

Resolutions and Ordinances that May Have Reduced Citizens' Rights

Ordinances:

Ordinance 1637, 2014-12-08 : Citizen Advisory Groups

- ☐ 2.045(3) Staff memo to CC needs confirmation that memo accurately reflects the Advisory Board's recommendations, i.e., signature of AB chair. Otherwise, staff has the authority to send on a memo without AB approval as if the Board consented.
- ☐ 2.050 (2) Last sentence's meaning is unclear- a motion and a quorum shall call a special meeting??? Call it 24 hrs after notice? The whole sentence is awkward and also does not reflect CC rule of giving the most notice possible for special meetings.
- ☐ Embed the right of all Advisory Boards to elect own Chair and have chair add and amend agenda items. Embed right of group to make recommendations to council without staff rewriting or undermining their conclusions.
- ☐ 2.060 Officers. Chair is not given right to set or amend agenda. This hobbles each citizen board.
- ☐ 2.065 Staff liaison sets agenda - Change wording to reflect CC rule, "the chair shall coordinate with the staff liaison to set the agenda". Add ORS provision requiring minutes have certain information: Staff shall prepare a draft of the minutes in accordance with ORS 192.650(1) for each meeting staff attends. There are five requirements and this statute will direct readers where to find them. Adding that it is a draft reminds readers the final version is to be approved by the AB. (As a matter of procedure, the AB are now calling their minutes "Summary Notes" which is inappropriate. The City Council may call the written record of their meetings "Summary Notes" because CC official minutes are the video recordings. ABs should call theirs "Minutes".) CC should consider training for AB members on public record and meetings law. The EDC has operated outside of 2.065 for over a year without written minutes, solely relying on audio minutes. It contemplated a member taking minutes at their Feb. meeting and tabled it to March. Clearly, no one present was aware of this ordinance.
- ☐ Arts Commission is not on list. Arts Commission was tabled without public discussion.
- ☐ 2.080, limit of 2 Planning Commissioners in real estate can yield 100% in growth industry (construction, finance, real estate, utilities, unions) . Perhaps we should modernize criteria to reflect this political affinity group that benefits from growth.
- ☐ We should have language that clarifies that city councilors cannot chair (or vote upon) citizen advisory groups as was done by Jody Carson who chaired the Arch Bridge Advisory Committee while serving as a councilor and subsequently voting with council to adopt Arch Plan.
- ☐ We need language clarifying appointment of Advisory Board and PC members should be done by new council, not by out-going council as was done in December 2014.

Ordinance 1635, 2014-12-08: Amends Community Development Code

- ☐ Code does not match ordinances. 28.040. BB (topic or concern?)
- ☐ Zones are not named, just numbered. This does not mesh with zoning map codes, therefore there is no straight forward way for property owner to gauge impact of these changes on owner's specific property.
- ☐ 55.100 Approval standards- class II design review, drainage requirement nixed, therefore may reduce adjacent or down slope properties owner's right to challenge adverse impacts of development.
- ☐ Section 31, 81.060 Expedited Process (no public hearing on minor boundary change).
- ☐ Section 32, Appeals (81.070) is repealed in its entirety.
- ☐ Section 33, 85.170, F2, F3, F4 : Storm water standards are removed, may effect adjacent or down slope properties owner's right to challenge adverse impacts of development.
- ☐ Section 34, Geo Hazard Report is required, but standards seem to have been removed.
- ☐ Section 39, 99.070, Consolidations of Procedures (less for public to engage and be heard)
- ☐ Section 40, 99.080, Notice. 10 day notice required, but Planning Director decisions are exempt from this requirement. Boundary changes follow Metro standard, but standard is not listed, so impact is unclear.
- ☐ Section 41, Planning director given expanded authority to make unilateral decisions or have his designee do it.
- ☐ Section 42, Ex parte/Disqualification...complicated rubric for who gets to hear a land use case, has potential to be misused, for example deliberately trigger disqualification to alter final decision. This might impact citizen rights?

Ordinance 1625, 2014-06-16: Annexation

- ☐ 2.915, line "c" and line "d" were removed (they required study and public notice to informs public of full scope of annexations impact including physical, environmental, financial, and related social effects.)
- ☐ 2.920a, Requirement that annexed plot be in Urban Growth Boundary was removed. Requirement that annexation be part of our existing planning documents was remove. This combined with recent Senate Bill 1573 could compromise local control of annexations.
- ☐ Council's power to deny annexation application is watered down since relevant criteria is removed. Impossible to tell what language was repealed when Section 2 was repealed (no strike out language visible)

Ordinance 1622, 2014-06-02: Regulatory Streamlining “Cut the Red Tape” Title on this Ordinance Table does not match content and is misleading regarding breadth of changes.

COMP PLAN RELATED ISSUES with Ordinance 1622 (listed by section in Ordinance)

- ☐ Section 1: Restore Council Citizen Vision Goals in entirety
- ☐ Section 2: Restore language about how definitions are to assist in intent of comp plan and relate it to other documents.
- ☐ Section 2: Restore benefit language to conditional use and define community (Is community just West Linn or could it be defined to include other municipalities such as Lake Oswego and Tigard as was interpreted in LOT hearings?)
- ☐ Section 3: Review and rewrite underlined language which prioritizes economic goals in a way that may be at odds with citizen vision.
- ☐ Section 3: Restore Strikeout of paragraph Starting with word “Non-withstanding...” which describes citizens desire for residential character of city and goal of supporting home businesses.
- ☐ Under action measures rescind number 4. Restore 14 and renumber

CODE CHANGE ISSUES with Ordinance 1622

- ☐ 99.140 B Signing a sign-in sheet is eliminated as establishing standing. This disadvantages the citizen whose learning curve is very steep as they learn the details of a case.
- ☐ 99.280 DeNovo vs. On-the record appeal:
Section A: Introduction of new evidence may be limited disadvantaging citizens who do not know rules, take more time to gather evidence, need more time to grasp issues, may need to wait for Neighborhood Association meeting to solicit assistance and request NA apply fee waiver if concern affects the neighborhood. Citizen may not know how to establish standing, how to introduce all relevant topics in first hearing, how to research, how to self-advocate in the short time period after notice and before hearing, how to pursue appeal in short appeal window.
Section D: no new issues raised on appeal (clearly advantages professionals and lawyers who know the rules to start with at expense of citizens who generally do not.)

The DeNovo issues have been confused by misunderstandings. The basic difference is that De Novo is a re-hearing of the application while “on-the-record” is an appeal based solely on errors made in the first hearing. The strongest argument for DeNovo is that it gives those in opposition a chance to put together a better case. They use the PC hearing for practice and then present their strongest case to the CC. The argument against DeNovo is that it is a duplication of effort and it weakens the role of the PC.

The confusion arises when applications are changed between the two hearings. This happened on LOT and on ConAm. It should not happen and could happen with either type of hearing. Some people were operating under the false belief that deNovo allowed not just a new hearing, but a new application.

- ☐ Chapter 72 Special Waivers : New class of exceptions with unclear criteria created specifically for Mixed Use zone and non-residential. Consider eliminating this and returning to variance system.
- ☐ Section 6, 99.160, Decision by Director, C2. To get a review of a decision by director, now three council persons must consent, rather than two. Given the short 14 day window to formulate one's argument, find three councilors willing to hear appeal, raise \$400 individually, or meet with Neighborhood Association to appeal as a group, this places unfair and unrealistic burden on citizen(s) wishing to contest Director's decision. It also hobbles councilors or mayor who may have legitimate concerns about a Director's decision such as the public safety/Fire Marshall concerns raised in Holiday Inn case. (See attached letter)
- ☐ Section 7, 99.170, Hearing Process, G2. Identical concerns as in Section 6, 99.160, but seen from perspective of overwhelming burden placed on citizen to arrive at a hearing to review Director's decision.
- ☐ Section 9, Variances. 75.020.B.1.b. Restore "or conflict with the goals and policies of the West Linn Comprehensive plan"
- ☐ 75.060 Restore Variance approval criteria language.
- ☐ Section 21, 60.050 B Eliminates hearing for a change of conditional use plan, eliminating citizens' opportunity to address new change.
- ☐ Section 23, 19.030, 19.040, 19.060, 21.030, 21.040, 21.060.
Conditional use hearings are now eliminated for hotel, lodges, churches, etc, with in Office Business Commercial Zone and General Commercial zone. As newly permitted uses, citizens' opportunity to hearing on such high-impact business is eliminated. Right to raise public safety concerns (as in Holiday Inn case) is minimized.
- ☐ Section 24. Skinny lots (35 feet wide average down from 50 feet average) now allowed in many zones (R7, R5, R4.5, R2.1, NC) . This may be in conflict with portions of Comp plan and Neighborhood Plans stating new development be in character with existing development. 50 foot average front lot minimums is part of what characterizes many of these zones)There has been no community discussion of this fundamental aspect of the character of development.
- ☐ Section 24. Campus Industrial 22.070 L Pedestrian safety requirements are eliminated compromising citizen and visitor safety.
- ☐ Section 25 : Joint use of Parking Area 46.050 A. Waters down parking requirement by allowing shared lot with complementary uses. These arrangements are unlikely to be enforced to city standards if ownership changes or type of business is altered.
- ☐ Section 25 : 46.080 E On street parking can count toward parking requirement...possibly unfair to adjacent businesses and home owners, especially as type of business changes with time.
- ☐ Section 25 : 46.090 Residential hotels and rooming houses have extremely scant parking requirements , likely to adversely affect surrounding businesses and homes.
- ☐ Section 26: repeals Chapter 31 on Erosion Control, leaves citizens, property, and environment vulnerable.
- ☐ Section 27: repeals Chapter 33 on Stormwater Management, leaves citizens, property, and environment vulnerable.
- ☐ Section 28: 55.130 B Uniform Building Code Standard removed.
- ☐ 99.060 p Erosion Permit eliminated (?)

4. Addition of administrative procedures on land use to chapter 98.

Charter:

- ☐ Elections: clarify NA officers as elected officials are exempt from prohibition about political endorsements while all political appointees are not exempt according to State election law.
- ☐ Clarify that candidates for office, as well as appointees, must genuinely live in West Linn. (Specify they must be registered to vote at address within city of West Linn for full 12 months before taking office as well as genuinely residing within West Linn for full 12 months before taking office and maintaining residency while serving in office. Same for PC and Advisory Board members.)
- ☐ Codify the right to speak in general council meetings. Oregon public meeting law does not give citizens right to speak at meetings. It's up to public body. Right to speak is addressed in Lafayette Draft Charter in section clarifying that meetings are to be held according to public meeting law. We could add a right to speak clause.