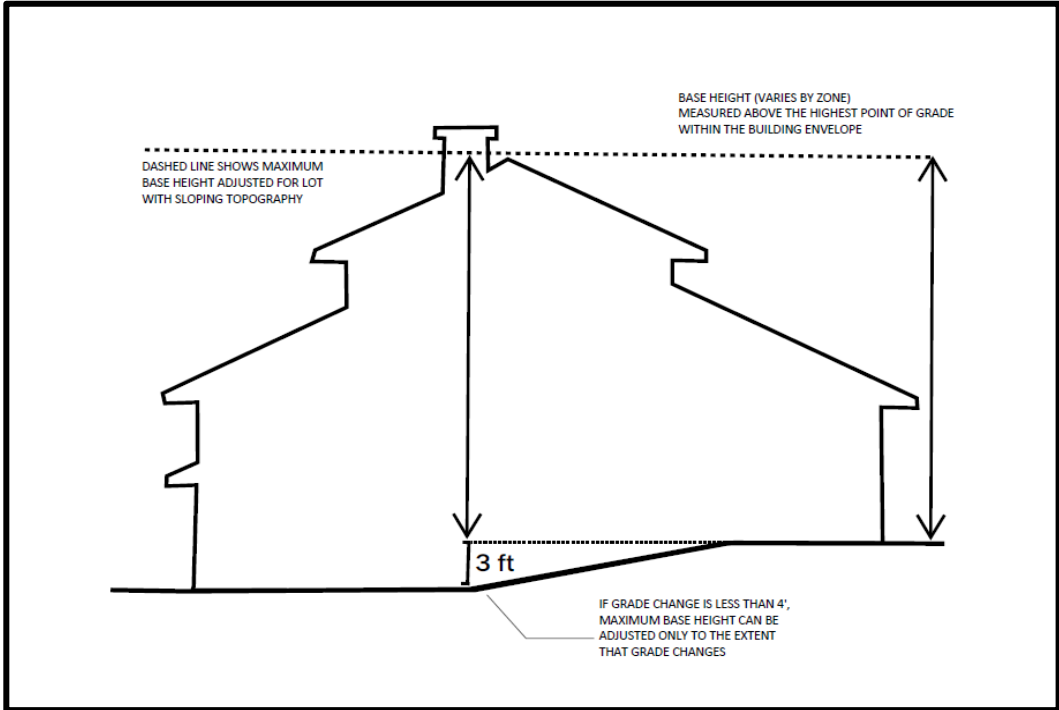
TABLE 50.04.001-1: RESIDENTIAL LOW DENSITY ZONES DIMENSIONS					
		R-7.5	R-10	R-15	Comments/Additional Standards

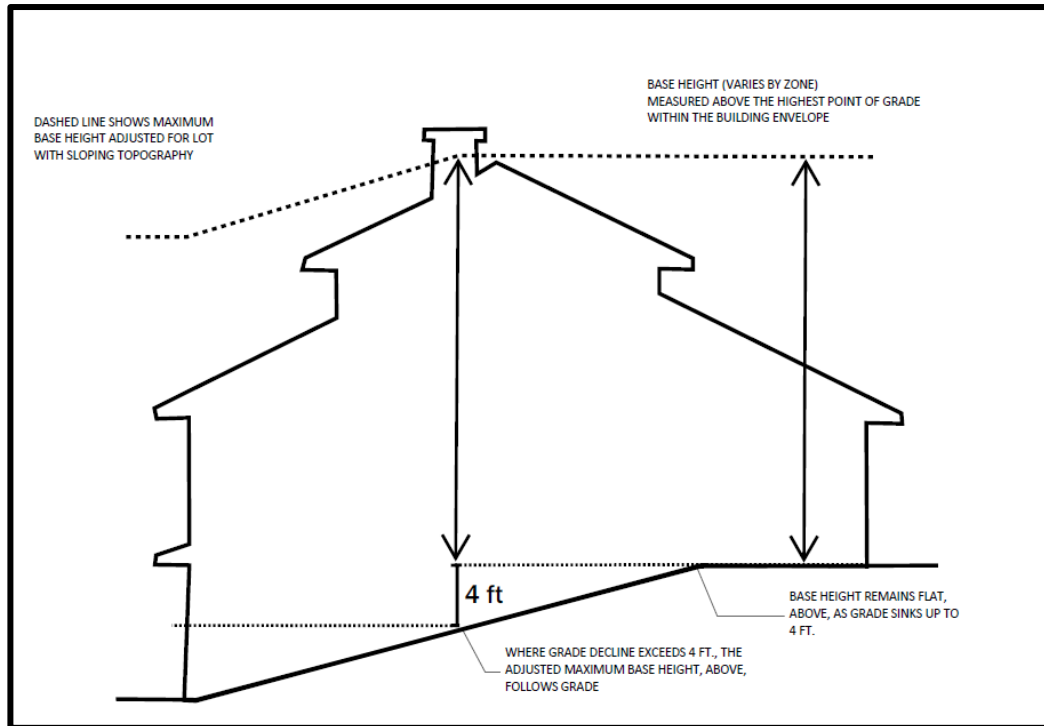
///

Figure 50.04.001-A: Height Adjustment for Sloping Topography



Figures 50.04.001-A: Height Adjustment for Sloping Topography





///

f. Lot Coverage – Standards

i. Maximum Lot Coverage

Maximum lot coverage for the R-7.5, R-10, and R-15 districts shall be **based on the “Height of Building”** as defined in [LOC 50.10.003.2](#), as follows:

///

2. RESIDENTIAL MEDIUM DENSITY ZONES

///

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
MAX. BASE HEIGHT (FT.)				50.04.001.2.g
Primary Structure	28	—	28	
Flat Lot	28	28	—	
Lot with Sloping Topography Sloping Lot	<u>28-32</u> [5]	<u>28-32</u> [5]	—	
Footprint, Sloped Sloped Lot	32	35	—	
Accessory Structure	Lesser of 24 ft. or height of roof form of primary structure	Lesser of 24 ft. or height of roof form of primary structure	28	
<p>///</p> <p>[5] Lots with sloping topography – Maximum base height across the site shall be established by a flat plane measured at 28 ft. above the highest point of the natural grade ground surface within the building envelope, <u>unless the natural ground surface is lowered, in which case the height is measured from the lowered ground surface per the definition of “Height of Building” in LOC 50.10.003.2.</u> The In no case shall the base height shall not exceed 32 ft. above the natural grade. See Figure 50.04.001-A: Height Adjustment for Sloping Topography.</p> <p>///</p>				

///

f. Lot Coverage/Impervious Surfaces – Additional Standards

i. R-5 Lot Coverage

(1) Maximum Lot Coverage

(a) The following maximum lot coverage percentages are applicable to townhouse projects and single-family detached, duplex, triplex, and quadplex structures in the R-5 zone **and shall be based on the “Height of Building” as defined in LOC 50.10.003.2, as follows:**

///

ii. R-6 Lot Coverage/Impervious Surfaces

(1) Lot coverage in the R-6 zone shall **be based on the “Height of Building” as defined in LOC 50.10.003.2, and shall** not exceed the following:

///

g. Height – Additional Standards

///

iii. R-5 and R-6 Height Exceptions and Adjustments

(1) Height Adjustment for Sloping Topography

Base building height across the site shall be established by a flat plane measured at 28 ft. above the highest point of the natural grade ground surface within the building envelope, **unless the natural ground surface is lowered, in which case the height is measured from the lowered ground surface per the definition of “Height of Building” in LOC 50.10.003.2.** ~~except that in~~ **In** no case shall the base height be greater than **exceed** 32 ft. above the natural grade. See Figure [50.04.001-A](#): Height Adjustment for Sloping Topography.

///

3. RESIDENTIAL HIGH DENSITY ZONES

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 [6]	Comments/Additional Standards
MAX. LOT COVERAGE					50.04.001.3.d 50.10.003.2
////					
Lot Coverage	100	50	Table 50.04.001-12	55	See Definition “Height of Building”
///	///	///	///	///	///
///					
///	///	///	///	///	///

MAX. BASE HEIGHT (FT.)					50.04.001.3.f
Flat Lot	—	28	28	28	
Lots with Sloping Topography	—	28-32 [4]	28-32 [4]	28-32 [4]	
Footprint, Sloped Sloped Lot	—	35	35	35	
From Oswego Lake Surface Elevation	25/27 [5]	—	—	—	
Accessory Structure		Lesser of 24 ft. or height of roof form of primary structure	Lesser of 24 ft. or height of roof form of primary structure	Lesser of 24 ft. or height of roof form of primary structure	

///
 [4] Maximum base height across the site shall be established by a flat plane measured at 28 ft. above the highest point of the natural ~~grade~~ **ground surface** within the building envelope, **unless the natural ground surface is lowered, in which case the height is measured from the lowered ground surface per the definition of “Height of Building” in LOC 50.10.003.2.** ~~The~~ **In no case shall the** base height ~~shall not exceed~~ 32 ft. above the natural grade. See Figure [50.04.001-A: Height Adjustment for Sloping Topography](#).
 ///

///
f. Height – Additional Standards

///
ii. Base Height

Except as provided in subsections 3.f.i and 3.f.v of this section, the base height of a structure in the R-0, R-2, and R-3 zone shall not exceed:

- (1) Flat lots – 28 ft.
- (2) Lots with sloping topography – Maximum base height across the site shall be established by a flat plane measured at 28 ft. above the highest point on the natural ~~grade~~ **ground surface** within the building envelope, **unless the natural ground surface is lowered, in which case the height is measured from the lowered ground surface per the definition of**

~~“Height of Building” in LOC 50.10.003.2., except that in no case shall the base height be greater than exceed 32 ft. above the natural grade.~~

///

LOC 50.04.003 EXCEPTIONS, PROJECTIONS, AND ENCROACHMENTS

7. OSWEGO LAKE SETBACK

///

b. The following uses and structures are permitted within the Oswego Lake setback:

TABLE 50.04.003-2: USES AND STRUCTURES PERMITTED WITHIN OSWEGO LAKE SETBACK			
Uses and Structures	Maximum Height	Height Limitations	Other Standards
///	///	///	///
Lights; steps; dock; deck; patio ; pool; spa/Jacuzzi	30 in.	Height exceptions in LOC 50.04.003.4 are NOT applicable	
///	///	///	///

///

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

///

b. Patios and Decks – Offset from Property Lines

~~**Uncovered p**Patios and decks on or above grade, but no **that are 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., **either covered or uncovered**, shall be subject to the zone setbacks.) Such intrusion into the required yard is to be undertaken solely at the risk and expense of the owner. Any structure which is placed in a required yard, and 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.~~

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LOC 50.05.004 DOWNTOWN REDEVELOPMENT DESIGN DISTRICT

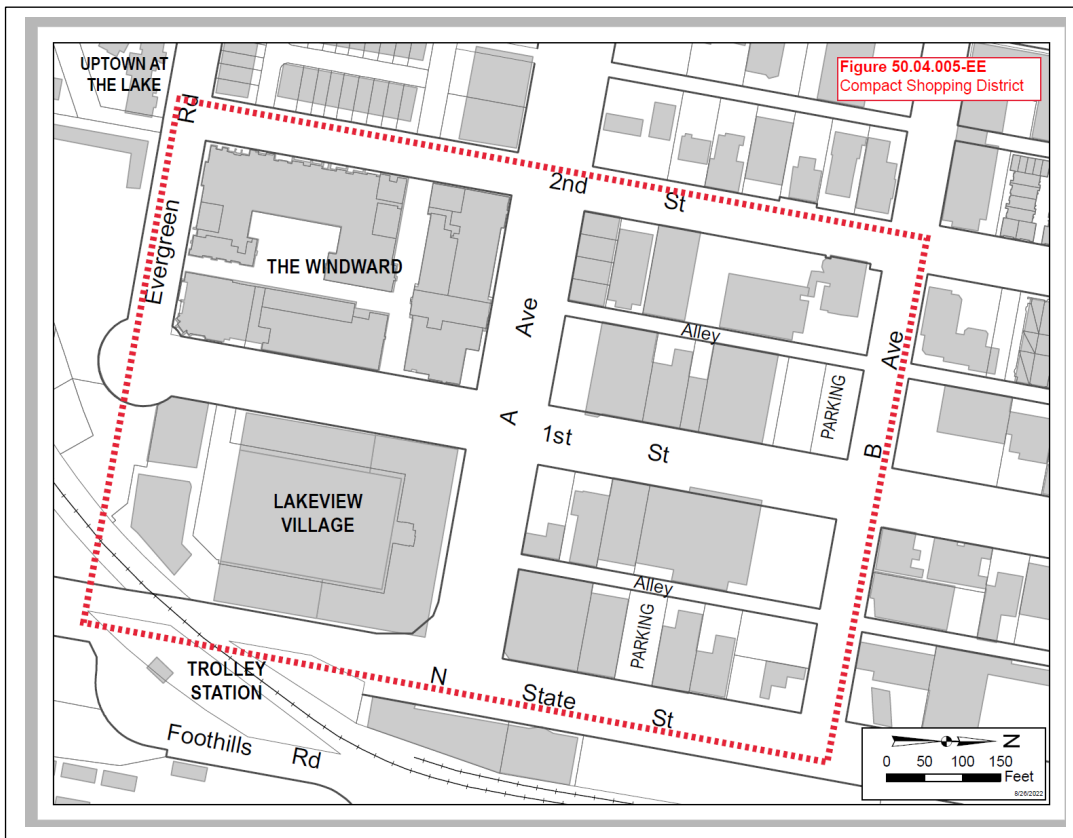
6. BUILDING DESIGN

///

b. Storefront Appearance Required

Buildings fronting on streets, ~~or~~ **and** alleys designed for pedestrian use shown in Figure 50.05.004-EE: Compact Shopping District, below, shall create a storefront appearance **for commercial uses** on the ground floor. This may be accomplished by changing buildings planes, materials or window patterns, or by creating a break in awning or canopy construction at intervals of about 25 ft. as illustrated in Figure 50.05.004-E: Break in Awning or Canopy Construction.

Figure 50.05.004-EE: Compact Shopping District



///

c. Materials

///

ii. Upper Stories

Buildings shall use wood (**including engineered/composite wood**) and glass as the predominant building materials for upper stories. These materials are intended to soften the appearance of a building that sits on a heavier appearing masonry/glass base and thereby effectively creating a mixed use village appearance. ~~Wood siding or cedar shingles may be used.~~

///

9. PARKING REQUIREMENTS

Parking shall be designed to provide adequate space while preserving and enhancing the village character of Lake Oswego, through compliance with the following criteria:

a. Number of Spaces

New uses shall provide the number of parking spaces required under the City of Lake Oswego Parking Standards (LOC [50.06.002](#)), modified as follows:

- i. New uses within existing buildings may demonstrate compliance with the parking requirement through the use of existing spaces on adjacent property if the applicant complies with all of the following criteria:

///

- (2) The applicant demonstrates that ~~he or she has~~ **they have** the permission of the owner of the adjacent property to utilize ~~his or her~~ **their** property for parking, either by an easement or a parking agreement or leases that will last for the life of the use.

///

13. CLEAR AND OBJECTIVE HOUSING STANDARDS FOR APPROVAL

///

b. Clear and Objective Track 2 Alternative Applicability

~~A development in the Downtown Redevelopment District (shown in Figure [50.05.004-O](#)) that involves new dwellings or a structure for residential mixed use may comply with this article in lieu of compliance with LOC [50.05.004.1](#) through [50.05.004.12](#).~~

- i. A development in the Downtown Redevelopment District (shown in Figure [50.05.004-O](#)) that involves substantial remodeling of, as defined in LOC [50.05.004.2.b](#), or construction of new dwellings or a structure for residential mixed use may comply with this article in lieu of compliance with LOC [50.05.004.1](#) through [50.05.004.12](#).**

ii. In the R-2 zone, household living residential development and group care homes shall comply with the following DRDD standards in addition to the structure design standards of LOC 50.06.001.2 and 50.06.001.4:

(1) Building Siting and Massing - subsection.13.e.ii: Complex Massing; subsection 13.e.iv: Roof Forms.

(2) Building Design - subsection 13.f.i: Lake Oswego Style; subsection 13.f.iii: Materials; subsection 13.f.v: Molding Design.

(3) Landscaping and Site Design Requirements - subsection 13.g.iv: Street Trees; subsection 13.g.viii: Brick Paving; subsection 13.g.ix: Walls.

///

f. Building Design

///

i. Lake Oswego Style Required

///

(2) New structures in the Downtown Redevelopment Design District shall be designed in accordance with the following traditional architectural styles: Arts and Crafts, English Tudor, or Oregon Rustic style. Structures shall provide all of the Required Design Elements outlined below for the chosen architectural style/s. Photo examples for each style are provided for reference in LOC [50.11.001](#), Appendix A.

(a) Arts and Crafts Style Required Design Elements: Structures built according to the Arts and Crafts style shall provide all of the following design elements:

///

(iii) Exterior Building Materials: Stucco, shingle, brick, stone, horizontal wood or ~~wood/fiber-based horizontal-siding~~ (or a combination thereof).

///

ii. Storefront Appearance Required

Buildings fronting on streets, ~~or~~ **and** alleys designed for pedestrian use **shown in Figure 50.05.004-EE: Compact Shopping District**, shall create a storefront appearance **for commercial uses** on the ground floor. This is accomplished by complying with LOC [50.06.001.7.c.ii](#), Building Facade Elements.

///

iii. Materials

///

(2) Upper Stories

Multi-family and residential mixed use structures shall use both wood and glass on a minimum of 60% (linear measurement) of each upper-story facade. Upper floor building materials shall be selected from the list of exterior building materials provided within the required and/or additional design elements for each of the Lake Oswego styles (see LOC 50.11.001, Appendix A). For the purposes of this standard, "wood" includes ~~any wood or composite wood/cement board material~~ **engineered/composite wood material as** outlined within the Lake Oswego styles in LOC 50.05.004.13.f.i. These materials are intended to soften the appearance of a building that sits on a heavier appearing masonry/glass base and thereby effectively creating a mixed use village appearance.

///

h. Parking Requirements

Parking shall be designed to provide adequate space while preserving and enhancing the village character of Lake Oswego, through compliance with the following criteria:

i. Number of Spaces

New uses shall provide the number of parking spaces required under the City of Lake Oswego Parking Standards (LOC [50.06.002](#)), modified as follows:

- (1)** New uses within existing buildings may demonstrate compliance with the parking requirement through the use of existing spaces on adjacent property if the applicant complies with all of the following criteria:

///

- (b) The applicant demonstrates that ~~he or she has~~ **they have** permission of the owner of the adjacent property to utilize ~~his or her~~ **their** property for parking, either by an easement or a parking agreement or leases that will last for the life of the use.

///

LOC 50.05.005 WEST LAKE GROVE DESIGN DISTRICT

4. STANDARDS APPLICABLE TO THE ENTIRE WLG DESIGN DISTRICT

///

k. Building Design

///

ii. Design Standards

///

(2) Buildings shall use materials that are architecturally harmonious for all walls and exterior components. Materials shall be durable and of high quality.

(a) Permitted Exterior Materials

- (i)** Wood shingle, including engineered/composite wood,
- (ii)** Brick,
- (iii)** Stone-granite or concrete at street level only for WLG Office Commercial,
- (iv)** Horizontal wood lap siding, including engineered/composite wood; and
- (v)** Stucco and timbers on gable ends only.

(b) Prohibited Exterior Materials

- (i)** EIFS or other synthetic stucco material,
- (ii)** Metal panels,
- (iii)** Flagstone,
- (iv)** Plywood paneling,
- (v)** Vinyl cladding,
- ~~**(vi)** Composite wood siding of any kind,~~
- ~~**(vii-vi)** Mirrored glass,~~
- ~~**(viii-vii)** Standard form concrete block (not including split faced, colored or other block designs, which mimic stone, brick or other masonry), and~~
- ~~**(ix-viii)** Back-lighted fabrics.~~

///

9. CLEAR AND OBJECTIVE HOUSING STANDARDS FOR APPROVAL

///

d. Standards Applicable to the Entire WLG Design District

///

x. Building Design

///

(2) Elements and Styles

New buildings in West Lake Grove shall be designed in Arts and Crafts, English Tudor, or Oregon Rustic style, as described and outlined below.

(a) Arts and Crafts Style Required Design Elements

Structures built according to the Arts and Crafts style shall provide all of the following design elements:

///

(iii) Exterior Building Materials (applied alone or in combination): ~~Stucco, shingle, brick, stone, horizontal wood or wood/fiber-based horizontal siding (or a combination thereof).~~ Stucco; brick; stone; wood (including engineered/composite wood) horizontal lap and/or shingled siding.

///

(c) Oregon Rustic Required Design Elements

Structures built according to the Oregon Rustic style in the Downtown Redevelopment Design District shall provide the following design elements:

///

(iv) Exterior Building Materials (applied alone or in combination): ~~Horizontal lap siding, board and batten, shingled siding, wood logs (unpeeled or half rounded) applied as siding, or combinations thereof. Stone (including river boulders) may be used in foundations or as siding for first-floor levels.~~ Wood logs (unpeeled or half rounded); stone (including river boulders) on foundations or ground floor; wood (including engineered/composite wood) horizontal lap, board and batten, and/or shingled siding.

///

(3) Design Standards

The following building design standards shall apply to all commercial development which occurs within the West Lake Grove Design District as part of a residential mixed use structure. Variation of detail, form, and siting shall be used to provide visual interest as follows:

(a) Buildings shall use durable and high-quality materials that are durable and of high quality as follows:

(i) Permitted Exterior Materials

- (A) Wood shingle, including engineered/composite wood,**
- (B) Brick;**
- (C) Stone-granite or concrete at street level only for WLG Office Commercial;**
- (D) Horizontal wood lap siding, including engineered/composite wood; and**

(E) Stucco and timbers on gable ends only.

(ii) Prohibited Exterior Materials

- (A) EIFS or other synthetic stucco material;
- (B) Metal panels;
- (C) Flagstone;
- (D) Plywood paneling;
- (E) Vinyl cladding;
- ~~(F) Composite wood siding of any kind;~~
- ~~(G) Mirrored glass;~~
- ~~(H) Standard form concrete block (not including split faced, colored or other block designs, which mimic stone, brick or other masonry); and~~
- ~~(I) Back-lighted fabrics.~~

///

LOC 50.05.006 OLD TOWN NEIGHBORHOOD DESIGN

4. REQUIRED OLD TOWN STYLE

///

b. Old Town Style

///

i. Early 1900 Vernacular Style

///

(2) Required Design Elements

Structures built according to the Early 1900 Vernacular style in Old Town shall provide the following design elements:

///

(e) Exterior Building Materials: Wood shingles, wood **(including engineered/composite wood)** ~~or wood/cement board~~ horizontal lap siding, real brick, or natural stone are required on all building facades. Thin, adhesive-applied brick and stone veneers are not permitted.

///

ii. Cape Cod

///

(2) Required Design Elements

Structures built according to the Cape Cod style in Old Town shall provide the following required design elements:

///

(e) Exterior Building Materials: Wood shingles, wood **(including engineered or composite wood)** or wood/cement board horizontal lap siding, real brick, or natural stone are required on all building facades. Thin, adhesive-applied brick and stone veneers are not permitted.

///

LOC 50.05.007 LAKE GROVE VILLAGE CENTER OVERLAY

5. BUILDING DESIGN STANDARDS

///

g. Materials

i. Prohibited Exterior Wall Materials

~~Materials for walls and exterior components shall be complementary to each other, durable, and of high quality.~~ The following exterior materials are not allowed:

- (1) EIFS or other synthetic stucco material;
- (2) Metal and vinyl siding;
- (3) T-111 paneling;
- ~~(4) Composite wood siding of any kind;~~
- ~~(54)~~ Mirrored or tinted glass;
- ~~(65)~~ Standard form concrete block (not including split faced, colored or other block designs, which mimic stone, brick or other masonry);
- ~~(76)~~ Back-lighted fabrics;
- ~~(87)~~ Plastic and fiberglass except when used to replicate styles; or
- ~~(98)~~ Corrugated metal.

///

LOC 50.05.010 SENSITIVE LANDS OVERLAY DISTRICTS

2. APPLICABILITY

This section applies to all lands designated RP or RC on the Sensitive Lands Map, and lands designated HBA where an HBA protection area is established pursuant to LOC 50.05.010(7).

///

f. Mitigation Required for Violation

If development occurs in violation of this section, the violator shall not only be subject to any and all enforcement and penalties that can be brought or imposed for violation of this Code, ~~he or she~~ **they** shall be responsible for mitigating any damage caused by the violation to a protected resource pursuant to LOC 50.05.010.4.e through g.

///

5. STANDARDS APPLICABLE TO RESOURCE CONSERVATION (RC) AND HABITAT BENEFIT AREA (HBA) OVERLAY DISTRICTS

///

c. RC District and HBA District Area Development Standards

///

iii. Development Standards

If the proposed types of development are permitted within the RC district or HBA protection area, 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, the protection area unless:

///

(iv) The applicant shall mitigate for loss of protection area by increasing the size of the protection area, where feasible, to compensate for the area of the RC or HBA protection area used for the public ~~or private~~ street, driveway, or public transportation facility, or by complying with the mitigation requirements in LOC 50.05.010.4.e through 50.05.010.4.g.

///

LOC 50.05.012 UPLANDS R-10 OVERLAY DISTRICT

8. ON-SITE CIRCULATION – DRIVEWAYS AND FIRE ACCESS ROADS

a. Driveway Approaches – Locational Limitations and Restrictions

Only one driveway access point shall be permitted along each lot frontage.

Exception: For a minor partition with a flag lot, access to both parcels shall be consolidated unless shown to not be practicable. Circular driveways are not allowed with this exception.

LOC 50.06.001 BUILDING DESIGN

5. COMMERCIAL, INDUSTRIAL, AND MULTI-FAMILY DEVELOPMENT NOT LOCATED IN THE FMU ZONE, AND MINOR DEVELOPMENT IN THE R-DD ZONE STANDARDS FOR APPROVAL

///

g. Building orientation shall be designed to encourage pedestrian access from public streets and make the street pedestrian friendly.

i. Applicability

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(2) This subsection is not applicable to construction or modifications of **structures in the PF and PNA zones where conformance to this standard conflicts with the operational needs of the use** ~~structures within parks~~, or to nonhabitable buildings.

LOC 50.06.004 SITE DESIGN

2. FENCES

///

b. Location and Height

FMU Standards Note: If the below provisions address the same subject as provided in the Foothills Building and Site Design Standards, LOC [50.11.007](#), Appendix G, those standards shall supersede the below provisions.

i. In residential zones, fences and walls, or a fence/wall/**retaining wall** combination, shall not exceed six ft. in height unless otherwise provided below:

(1) Four ft. in height when located within ten ft. of a property line abutting a public ~~or private~~ street or an access easement ~~which that~~ serves more than two lots. This restriction shall not apply to properties ~~which that~~ abut an access easement but ~~which~~ do not have a legal right to use the easement. For purposes of determining fence height under this subsection, alleys are not considered as public streets.

Exception 1: Fences or a fence/wall/**retaining wall** combination that is greater than four ft. but not more than six ft. in height may be located within ten ft. of a property line abutting a public street when the following criteria are met:

(a) The fence or fence/wall/retaining wall combination is located within ten ft. of a property line abutting Bryant Road, Carman Drive, Country Club Road, Lakeview Boulevard, McVey Avenue, South Shore Boulevard, Stafford Road, and Westlake Drive; and

(b) The top of the fence or fence/wall/retaining wall combination is not less than 25% open for a height of at least one ft.; and

///

Exception 2: Fences or a fence/wall/retaining wall combination that is greater than four ft. but not more than six ft. in height may be located within ten ft. of a property line abutting a public street when the following criteria are met:

(a) The fence or fence/wall/retaining wall combination is located within ten ft. of a property line abutting Bryant Road, Carman Drive, Country Club Road, Lakeview Boulevard, McVey Avenue, South Shore Boulevard, Stafford Road, and Westlake Drive; and

///

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

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

///

LOC 50.06.008 UTILITIES

4. STANDARDS FOR CONSTRUCTION

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d. Utilities to the development and existing utilities along the development's street frontage shall be installed underground unless exempted by the City Manager for any of the following reasons:

///

vii. Deferred Undergrounding. Any requirement to underground existing utilities along the street frontage ("street frontage" applies to both sides of a street) of a development may be deferred by the City Manager upon finding that undergrounding of utilities is not practicable at the time. In lieu of then undergrounding, the owner shall execute a covenant, approved by the City Attorney, and recorded in the official records of the county where the real property is located, binding upon the ~~parcels~~ lots created by the land division of the parent parcel in any zone, and any later land divisions of those ~~parcels~~ lots:

///

LOC 50.07.003 REVIEW PROCEDURES

1. APPLICATION

a. Application for Development

///

ii. Unified Site Plan

All development in the R-0, R-2, R-3, R-W, CI and any PF or commercial zones and attached development in the R-5 zones will be developed under a unified site plan. The site plan will identify circulation patterns and access points, **parking**, method of provision of public services and general placement of lots and structures, and general area and type of uses. Proposals with multiple ownerships shall include a written agreement of all owners that development of the site will occur pursuant to the site plan approved.

///

b. Burden of Proof

The applicant for a development permit shall bear the burden of proof that ~~his or her~~ **their** application complies with all applicable review criteria or can be made to comply with applicable criteria by imposition of conditions of approval.

///

4. HEARINGS

///

b. Time Limits on Testimony

///

iv. Any person in attendance at the hearing may cede ~~his or her~~ **their** time for testimony to a representative or another person and thereby increase that representative's or other person's time for testimony. No person's or other representative's testimony may be increased to greater than ten minutes. No person may cede ~~his or her~~ **their** time to the applicant or the appellant.

///

f. Continuances

///

iii. Except as otherwise provided in subsection 4.f.ii of this section, a continued hearing shall be conducted as follows:

///

(9) Unless an extension of the record is requested pursuant to LOC 50.07.003.4.a.xi(1), and/or the applicant exercises ~~his or her~~their right to final rebuttal pursuant to LOC 50.07.003.4.a.xii, the Chair shall return the matter to the table for deliberation and decision as described in LOC 50.07.003.4.a.xiii. If an extension of the record is requested and/or the applicant exercises ~~his or her~~their right of final rebuttal, the Chair shall continue deliberation to a time, date and place certain following final closure of the record.

///

h. Scope of Council Review

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iii. The Council may reopen the record and consider new evidence if such a request is made prior to or at the Council hearing by the appellant or any person who testified before the hearing body or, if applicable, the City Engineer, and the requesting party demonstrates:

///

(2) That new evidence material to the decision on appeal exists and could not have been initially presented. A requesting party may only qualify for this exception if ~~he or she~~they ~~demonstrates~~ **demonstrate** that the new evidence concerns an unanticipated event which occurred after the close of the time to submit evidence. This exception shall be strictly construed by the Council in order to ensure that all relevant evidence and testimony is submitted to the hearing body or, if applicable, the City Engineer.

///

9. IMPROVEMENTS AND SECURITY

a. Obligation to Construct Public Facilities; Security; Acceptance of Improvements

i. When an applicant for a development permit has an obligation to construct or improve public facilities imposed as a condition of the permit, the obligation shall be fulfilled prior **to either approval of the final plat for a land division development permit, if applicable, or prior** to the issuance of a permit for building construction on the site unless the City Manager has granted a waiver in writing of this requirement and the applicant has filed with the City Manager an acknowledgment of the obligation. The acknowledgment shall state the nature of the obligation, the time within which the obligation is to be met, identify the property subject to the obligation and contain a security deposit in a form acceptable to the City Manager and in an amount equal to 120% of the cost of fulfilling the obligation as estimated by the City Manager for the year in which fulfillment of the obligation is anticipated. A sufficient performance bond, cash deposit, or letter of credit are acceptable forms of

security. Return of the security deposit shall be conditioned upon the applicant carrying out the obligation.

///

13. MINISTERIAL DEVELOPMENT DECISIONS

a. Ministerial Development Classification

///

ii. Ministerial Development Types

///

(18) Construction of a residential fence, wall, retaining wall, or fence/wall-a combination thereof, that meets the standards for an exception to LOC [50.06.004.2.b.i\(1\)](#).

///

16. LEGISLATIVE DECISIONS

///

c. Required Notice to DLCD

///

~~v. On the same day that the text and findings are mailed or delivered, pursuant to subsections 16.c.i through iii of this section, the City shall also mail notice of the decision to all persons who participated in the hearings leading up to the decision who have filed a written request for notice of the final decision with the City Recorder. The notice shall:~~

~~(1) Briefly describe the decision;~~

~~(2) State the date of the decision;~~

~~(3) If delivered by mail, include a certificate of mailing containing a statement signed by the person mailing it indicating the date the notice was deposited in the mail;~~

~~(4) State the date, time and place where the decision, including the text and the findings, may be reviewed; and~~

~~(5) Explain the requirements for appeal of the decision pursuant to ORS [197.830](#) to [197.845](#).~~

d. Planning Commission Recommendation Required

///

v. Time Limits on Testimony

The following time limits on testimony shall be observed, subject to the right of the Chair, with Planning Commission consent, to modify or waive the time limits: five minutes each for individuals and ten minutes each for recognized neighborhood organizations, homeowners associations, government or governmental agency or other incorporated public interest organizations. The time limits shall not include time taken up by questions and response from the Planning Commission. Any person in attendance may cede ~~his or her~~ **their** time for testimony to another person, but in no case shall any person's testimony be increased to greater than ten minutes.

///

e. City Council Review and Decision

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

///

iv. Decision

///

(3) On the same day that the text and findings are mailed or delivered, pursuant to subsections 16.c.i through iii of this section, the City shall also mail notice of the decision to all persons who participated in the hearings leading up to the decision who have filed a written request for notice of the final decision with the City Recorder. The notice shall:

(a) Briefly describe the decision;

(b) State the date of the decision;

(c) If delivered by mail, include a certificate of mailing containing a statement signed by the person mailing it indicating the date the notice was deposited in the mail;

(d) State the date, time and place where the decision, including the text and the findings, may be reviewed; and

(e) Explain the requirements for appeal of the decision pursuant to ORS 197.830 to 197.845.

[NOTE TO CODIFIER: REMOVE EDITOR'S NOTE]

///

LOC 50.007.004 ADDITIONAL SUBMISSION REQUIREMENTS

3. HILLSIDE PROTECTION

a. Submission Requirements

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

///

iv. Potential Severe Erosion of Landslide Hazard Areas

Where development is to occur on a potential severe erosion or landslide hazard area, a report evaluating soil conditions and potential hazards shall be submitted to the City Manager.

The report shall be prepared by a registered ~~soils~~ **geotechnical** engineer or engineering geologist and shall contain the following:

///

10. WEAK FOUNDATION SOILS DETERMINATION PROCEDURES

///

b. City Manager Review

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

///

LOC 50.07.007 LAND DIVISIONS

2. FLAG LOTS

///

c. Access

///

ii. Flag lots shall have access to a public ~~or private~~ street; however, actual street frontage shall not be required.

///

LOC 50.08.002 MINOR VARIANCES

2. MINOR VARIANCE CLASSIFICATIONS

///

e. A variance ~~from~~to maximum fence, ~~wall, or~~ retaining wall, or a combination thereof, height restrictions pursuant to LOC [50.06.004.2](#).

f. A variance to the maximum grade of a ~~private street or driveway~~ or access lane.

///

q. A variance to the accessory dwelling unit standards of LOC [50.03.004.1.b.vi\(1\)\(d\) and \(e\)](#) ~~for accessory dwelling units~~.

///

LOC 50.10.003 DEFINITIONS

2. DEFINITION OF TERMS

Driveway

A vehicular accessway that has, as its primary purpose, the provision of a driveable connection between a structure or parking area on a lot and connecting to the shared access easement, access lane, ~~private street~~, or public street system. "Driveway" may include parking pads, turnaround areas, and parking lot aisles.

Educational Institution

Public or private institution at the kindergarten, primary, elementary, middle, high school, or post-secondary level that provides educational instruction to students, generally leading to a certificate or diploma based on a curriculum recognized by the state of Oregon, and that holds all required licenses from the state for the services it provides. This use does not include facilities meeting the definition of a "day care center," **"certified family child care," registered family child care,"** "commercial education," or "commercial recreation facility." Accessory uses may include play areas, cafeterias, recreational and sport facilities, auditoriums, administrative office facilities, and before- or after-school day care.

Gross Building Floor Area

The combined square footage area (measured from the exterior of the surrounding exterior wall framing **or, for a carport, to the exterior posts/walls supporting the carport**) 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.

Group Care Home

Any dwelling licensed under the authority of ORS [443.400](#) which provides residential care and training to five or fewer adults ~~who are mentally or emotionally disturbed, developmentally disabled~~ **with mental health conditions, intellectual, learning or developmental disabilities, or alcohol or drug dependencies, or those who are** elderly, or physically disabled. "Residential care" means as defined in ORS 443.400. "Group care homes" are also known as "residential treatment home" and "residential training home" under ORS 442.400. Additional "family" members related to the five or fewer adults may reside in the dwelling, as part of a single housekeeping unit, e.g., persons related by blood, marriage, legal adoption, or associated by guardianship, conservatorship, or a foster care relationship.

Lot Line, Rear

A lot line ~~which that~~ is opposite the front lot line. A triangular lot and a through lot have no rear lot line: the frontage on each street of a through lot is a front lot line. For other irregularly shaped lots, ~~the rear lot lines are~~ is all lot lines that are most nearly opposite the front lot line **and less than 130 degrees from intersecting side lot line(s)**. Illustrations of lot line measurement ~~determination~~ follows.

