

STAFF REPORT

CITY OF LAKE OSWEGO

PLANNING AND BUILDING SERVICES DEPARTMENT

APPLICANT

City of Lake Oswego

FILE NO.

LU 14-0014B, Ordinance 2648

LOCATION

Citywide

STAFF

Leslie Hamilton, AICP

DATE OF REPORT

August 27, 2014

PLANNING COMMISSION HEARING DATE

September 8, 2014

I. APPLICANT'S REQUEST

The City of Lake Oswego is proposing to amend Chapter 50 (Community Development Code) of the Lake Oswego Code for the purpose of clarifying and updating various sections. The proposed amendments will:

- Limit the maximum height of solar panels above an existing roof line
- Clarify whether required bike storage must be covered
- For most minor developments, require that access points to arterials and collectors are at least 100 feet from the nearest intersection
- Prohibit invasive species from being counted toward required landscaping
- Clarify the street side yard setback on corner lots in the R-6 zone
- Clarify terminology in the Open Space standard
- Clarify the locational and entry requirements for required front porches in the R-6 zone.

The sections proposed for revision relate to several general topic areas and are more fully described in Section III of this report. The draft code amendments, which would enact these changes, are included in Attachment 2 to Exhibit A-1. A summary all of the code changes is attached as Exhibit F-1.

II. APPLICABLE REGULATIONS

A. City of Lake Oswego Comprehensive Plan

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

B. City of Lake Oswego Community Development Code

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

III. INTRODUCTION / BACKGROUND INFORMATION

The purpose of the proposed updates and amendments is to correct errors, eliminate text ambiguity or redundancy, and clarify text. This process is part of the City's ongoing effort to make the regulations more user-friendly for developers, residents and staff.

Ordinance 2648 consists of seven text amendments, which are all analyzed below. The matrix (Exhibit F-2) identifies each of the amendments, the source, and the applicable code sections (Attachment 2 to Exhibit A-1).

Item 5: Height Limits on Solar Panels

Table 50.04.003-1 identifies exceptions to the maximum height of structures. For example, chimneys, flagpoles and TV antennae are exempt from residential zone height standards. Under the current code, roof-mounted solar panels are allowed to extend between one and four feet above the maximum zone height. However, this extension is not tied to the height of the existing structure; as a result, on a dwelling that is 20 feet in height, solar panels could be mounted at 32 feet (12 feet above the existing roof). The proposed amendments would limit the height exception for solar panels to four feet above the maximum building height or existing building height, whichever is less. Additionally, a second footnote is added to the table for wind turbines, which are further limited in subsection (iii) below the table.

Item 9: Front Porch – R-6 Zone

This item was identified by the First Addition-Forest Hills Neighborhood Association (FAN). The structure design standards for the R-6 zone require that new dwellings have a covered front porch that is a minimum depth of six feet, with a minimum width of 50% of the building width [LOC 50.06.001.3.b]. The issue that has come up on some recent construction on corner lots, which have two street frontages, is that the main dwelling entrance is located on the long street frontage, while the “front porch” that is provided on the shorter frontage is a covered patio serving a private yard, and it does not include the primary access to the dwelling.

At the previous Planning Commission study session on the proposed amendments, the Commission requested that staff return with options on amendments for the Commission to consider, and expressed concern that corner lots should have flexibility to provide the front porch along either street. Four options are described below. Exhibit E-1 illustrates building envelopes for both interior and corner lots in the R-6 zone for context.

Option 1: Front Porch Must Coincide with Front Yard; 50% width required

Under this option, the front porch must be constructed along the site frontage that provides the front yard. On a traditional R-6 lot (50 x 120), this will always be on the narrow frontage because the combined front and rear yard setbacks (20 feet each) would create a building envelope of 10 feet if oriented parallel to the longer lot dimension. On double corner lots (100 x 120), the property owner may opt to provide the front yard setback and front porch on the street side (120-foot) frontage because the building envelope would be 60 x 105 ft.

Additional text clarifies that the front porch must be located at the main entry, and that a front entry path must be provided that connects the front porch to the street / sidewalk. The FAN Neighborhood Association prefers this option.

Option 2: Front Porch Located on Either Frontage; 50% width required

Under this option, the front porch on corner lots could be provided on either street frontage, and the front porch is required to have a minimum width of 50% of the building width along that frontage. On a typical corner lot, a porch located along the longer street frontage would be 42 feet wide on a façade that is 84 feet wide.

Additional text clarifies that the front porch must be located at the main entry, and that a front entry path must be provided that connects the front porch to the street / sidewalk.

Option 3: Front Porch Located on Either Frontage; 25-50% Width Required, Depending on Location

Under Option 3, the front porch on corner lots can be provided along either street frontage. If it is provided along the narrow (front) lot dimension, the width is 50% of the building width (minimum 15 feet). If it is provided along the longer (street side) lot dimension, the width is 25% of the building width (minimum 20 feet). The measurement of 25% is based on the Side Yard Appearance standard, as described below.

The potential building envelope (formed by required setbacks) on a typical 50 x 120 ft. R-6 lot is 35 feet wide and 85 feet deep (for interior lots and corner lots that abut a local street). On a corner lot that abuts an arterial or collector street, the potential building envelope is 22.5 feet wide and 85 feet deep. Assuming that a dwelling is built to the maximum width, the width of a front porch under the 50% scenario would be as follows:

Front Porch Width on Narrower Street Frontage (using 50% width requirement)

Interior Lot; Corner Lot abutting Local Street:	17.5 ft. [35 ft. building width x 0.5]
Corner Lot abutting Arterial:	15 ft. [Greater of 15 ft. and 11.25 ft. (22.5 ft. building width x 0.5)]*

*On a corner lot that abuts an arterial street, the potential building footprint is 22.5 feet wide because there is a 7.5-foot interior side yard setback and a 20-foot street side yard setback ($50 - 7.5 - 20 = 22.5$ ft.). The width of the front porch is the greater of (1) 15 feet, and (2) 50% of the building width. Since 50% of the building width is only 11.25 feet, the porch width is increased to 15 feet.

Front Porch Width on Street Side Yard Frontage (using 50% width requirement)

Corner Lot

42.5 feet [85 ft. x 0.5]

Under Option 3, where the front porch is provided along the street side yard, staff recommends a minimum porch width of 25% of the building width, or 20 feet, whichever is greater. Staff believes that requiring a porch across 50% of the building facade in this scenario (a 42-foot wide porch) is excessive. There is also precedence in the CDC for a porch width of 25%. The Side Yard Appearance and Screening Standards [LOC 50.06.001.2.f] require measures to screen side walls or to break up side wall planes. Corner lots have the option to provide a covered porch along the street side lot line [Side Yard Appearance/Corner Treatment 1 – Covered Side Porch], and the porch must have a minimum width of 25% of the side elevation. Under Option 3, a property owner can meet both standards with one porch along the street side yard, using the same measurements.

Additional text clarifies that the front porch must be located at the main entry, and that a front entry path must be provided that connects the front porch to the street / sidewalk.

Notes: A property owner is not required to have a porch on the street side yard. If a property owner provides the main entry on the narrower street frontage in accordance with the Front Porch standard, he/she could also provide a secondary entry on the street side yard that does not meet either the Front Porch standard or the Side Yard Appearance/Corner Treatment 1 – Covered Side Porch.

Option 4: Define the term “Front Porch” so that it is required at the main entry

FAN has made an alternative suggestion which is to define the term “front porch” in LOC 50.10.003, Definitions, so that it is required at the main entry. The CDC uses the following terms regarding porches: porch (16 references), front porch (eight references) and entry porch (one reference). In many instances, the term “porch” is used when it is clear that the standard refers to a “front porch,” but that is not always the case. In the Lake Grove Village Center Overlay, Old Town and West Lake Grove design standards, the term “porch” is not limited to entries located at the front setback. Due to the usage in the CDC of the terms “porch” and “front porch,” staff believes that adding new definitions for “porch” and “front porch” would not be a simple solution, and that many other code references would be affected.

Non-Conformities: When codes are amended, one of the obvious results is that existing development can become non-conforming. Because corner lots are the minority of lots in the R-6 zone, the potential for Options 1-3 to create new non-conformities is limited to a small number of lots. Options 1 and 2 may create slightly more non-conformities than Option 3 only because properties that provide the main entry on the street side yard could potentially meet the 25% width standard proposed under Option 3.

Staff prefers either Option 1 or Option 3 because these options will provide a front porch that is proportional, and not excessive, to the frontage on which it is located.

Item 11: Bike Storage

The table and parking standards that identify required bicycle parking for multi-family residential, commercial, industrial, public use and institutional uses are inconsistent regarding whether the bike parking must be covered. Note 2 in Table 50.06.002-6, Minimum Required Bicycle Parking Spaces, requires bike parking to be covered for residential and industrial uses only; covered storage is optional for commercial, public use or institutional uses. However, LOC 50.06.002.b.vi, a subsection under the same heading as the table, states that all required bicycle parking spaces must be covered. The proposed amendment in Exhibit A would require that all required bike parking be covered. Covered parking, as described in this standard, can be provided by roof overhangs, awnings, lockers, shelters, or storage spaces within buildings. However, the Commission may prefer that only a portion of the required bike parking must be covered, or that none of the bike parking must be covered.

A small sample of bicycle standards from other jurisdictions in the Portland area shows a wide variety of approaches:

West Linn:	10-100% of bike parking must be covered, depending on use
Tigard:	Bike parking must be covered “when possible”
Hillsboro:	Bike parking not required to be covered
Portland:	50% of long-term parking must be covered

The bike parking standard must be amended due to its current internal inconsistency. Staff recommends that the Commission identify a straight percentage of bike parking that must be covered, from 25% to 100%. Because covered bike parking can include spaces that are under roof overhangs and awnings, providing covered bike spaces should not be a burden on most sites.

Item 14: Development Access to an Arterial or Collector

Major development, as defined by the CDC, is limited to conditional uses (CUP) and projects developed under an Overall Development Plan and Schedule (ODPS). One of the standards under Circulation and Connectivity/Access applies only to major development and requires that the access points to a collector or arterial must be located at least 100 feet from an intersection [LOC 50.06.003.1.g, Distance between Access and Nearest Intersection]. The following types of minor development are subject to the Access standard in general: construction or alteration of a multi-family dwelling, major public facility or commercial, institutional or industrial development; and partitions and subdivisions. However, their access points to an arterial or collector are not required to be located at least 100 feet from an intersection because that particular standard only applies to CUPs and ODPS. The proposed amendment would subject the minor developments identified above, with the exception of partitions, to the minimum distance requirement as well.

Item 17: Required Open Space Areas/Use

LOC 50.06.005, Park and Open Space Contributions, requires certain developments to provide open space on-site, and prescribes the amount of open space and how it must be provided. In the section that describes that open space may be provided as a combination of reserved land and landscaping, staff had proposed to replace the term phrase “commercial, institutional, public use, industrial and office space areas” with “commercial, institutional, public use, industrial and office space use” because “areas” is not a defined term. Staff proposed the term “use” because the percentage of open space required is based on the primary use on site. For example, commercial, institutional and industrial development require 15% open space, while all other development require 20% open space.

At the previous study session, the Commission agreed that “areas” is not the correct term but considered whether “use” is the appropriate term, particularly if the use were to change on a site. The Commission requested that staff return with additional analysis regarding the terms “use” and “zone.” Staff does not recommend using the term “zone” because the amount of open space required is dependent on the use, not the zone. For example, institutional uses, which require 15% open space, are permitted in both commercial and industrial zones. Additionally, there is no specific institutional “zone.”

To extend the analysis, a developer who builds a multifamily project in a commercial zone will be required to meet the open space standard for a

residential use, which is greater than for a commercial use. Conversely, a developer who builds a commercial project in the same zone may have difficulty in converting it to residential use later if the development does not have enough landscape area reserved for residential use. This is one of the many risks assumed in land development and real estate.

Staff recommends that the phrase be revised to “commercial, institutional, public use, industrial and office space development.” This is consistent with the terminology used throughout LOC 50.06.005, which refers to commercial, institutional, and industrial “development” when describing the open space requirement. If a site were to be redeveloped from an institutional use, which requires 15% open space, to a multi-family development, which requires 20% open space, the new use will have to provide additional open space.

Staff recommends making the code clarification at this time. If the Commission is concerned that the existing numerical standards for open space are inadequate, then it can direct staff to review the standards and proposed changes as part of the next annual package of code maintenance updates.

Item 33: Invasive Species/Required Landscaping

In 2011, the Lake Oswego Master Plant list was amended to identify both native plants and invasive plants. Native plants are native to the Willamette Valley and can thrive with little or no maintenance. Invasive plants tend to crowd out native plants and have very low value to wildlife. In 2012, the Tree Code (LOC Chapter 55) was amended to address the removal of invasive trees (Ordinance 2576). Invasive trees threaten the health and vitality of native habitats and cause economic harm to public and private landowners. Twelve tree species were identified as invasive, and a simple permit process was developed to address their removal.

The Landscaping standard of LOC 50.06.004.1 requires certain developments to provide 15-20% of gross land area in landscaping an open space. The proposed amendments would prohibit plants that are identified as invasive on the Lake Oswego Master Plant list or in the Tree Code from being counted toward required landscaping. Note: the amendments do not require the removal of invasive plants on private property.

Item 34: Street Side Setback in R-6

In the R-6 zone, corner lots have two setback standards along the street side yard. Specifically, the street side setback is 7.5 feet from the property line *provided* there is no less than 20 feet between the road surface and the

structure (Table 50.04.001-5, Minimum Yard Setbacks – R-6 Zone). As staff has interpreted this, a street side setback on a corner lot must be increased above 7.5 feet in order to meet the 20 foot setback from the road surface. Staff believes that “road surface” is an ambiguous term because it could either mean the edge of the right-of-way or the edge of the asphalt. The term “roadway” is not defined in the CDC, but the terms “road” and “street” are synonymous and are defined as “the entire width between the right-of-way lines and a local street, collector, or arterial capable of providing the principle means of access to abutting property.” Staff proposed changing the term “road surface” to “edge of pavement” to clarify that the 20-foot setback is not taken from the edge of the right-of-way, which is where the 7.5-foot setback is measured, but is taken from the edge of the paved travel surface.

The FAN neighborhood chairs requested background information on this 20-foot setback. Staff reviewed the legislative history of this standard, which was codified in 2011 as part of the Infill 2 code amendments. However, the reasoning behind the 20-foot setback was not identified. Staff (including the City Surveyor) and the neighborhood chairs reviewed pavement edges along corner lots in the field and could not identify a corner where the 20-foot setback would require more than a one-foot increase in the 7.5-foot street side setback because most property lines are located 12-20 feet from the edge of the paved travel surface. Staff and FAN agree that the 20-foot setback from the edge of the paved travel surface should be deleted from Table 50.04.001-5.

IV. NOTICE OF APPLICATION

A. Newspaper Notice

On July 17, 2014, public notice of the proposed CDC text amendments and Planning Commission public hearing was published in the *Lake Oswego Review*.

B. Measure 56 Notice

Since the proposed text amendments would affect permitted uses of property, notice of the proposal was sent to all owners of property in the city, as required by ORS 227.186 (Measure 56).

C. DLCD Notice

Pursuant to LOC 50.75.015, staff has provided notice of the proposed CDC text amendments to the Oregon Department of Land Conservation and Development (DLCD).

V. COMPLIANCE WITH APPROVAL CRITERIA

A. City of Lake Oswego Comprehensive Plan

Staff has identified seven Comprehensive Plan Policies applicable to this proposal:

Community Culture – Civic Engagement

Policies 1, 2, 4 and 5.

Policy 1: Provide opportunities for citizen participation in preparing and revising local land use plans and ordinances.

Policy 2: Provide citizen involvement opportunities that are appropriate to the scale of a given planning effort. Large area plans, affecting a large portion of community residents and groups require citizen involvement opportunities of a broader scope than that required for more limited land use decisions.

Policy 4: Encourage citizens to participate through their neighborhood without excluding participation as individuals or through other groups.

Policy 5: Seek citizen input through service organizations, interest groups and individuals, as well as through neighborhood organizations.

Findings: The CDC, which implements the Comprehensive Plan, contains requirements for a citizen involvement program which clearly defines the procedures by which the general public will be notified in the on-going land use planning process and enables citizens to comprehend the issues and become involved in decision making. All required notification measures and opportunities for input as specified in the Code were provided during this process, including noticing to all Neighborhood Associations as well as to business organizations. The City has also followed the procedures required by ORS 227.186 (Ballot Measure 56) for notification of all owners of property within the city. An informational open house was held May 15, 2014. Public hearings will be held before the Planning Commission and City Council. Therefore, the process followed for these amendments is in compliance with Statewide Planning Goal 1.

Conclusion: The City has provided adequate opportunities for public participation consistent with this policy.

Land Use Planning, Section D Land Use Administration

Policy D-1.

Policy D-1: *Coordinate the development and amendment of City plans and actions related to land use with other affected agencies, including county, state, Metro, federal agency, and special districts.*

Findings: Staff has provided the required notification to the County, State, and Metro consistent with this policy.

Conclusion: The proposal is consistent with this policy.

Land Use Planning - Land Use Administration, Policy D-1
Inspiring Spaces and Places, Goal 1, Policy 7

Inspiring Spaces and Places

Goal 1, Policy 7.

Goal 1, Policy 7: *Enhance the unique character of Lake Oswego's neighborhoods and commercial districts as the City grows and changes by adopting plans, codes, guidelines and other implementation measures.*

Findings: The proposed amendment to the front porch requirement in the R-6 zone enhances the unique character of the First Addition Neighborhood by clarifying the design requirements for porches, which are a traditional feature of early 20th century dwellings and can maintain and enhance the character and design qualities of the existing residential area in First Addition.

Conclusion: The proposal is consistent with this policy.

VI. RECOMMENDATION

Based on the information presented in this report, staff recommends approval of the proposed amendments to the CDC to provide clarification and correction and update relevant sections to reflect current City practices.

EXHIBITS

A. Draft Ordinances

A-1 Draft Ordinance 2648, 08/27/14 with Attachment 2

B. Findings, Conclusions and Order [No current exhibits; reserved for hearing use]

C. Minutes [No current exhibits; reserved for hearing use]

D. Staff Reports [No current exhibits; reserved for hearing use]

E. Graphics/Plans

E-1 R-6 Building Envelopes and Porches

F. Written Materials

F-1 Matrix of Amendments

G. Letters [No current exhibits; reserved for hearing use]