



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/29/2010

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 006-08A

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.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, January 12, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

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

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

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DEPT OF

DEC 23 2010

For Office Use Only
**LAND CONSERVATION
AND DEVELOPMENT**

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Lake Oswego**

Local file number: **LU 08-0052A**

Date of Adoption: **12/7/10**

Date Mailed: 12/22/10

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Ordinance 2556 A, an ordinance of the Lake Oswego City Council amending LOC Chapter 50 (Community Development Code), to allow common wall boathouses to be constructed on abutting lots in the Oswego Lake Setback, and adopting findings LU 08-0052A-1751

Does the Adoption differ from proposal? Please select one

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **citywide**

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...yes

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 006-08A (17068) [16467]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Metro

Local Contact: Debra Andreades

Phone: 503-635-0292

Extension:

Address: PO Box 369

Fax Number: 503-635-0269

City: Lake Oswego

Zip: 97034

E-mail Address: dandreades@ci.oswego.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

ORDINANCE No. 2556A

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE), TO ALLOW COMMON WALL BOATHOUSES TO BE CONSRUCTED ON ABUTTING LOTS IN THE OSWEGO LAKE SETBACK, AND ADOPTING FINDINGS (LU 08-0052A-1751)

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions, LU 08-0052A-1751 attached as Exhibit 1.

Section 2. Section 50.08.050 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:

50.08.050 Accessory Structures.

1. Floor Area: An accessory structure ≤ 18 feet in height shall not exceed 800 sq. ft. in area, or the footprint of the primary structure, whichever is less. An accessory structure greater than 18 feet in height shall not exceed the greater of 600 square feet or the ground floor area of the primary structure, whichever is less.

2. Height: The maximum height of an accessory structure shall be 24 feet, except that no accessory structure shall be taller than the primary structure.

3. Yard Setbacks: See LOC 50.08.030 for the side and rear yard setbacks for accessory structures. **Except for boathouses within the Oswego Lake Setback (LOC 50.22.030),** ~~A~~ accessory structures on abutting lots may not be built with common party walls.


Enacted at the meeting of the Lake Oswego City Council of the City of Lake Oswego held on the 7th day of December, 2010.

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


NOES: None

ABSENT: None

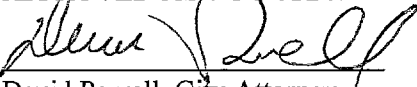
ABSTAIN: None


Jack D. Hoffman, Mayor
Dated: 12/13/10

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 OF THE) LU 08-0052A-1751
LAKE OSWEGO COMMUNITY DEVELOPMENT) (City of Lake Oswego)
CODE, CHAPTER 50, TO ALLOW COMMON)
WALL BOATHOUSES TO BE CONSTRUCTED) FINDINGS AND CONCLUSIONS
ON ABUTTING LOTS WITHIN THE OSWEGO LAKE)
SETBACK [ORDINANCE NO. 2556A])

NATURE OF PROCEEDING

On August 3, 2010, the City Council adopted Ordinance 2556 expanding the uses allowed within the Oswego Lake setback (LOC 50.22.030) and setting dimensional limitations on those uses. The Council also adopted text amendments to LOC 50.72.020, to make exceptions to the Oswego Lake setback limitations clearly available through the Residential Infill Design (RID) process, while also adding height exception limitations for accessory structures and footprint exception limitations for boathouses. Following adoption of Ordinance 2556, the Council was advised that the issue of whether the current prohibition against common wall boathouses on abutting lots should be retained had been overlooked. The Council directed that the public hearing on Oswego Lake setback uses be re-opened to consider that issue.

HEARINGS

The City Council held a held a public hearing on December 7, 2010. Following the public hearing, the Council deliberated and adopted these Findings and Conclusions.

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

David D. Powell, City Attorney
City of Lake Oswego
380 A Avenue – PO Box 369
Lake Oswego, OR 97034

FINDINGS AND CONCLUSIONS (LU 08-0052A-1751)
1 –[City of Lake Oswego, LU 08-0052A-1740]
[City of Lake Oswego, LU 08-0052A-1736]

(503) 635-0225 FAX (503) 699-7453

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B. City of Lake Oswego Community Development Code:

- LOC 50.75.005 Legislative Decision Defined
- LOC 50.75.010 Criteria for Legislative Decision
- LOC 50.75.015 Required Notice to DLCD
- LOC 50.75.020 Planning Commission Recommendation Required
- LOC 50.75.025 City Council Review and Decision
- LOC 50.01.010 Purpose
- LOC 50.05.005 Zoning Districts
- LOC 50.05.010 Zoning Map
- LOC 50.79.030 Major Development
- LOC 50.77.007 Burden of Proof
- LOC 50.77.030 Application Procedures
- LOC 50.82.005-.020 Review of Major Development Applications and Appeals
- LOC 50.83 Hearings before a Hearing Body
- LOC 50.75.005 Legislative Decision Defined
- LOC 50.75.010 Criteria for Legislative Decision
- LOC 50.75.015 Required Notice to DLCD
- LOC 50.79.020 Planning Commission Recommendation Required
- LOC 50.79.025 City Council Review and Decision

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

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

FINDINGS AND REASONS

A. Legislative Decision Criteria.

LOC 50.75.010 states that a legislative decision is generally a policy decision, which is within the discretion of the City Council. The legislative decision must comply with the following criteria:

1. Compliance with any applicable state law;

There are no applicable state laws affecting review of these code amendments.

1 **2. Compliance with any applicable Statewide Planning Goal or Administrative Rule**
 2 **adopted pursuant to ORS Chapter 197; and Statewide Planning Goal 1, Citizen**
 3 **Involvement**

4
 5 This Goal requires jurisdictions to develop a citizen involvement program that insures the
 6 opportunity for citizens to be involved in all phases of the planning process. The City's
 7 acknowledged Comprehensive Plan and Community Development Code contain all necessary
 8 requirements for a citizen involvement program that clearly defines the procedures by which
 9 the general public will be notified during the land use planning process and enables citizens to
 10 comprehend the issues and become involved in decision making.

11
 12 All required notification measures and opportunities for input as specified in these documents
 13 were provided during this process. Therefore, the process followed for this amendment is in
 14 compliance with Statewide Planning Goal 1.

15
 16 Statewide Planning Goal 2, Land Use Planning

17
 18 This Goal requires jurisdictions to develop a land use planning process and policy framework as
 19 a basis for all decisions and actions related to the use of the land and to assure an adequate
 20 factual basis for such decisions and actions. This application provides the required information
 21 and responses to the applicable approval standards for a Community Development Code text
 22 amendment and therefore is consistent with Statewide Planning Goal 2. Furthermore, the
 23 application has been coordinated with the applicable jurisdictions and agencies as required by
 24 Goal 2. Therefore, this amendment is in compliance with Statewide Planning Goal 2.

25
 26 Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces

27
 28 This Goal requires jurisdictions to adopt programs that will protect natural resources and
 29 conserve scenic, historic and open space resources for present and future generations,
 30 promoting a healthy environment and natural landscape that contributes to Oregon's livability.
 31 Approval of this amendment will not result in the destruction of inventoried natural resources,
 32 scenic or historic areas and open spaces and is therefore in compliance with Statewide Planning
 33 Goal 5.

34
 35 Statewide Planning Goal 6, Air, Water and Land Resources Quality

36
 37 This Goal requires jurisdictions to maintain and improve the quality of the air, water and land
 38 resources of the state. Approval of this amendment will not result in a violation of the City's

FINDINGS AND CONCLUSIONS (LU 08-0052A-1751)

3 —[City of Lake Oswego, LU 08-0052A-1740]

[City of Lake Oswego, LU 08-0052A-1736]

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1 surface water management policies that regulate water quality and are implemented by the
2 Drainage standard. Therefore, the amendment is in compliance with Statewide Planning Goal 6.

3
4 Statewide Planning Goal 7, Areas Subject to Natural Hazards

5
6 This Goal requires jurisdictions to protect people and property from natural hazards, more
7 specifically flood hazards, by adopting and implementing local flood plain regulations that meet
8 the minimum national requirements. Approval of this amendment will not affect the City's
9 floodplain protections which are implemented by the Floodplain standard. Therefore, the
10 amendment is in compliance with Statewide Planning Goal 7.

11
12 **3. Compliance with any applicable provision of the Lake Oswego Comprehensive Plan.**

13
14 Goal 1, Citizen Involvement, Policies 1 and 5

- 15
16 1. Provide opportunities for citizen participation in preparing and revising local land use
17 plans and ordinances.
18
19 5. Seek citizen input through service organizations, interest groups and individuals, as well
20 as through neighborhood organizations.

21
22 **Findings:** This application addresses policies 1 and 5 above. Pursuant to the requirements of a
23 legislative process, announcements for the proposed Community Development Code text
24 amendments have been provided to all neighborhood associations. Notice of the proposed text
25 amendments have been provided to all property owners within the City. Public hearings have
26 been held before the Planning Commission and the City Council. Citizens, interest groups, and
27 neighborhood associations have had an opportunity to participate in the review of the
28 proposed amendment during the City's public hearing processes. Notice has been provided
29 consistent with City requirements. Adequate opportunities have been made available for
30 citizen involvement with regard to this application.

31
32 **Conclusion:** The application complies with Goal 1, Citizen Involvement Policies 1 and 5.

33
34 Goal 2, Land Use Planning, Section 1, Land Use, Policy 23

- 35
36 23. Coordinate the development and amendment of City plans and actions related to land
37 use with other county, state, Metro, federal agency and special district plans.
38

1 **Findings:** This application provides the required information and responses to the applicable
 2 approval standards and therefore is consistent with Statewide Planning Goal 2. Additionally,
 3 the application has been coordinated with applicable jurisdictions and agencies such as DLCD,
 4 Metro, Clackamas County and Lake Oswego service providers as required by Goal 2.

5
 6 **Conclusion:** The application complies with Goal 2, Section 1, Policy 23.

7
 8 Goal 5, Open Space, Historic and Natural Areas, Section 7, Oswego Lake, Policies 1 and 5
 9

- 10 1. Cooperate with the Lake Oswego Corporation to protect the natural resource, energy,
 11 aesthetic and recreation values of Oswego Lake.
 12
 13 5. Require all development proposed within or adjacent to Oswego Lake to:
 14 a. Minimize negative impacts on upland vegetation, slopes, fish and wildlife habitat,
 15 wetlands, stream corridors and scenic views, while allowing reasonable recreational use
 16 by landowners.
 17

18 **Findings:** Pursuant to the requirements of a legislative process, announcements for the
 19 proposed amendments to the Lake Oswego setback have been provided to the Lake Oswego
 20 Corporation which had the opportunity to participate in the public hearing process. The
 21 amendments approved by this application, which will allow reasonable recreational use by
 22 landowners, will have no negative impacts on upland vegetation, slopes fish and wildlife
 23 habitat, wetlands, stream corridors and scenic views because it will not affect compliance with
 24 LOC 50.16, which regulates impacts on upland vegetation and wildlife habitat that have been
 25 determined to be significant natural resources through the Goal 5 process.
 26

27 **Conclusion:** The application complies with Goal 5, Open Space, Historic and Natural Areas,
 28 Section 7, Policies 1 and 5.
 29

30 Goal 6, Air, Water and Land Resources Quality, Section 2, Water Resources Quality, Policy 5
 31

- 32 5. Require all development to:
 33 a. Comply with applicable local, state and federal water quality and erosion control
 34 standards; and
 35 b. Implement measures to minimize run-off from the development site during and after
 36 construction.
 37

1 **Findings:** This application satisfies Policy 5 above because any development authorized by this
2 amendment must still comply with LOC 50.41, the Drainage standard which regulates the City's
3 surface water management policy and water quality standards.

4
5 **Conclusion:** The application complies with Goal 6, Water and Land Resources Quality, Section
6 2, Water Resources Quality, Policy 5.

7
8 Goal 7, Areas Subject to Natural Disasters and Hazards, Section 1, Flood Hazards, Policies 2 and
9 3

10
11 2. Limit new development in the FEMA-regulated floodway, including filling and removal of
12 earth, to the following uses provided there is no increase in base year flood levels.

- 13 a. Public and private open space and recreational uses;
14 b. Water-dependent structures such as docks, piers, bridges and floating marinas, and
15 c. Public facilities including unpaved roads and private access ways.

16
17 3. Review development proposals, including public facilities, filling and grading, within
18 areas subject to flooding to ensure:

- 19 a. Conformance with FEMA and other regulatory agencies;
20 b. Reasonable protection of public facilities;
21 c. The flow, velocity and elevation of flood waters are not changed so as to endanger
22 other property
23 d. Natural systems such as fish and wildlife habitat, vegetation wetlands and stream
24 corridors are protected; and
25 e. Other problems associated with flooding such as ponding, poor drainage, high water
26 tables and unstable soils are addressed.

27
28 **Findings:** This application satisfies Policies 2 and 3 for the following reasons:

- 29 • The amendments will not affect compliance by development applications with the City's
30 floodplain protections which are implemented by the Floodplain standard, LOC 50.44 and
31 Drainage standards, LOC 50.41 and ensure that development will not have an adverse affect
32 on adjacent properties and flood management areas.
33 • The amendments continue authorization of recreation-related uses (boathouses) adjacent
34 to the Lake consistent with this Policy.

35
36 **Conclusion:** The application complies with Goal 7, Areas Subject to Natural Disasters and
37 Hazards, Section 1, Flood Hazards, Policy, Policies 2 and 3.

38
39

1 **B. Supplemental Findings**

2 The City Council incorporates the staff Council Report, dated November 22, 2010 for LU 08-
3 0052A-1751 (with all exhibits), together with any supplemental reports, as support for its
4 decision. To the extent that the incorporated materials are inconsistent with the supplemental
5 findings below, the supplemental findings shall control.

6
7 Following are supplemental findings of the City Council:

8
9 Currently LOC 50.08.050(3) prohibits common wall accessory structures on abutting lots in R-
10 7.5, R-10 and R-15 zones. This prohibition applies to boathouses, which are accessory
11 structures under the Code.

12
13 The City Council finds that, for lakefront properties, it is appropriate to allow boathouses to be
14 located as close to the side yard property lines as possible in order to help preserve lake views
15 and to maximize the expanse of shoreline open space of each lot, thus helping to ensure
16 compatibility with the lakefront setting and with surrounding development. The City Building
17 Official has confirmed that common wall boathouses may be constructed on abutting lots
18 under the Building Code so long as sufficient firewall separation is provided. For these reasons,
19 the City Council finds that LOC 50.08.050(3) should be amended to exempt boathouses within
20 the Oswego Lake Setback from the prohibition against common wall accessory structures on
21 abutting lots, as follows (added language in bold, double-underlined type, deleted language in
22 strikethrough type):

23
24 Section 50.08.050 Accessory Structures.

- 25 1. Floor Area: An accessory structure \leq 18 feet in height shall not exceed 800
26 sq. ft. in area, or the footprint of the primary structure, whichever is less.
27 An accessory structure greater than 18 feet in height shall not exceed the
28 greater of 600 square feet or the ground floor area of the primary structure,
29 whichever is less.
- 30 2. Height: The maximum height of an accessory structure shall be 24 feet,
31 except that no accessory structure shall be taller than the primary structure.
- 32 3. Yard Setbacks: See LOC 50.08.030 for the side and rear yard setbacks for
33 accessory structures. **Except for boathouses within the Oswego Lake**
34 **Setback (LOC 50.22.030),** ~~A~~ accessory structures on abutting lots may not be
35 built with common party walls.
36

FINDINGS AND CONCLUSIONS (LU 08-0052A-1751)

7 – [City of Lake Oswego, LU 08-0052A-1740]
[City of Lake Oswego, LU 08-0052A-1736]

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1

2 **CONCLUSION**

3 The City Council concludes that LU 08-0052A-1751 complies with all applicable criteria and that
4 proposed Ordinance 2556A, amending LOC 50.08.050 to be consistent with these findings,
5 should be enacted.

FINDINGS AND CONCLUSIONS (LU 08-0052A-1751)

8 –[City of Lake Oswego, LU 08-0052A-1740]

[City of Lake Oswego, LU 08-0052A-1736]

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