



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

August 18, 2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lake Oswego Plan Amendment
DLCD File Number 006-08



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. The submitted ordinance was adopted by the City of Lake Oswego on August 03, 2010, per ORS 197.615 (3) and DLCD did not notify within five working days of receipt, any persons who requested notification.

Appeal Procedures*

DLCD DEADLINE TO APPEAL: Acknowledged under ORS Sections 197.615, 197.625, and 197.830 (9)

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 if no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.

Under ORS 197.830 (9) a notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.

Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Deba Andreades, City of Lake Oswego
Gloria Gardiner, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

<paa> YA



AUG 10 2010

LAND CONSERVATION AND DEVELOPMENT

NOTICE OF ADOPTION
Must be filed within 5 Working Days
See OAR 660-18-040

Jurisdiction City of Lake Oswego Local File No. LU 08-0025A-1740
Date Mailed 08/06/10 Date of Approval 08/03/10
Date Proposal was Provided to DLCD
Type of Adopted Action (Check all that apply)

Comprehensive Land Use New Land Use
Plan Amendment [checked] Regulation Amendment Regulation

Please complete (A) for text amendments and (B) for map amendments

A. Summary of Adopted Action (A brief description is adequate. Please avoid highly technical terms and zone code abbreviations. Please do not write "see attached"):

Adopted Ordinance 2556, amending LOC Chapter 50 (Community Development Code), relating to uses within the Oswego Lake Setback, and adopting findings (LU 08-0052A-1736)

Describe how the Adopted Amendment Differs from the Proposal (If it is the same, write "Same". If it was not proposed, write "N/A".):

Submitted initially as a package of minor housekeeping amendments.

B. If the Action Amends the Plan or Zone Map, Provide the Following Information for Each Area Which was Changed (Provide a separate sheet for each area. Multiple sheets can be submitted as a single adoption action. Please include street address whenever possible. Do not use tax lot number alone.):

Previous Plan Designation: N/A New Plan Designation: N/A

Previous Zone: N/A New Zone: N/A

Location: citywide

Acreage involved:

Does this change include a Goal exception? Yes [checked] No

For Residential Changes, Please Indicate the Change in Allowed Density in Units Per Net Acre

Previous Density N/A New Density N/A

If Notice of Proposal was not sent to DLCD 45 Days Prior to the Final Hearing Please Indicate Why:

_____ **Statewide Planning Goals are Inapplicable**
_____ **Emergency Circumstances Required Expedited Review**

List Statewide Goals Which May Apply:

Goal 1, 2, 7, 9, 12, 11, 12, 14

List any State or Federal Agencies, Local Government or Local Special Service Districts Which May be Interested in or Impacted by the Adoption:

N/A

Direct Questions and Comments to:

Deba Andreades, Senior Planner
City of Lake Oswego
P. O. Box 369
Lake Oswego, OR 97034
(Phone) 503-635-0292

Send To: Department of Land Conservation and Development
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540

Attach one (1) copy of the Adopted Action to this form and/or three (3) copies of Bound Materials and Maps larger than 8-1/2 by 11 inches.

Note: If more copies of this form are needed, please contact the DLCD office at 503-373-0050, or this form may be duplicated on green paper. Failure to provide notice of an adopted plan or land use regulation amendment results in an extension of the appeal period. Appeals may be filed within 21 days of the date the proposal is mailed to DLCD. Statutes require mailing within 5 days of the action becoming final (See OAR 660-18-040).

*****FOR DLCD OFFICE USE*****

DLCD File Number _____

ORDINANCE No. 2556

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE), RELATING TO USES WITHIN THE OSWEGO LAKE SETBACK, AND ADOPTING FINDINGS (LU 08-0052A-1740)

The City of Lake Oswego ordains as follows:

Section 1. Section 50.22.030 of the Lake Oswego Code is hereby amended by adding the text shown in **bold, double underlined** type and deleting the text shown in ~~strikethrough~~ type, as follows:

50.22.030 Oswego Lake Setback.

1. Except **as permitted under subsection (2),** for:
~~1. a boathouse,~~
~~2. retaining walls (seawalls) permitted pursuant to LOC 45.15,~~
~~3. within the Flood Management Area defined by LOC 50.44.005(2), water dependent uses and lake-related infrastructure permitted as development pursuant to LOC 50.44.030(1)(e) and (g), and~~
~~4. any structure located below finished grade,~~
 a structure shall be set back a minimum of 25 feet from the property line of the parcels which constitute Oswego Lake, its bays and canals in all zones except in the WR zone, as shown on Appendix 50.22-A.—The exception in LOC 50.14.005(5) for siting accessory structures within setbacks shall not apply to this Oswego Lake setback.

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

<u>Uses and Structures</u>	<u>Maximum Height</u>	<u>Height Limitations</u>	<u>Other Standards</u>
<u>Barbeque; fireplace</u>	<u>6 feet</u>	<u>Height exception under LOC 50.22.015 is NOT applicable.</u>	
<u>Lights; steps; dock; deck; pool; spa / Jacuzzi</u>	<u>30 inches</u>	<u>Height exception under LOC 50.22.015 is NOT applicable.</u>	
<u>Outdoor shower</u>	<u>8 feet</u>	<u>Height exception under LOC 50.22.015 is NOT applicable.</u>	
<u>Boat house</u>	<u>13.5 feet, measured from Oswego Lake Surface Elevation.</u>	<u>Height exception under LOC 50.22.015 is NOT applicable.</u>	<ul style="list-style-type: none"> • <u>Wall Height: 10 feet, measured from Oswego Lake Surface Elevation, to eave</u> • <u>Maximum 560 square feet footprint.</u>
<u>Lake-related infrastructure structures and uses.</u>	<u>none</u>		<u>None</u>
<u>Fences and Retaining walls (including seawalls).</u>	<u>See LOC 45.15.</u>		<u>Only as permitted by LOC 45.15</u>

Section 2. Section 50.72.020 of the Lake Oswego Code is hereby amended by adding the text shown in **bold, double underlined** type as follows:

Section 50.72.020 Authorization and Criteria.

1. In considering an application for residential infill design review, the City Manager shall apply the building height, lot coverage, floor area ratio, yard setback, Oswego Lake setback, front setback plane, side yard setback elevation requirements, garage appearance and location and accessory structure requirements of the underlying zone, **and the height and footprint requirements in the Oswego Lake setback (LOC 50.22.030)**, including such requirements created or modified by a planned development overlay.

2. The City Manager may grant exceptions to the applicable requirements listed in subsection (1) above, if the applicant demonstrates that the proposed residential dwelling or accessory structure design results in development that is equal to or better than development that would meet the clear and objective standards listed in subsection (1) above, for the applicable zone. In making this determination, the City Manager shall consider the following:

a. Residential Dwelling or Accessory Structure Size.

i. Intent. Compatible infill is ensured through a mix of standards addressing lot dimensions and maximum allowable floor areas. These standards are intended to reflect the size of building(s) that can be reasonably located and shaped to suit the scale and character of a neighborhood. The Code establishes that maximum allowable floor area and its location on a lot through the following standards:

- Floor area ratio
- Lot coverage
- Yard Setbacks
- Building height
- Accessory structures
- **Boathouse footprint**
- **Height of accessory structures in the Oswego Lake setback**

ii. Criteria. The City Manager may permit a residential dwelling or accessory structure design to exceed or vary from the standards listed in subsection (2)(a)(i) above when a more compatible, positive relationship between the size of a proposed residential dwelling or accessory structure and the scale and character of a neighborhood can be demonstrated in other ways. The City Manager will evaluate that relationship by considering the degree to which a proposed design offers features that diminish the perceived scale and improve the perceived character of greater size. That review will include consideration of:

1. Distance and visibility from street and adjoining properties;
2. Topography;
3. Building number (more smaller versus one larger, for example);
4. Building form(s), massing and orientation; and
5. Landscaping.

iii. Oswego Lake Setback Exception Limitations. For accessory structures in the Oswego Lake setback, no height exception shall be granted above 18 feet and no boathouse footprint exception shall be granted to allow more than 800 sq. ft.

b. Relationship to the Street.

i. Intent. Compatible infill is development that makes a positive contribution to the scale and character of a neighborhood's streetscape. While this scale and character will vary from neighborhood to neighborhood and from street to street, a positive contribution is typically one that enhances the safety and experience of a pedestrian using the street. The Code establishes the relationship of a building's location and form relative to the street through the following standards:

- Front yard setback
- Front setback plane
- Garage door openings

ii. Criteria. The City Manager may permit a residential dwelling or accessory structure design to exceed or vary from the standards listed in subsection (2)(b)(i) above when a more compatible, positive relationship between a proposed design and the scale and character of the street can be demonstrated in other ways. The City Manager will evaluate that relationship by considering the degree to which a proposed design offers features that enhance the perceived scale and character of the street from a pedestrian's perspective. That review will include consideration of:

1. Distance and visibility from street;
2. Prevailing patterns of front yard setback, building alignment and spacing (rhythm);
3. Topography;
4. Preservation of existing trees and features of perceived value to the street;
5. Perceived building form, proportion, massing and orientation relative to the street;
6. Porch and/or entry location and treatment relative to the street;
7. Garage distance and visibility from the street;
8. Perceived size and scale of garage doors from the street;
9. Perceived area and scale of driveways and parking areas from the street;
10. Fencing or screens; and
11. Landscaping.

c. Relationship to the Neighbors.

i. Intent. Compatible infill does not diminish the scale, character or privacy of neighboring residences. While the scale, character and privacy of one building relative to another will vary from street to street, and from lot to lot, a positive contribution is typically one that adjusts the location and perceived scale, character and views from or to a new residential dwelling or accessory structure to avoid visual conflict with neighbors. The Code establishes the relationship of a building's location and form relative to its neighbors through the following standards:

- Side yard setback
- Side wall elevation

ii. Criteria. The City Manager may permit a residential dwelling or accessory structure design to exceed or vary from the standards listed in subsection (2)(c)(i) above when a more compatible, positive relationship between a residential dwelling or accessory structure and the scale, character and privacy of its neighbors can be demonstrated in other ways. The City Manager will evaluate that relationship by considering the degree to which a proposed design offers features that enhance perceived scale, character and privacy relative to adjoining properties. That review will include consideration of:

1. Distance and visibility from adjoining properties;
2. Preservation of existing trees and features of perceived value to adjoining properties;

3. Topography;
4. Perceived building height, form, proportion, massing and orientation relative to adjoining properties;
5. Treatment of elevations exposed to adjoining properties;
6. Perceived sight lines to and from windows, decks and outdoor living spaces;
7. Fencing or screening; and
8. Landscaping.

3. When applying the criteria for compatibility of residential dwelling or accessory structure size, relationship to the street, and relationship to neighbors as set forth in subsection (2) above, the City Manager shall consider the pattern and character of development of all lots within 200 feet of the subject site. The City Manager shall also consider any neighborhood design objectives or guidelines for residential development that have been adopted by the local neighborhood association.

Section 3. The City Council hereby adopts the Findings and Conclusions, LU 08-0052A-1740 attached as Exhibit 1.

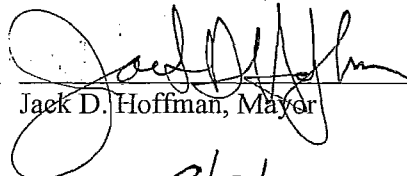
Enacted at the meeting of the Lake Oswego City Council of the City of Lake Oswego held on the 3rd day of August, 2010.

AYES: Mayor Hoffman, Hennagin, Jordan, Tierney, Olson, Vizzini

NOES: none

ABSENT: ~~none~~ Moncrieff

ABSTAIN: none

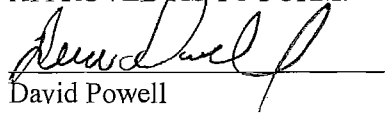

 Jack D. Hoffman, Mayor

Dated: 8/3/10

ATTEST:


 Robyn Christie, City Recorder

APPROVED AS TO FORM:


 David Powell
 City Attorney

BEFORE THE CITY COUNCIL
OF THE CITY OF LAKE OSWEGO

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A REQUEST TO AMEND THE TEXT) LU 08-0052A-1740
OF THE LAKE OSWEGO COMMUNITY) (City of Lake Oswego)
DEVELOPMENT CODE, CHAPTER 50)
RELATED TO USES WITHIN THE OSWEGO) FINDINGS AND CONCLUSIONS
LAKE SETBACK [ORDINANCE No. 2556])

NATURE OF PROCEEDING

This matter came before the City Council pursuant to a recommendation by the Lake Oswego Planning Commission to amend the text of the Lake Oswego Community Development Code, LOC Chapter 50, to expand the uses allowed within the Oswego Lake setback (LOC 50.22.030) and to set dimensional limitations on those uses.

HEARINGS

The Planning Commission considered this application on January 25, 2010, May 10, 2010 and June 14, 2010. The City Council held a held a public hearing to consider the Planning Commission’s recommendation and made a tentative decision on July 6, 2010. On July 13, 2010 the City Council directed staff to return with concepts for amendments to the tentative decision. On July 27, 2010 the City Council provided staff with direction for a final ordinance.

CRITERIA AND STANDARDS

- A. City of Lake Oswego Comprehensive Plan:
 - Goal 1 Citizen Involvement, Policies 1 and 5
 - Goal 2 Land Use Planning, Section 1, Land Use Policies and Regulations, Policy 23
 - Goal 5 Open Space, Historic and Natural Areas, Section 7, Oswego Lake, Policies 1 and 5
 - Goal 6 Air, Water and Land Resources Quality, Section 2,

1 Water Resources Quality, Policy 5
 2 Goal 7 Areas Subject to Natural Disasters and Hazards, Section 1,
 3 Flood Hazards, Policies 2 and 3
 4

5 B. City of Lake Oswego Community Development Code:

- 6 LOC 50.75.005 Legislative Decision Defined
- 7 LOC 50.75.010 Criteria for Legislative Decision
- 8 LOC 50.75.015 Required Notice to DLCD
- 9 LOC 50.75.020 Planning Commission Recommendation Required
- 10 LOC 50.75.025 City Council Review and Decision
- 11 LOC 50.01.010 Purpose
- 12 LOC 50.05.005 Zoning Districts
- 13 LOC 50.05.010 Zoning Map
- 14 LOC 50.79.030 Major Development
- 15 LOC 50.77.007 Burden of Proof
- 16 LOC 50.77.030 Application Procedures
- 17 LOC 50.82.005-.020 Review of Major Development Applications and Appeals
- 18 LOC 50.83 Hearings before a Hearing Body
- 19 LOC 50.75.005 Legislative Decision Defined
- 20 LOC 50.75.010 Criteria for Legislative Decision
- 21 LOC 50.75.015 Required Notice to DLCD
- 22 LOC 50.79.020 Planning Commission Recommendation Required
- 23 LOC 50.79.025 City Council Review and Decision

24
 25 C. Statewide Planning Goal or Administrative Rule adopted pursuant to ORS Chapter 197

- 26 Goal 1 Citizen Involvement
- 27 Goal 2 Land Use Planning
- 28 Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces
- 29 Goal 6 Air, Water and Land Resources Quality
- 30 Goal 7 Areas Subject to Natural Hazards

31
 32 **FINDINGS AND REASONS**

33 The City Council incorporates the staff Council Report, dated July 26, 2010 for LU 08-
 34 0052-1740 (with all exhibits), the June 30, 2010 Staff Report and April 30, 2010 Supplemental
 35 Staff Report to the Planning Commission (with all exhibits), together with all supplemental

1 reports, as support for its decision. To the extent that the incorporated materials are
2 inconsistent with the supplemental findings below, the supplemental findings shall control.

3 Following are supplemental findings of the City Council:

4 The City Council finds that the amendments recommended by the Planning Commission
5 do not ensure that the scale of development within the Oswego Lake setback will be
6 compatible with the lakefront setting and with surrounding development. On the other hand,
7 the more restrictive set of regulations that was presented as being supported by the Lake
8 Oswego Corporation¹ fails to allow sufficient flexibility for property owners who are faced with
9 unique lot conditions, or who may desire to build structures that exceed the proposed
10 limitations but which nevertheless achieve a more compatible, positive relationship with the
11 scale and character of neighboring development.

12 Consequently, the City Council finds that the proposal should be modified to provide as
13 follows:

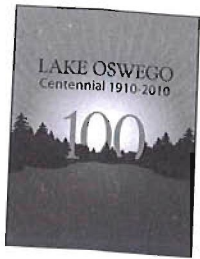
- 14 ■ That uses and structures in the Oswego lake setback be limited as stated in the proposal
15 that was presented as the position of the Lake Oswego Corporation, as modified per the
16 subsequent request of the Corporation to also allow swimming pools to a maximum
17 height of 30 inches and to allow a maximum footprint for boathouses of 560 square feet
18 as opposed to 500 square feet.
- 19 ■ That LOC 50.72.020 be amended to make exceptions to the Oswego Lake setback
20 limitations clearly available through the Residential Infill Design (RID) process.
21
22

¹ The Lake Oswego Corporation exercises considerable design review authority over lake-related structures by virtue of recorded covenants and restrictions affecting lakefront properties

- 1 ▪ That any height exceptions granted under the RID process not exceed 18 feet for
2 accessory structures in the Oswego Lake setback (consistent with the Planning
3 Commission's recommended limitation).
- 4
- 5 ▪ That any boathouse footprint exceptions granted under the RID process be limited to
6 800 square feet, (also consistent with the Planning Commission's recommended
7 limitation).
- 8

9 **CONCLUSION**

10 The City Council concludes that LU 08-0052-1740, as modified to be consistent with
11 these Findings, complies with all applicable criteria.



City of Lake Oswego
380 A Avenue
Post Office Box 369
Lake Oswego, OR 97034

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