Municipal Code

1. 2.045(3) Advisory Board chair signs memos to council.
2. 2.065(2) Coordinate with staff to create the agenda. Chair approves the agenda.
3. 2.075 Add 11. Arts Commission
4. 2.080(2) Should this address appeals? is the only appeal to LUBA? Should we say that?
5. Add 2.077 City Councilors may not chair or vote on Citizen Advisory Boards.
6. Add 2.079 Advisory Board and PC members are appointed in January after newly elected council members are installed.

CDC

7. 81.060 (B) This allows an area outside the city to be annexed without a public hearing if all the property owners and 50% of the electors within the affected area agree. We should determine if we can require a public hearing.
8. 81.070 restore appeals process for boundary changes
9. Restore Storm Water and erosion chapters (May be for PC not CCI)
10. 99.070 (B) Allows applicant to start work before the Planning director decision. Since the decision could be called up and reversed, site work , e.g. tree removal, could not be reversed
11. 99.080 (a) Require notice of Planning Director decisions in newspaper
12. 99.180 (d) Code is unclear on whether the CC acts without a quorum
13. 99.325 (D) The repeal of section D allowed extensions to applications. Extensions were due to sunset in 2010. Repeal allows extensions.
14. 105.040 Zone changes made by CC. PC recommends. Before PC made changes, CC reviewed.

15. 2.915 (c) and (d) Reinstitute requirement to determine and inform public of physical, environmental, financial, and social effect of annexation.
16. 2915(a) Annexed plot must be in UGB

17. de novo vs. On-the-record appeals
18. 99.160 (C)(2) A majority of the commission or council is required to review a decision. This raises problems with quorums. In effect the majority cannot talk to each other to decide to review. Change back to two councilors. 99.170(G)(2) is similar

Here are my suggestions for the code to incorporate Administrative procedure 2012-01 in to the CDC chapter 98. This is just a starting point for your discussion so after each code section, I have added a discussion in italics to explain what I am trying to accomplish. Word smithing is important here because code is often read adversarially. We want to be as precise as possible. Don't hesitate to bring suggested changes to the meeting.

98.0135 CITIZEN ENGAGEMENT IN LAND USE LEGISLATIVE PROCESSES

A. Creation of working group. New and modified land use changes to the CDC will be written by a representative committee of citizens, guided and assisted by the planning staff.

This is a fundamental change in the way that code is usually created. Any code change will meet with resistance because it is simply a change. The resistance is lessened when citizens have a hand in crating the change rather than having it imposed upon them.

1. The working group will contain stakeholders on both sides of the issue, a member of the Planning Commission and a staff representative.

For example, a revision to WRA code would include members of the environmental community as well as affected property owners. A reason to the PUD code would contain developers and representatives of the neighborhood association.

2. The working group will be recommended by the CCI and approved by the City Council.

It is essential that the most diverse points of view are represented on the working group. Usually, the CCI will have some idea about who is passionate on a given issue. However, there should be public outreach describing the creation of the group and encouraging people to apply. I intentionally did not limit the size of the group. In my experience, there will be too many at first and then natural attrition will bring it down to a reasonable number.

3. The group should elect a chair and vice chair at its first meeting.

B. Conduct of working group meetings. The purpose of the working group is to provide a forum for an extensive dialog between opposing points of view. Toward this end, the following ideas may be useful.

1. Staff should prepare a suggested draft of the proposed changes based on the nature of the problem, solutions found in other communities, and staff's experience. This draft provides a starting point for discussion and education.

2. Committee members should use the draft as a starting point for discussion, but then reconcile the implications of the draft with their vision.

3. After each meeting, staff will incorporate approved changes and prepare an updated working draft.

4. All meetings should be public meetings with an opportunity for anyone in attendance to be heard. Written minutes should be published.

5. In the event that a consensus cannot be reached on issues, the group will prepare two alternatives. Both alternatives and their rationale will be presented to the Planning Commission.

6. Experience has shown that working groups should meet at least bi-weekly.

7. Prior to submission to the Planning commission, proposed code should be submitted to legal counsel for review. The review should be limited to the identification of areas where the proposed code conflicts with other parts of the CDC, state law or federal law. As an alternative, the in house attorney may attend and advise during the creation of the code.

C. Presentation to the Planning Commission When the committee agrees that it is ready, the prepared code will be presented according to 98.040.A.2. If the committee has failed to reach a consensus on the code, both proposals will be presented to the Planning Commission, along with the mandated staff report.

I hope that the above code communicates my intentions. The basic principle is that citizens deserve a forum where they can provide meaningful input that really can affect the CDC. Our experience when we used this informally in 2008-2012 was that people found common ground and better solutions. In addition, it provides a way for staff to guide and educate. Please give it some careful thought and I welcome all changes

B. Unless a decision be deferred, in the event of a tie, the decision which is the subject of appeal or review shall stand. (Ord. 1474, 2001; Ord. 1568, 2008)

99.320 DENIAL OF APPLICATION – RESUBMITTAL

An application which has been denied and, if appealed, has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be resubmitted for the same or a substantially similar proposal, or for the same or substantially similar action, for a period of at least 12 months from the date the final decision is made denying the application. (Ord. 1568, 2008; Ord. 1590 § 1, 2009)

99.325 EXTENSIONS OF APPROVAL

A. The Planning Director may grant an extension from the effective date of approval of two years pertaining to applications listed in CDC 99.060(A) upon finding that:

1. The applicant has demonstrated, and staff and the Planning Commission concur, that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and

2. There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or

3. The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.

B. The Planning Commission may grant an extension from the effective date of approval of two years pertaining to applications listed in CDC 99.060(B), consistent with subsections (A)(1) through (3) of this section.

C. The Historic Review Board may grant an extension from the effective date of approval of two years for applications listed in CDC 99.060(D), consistent with subsections (A)(1) through (3) of this section.

D. Eligibility for extensions.

1. Only those applications approved between July 1, 2006, and December 31, 2009, shall be eligible for an extension.

2. Any application eligible for an extension under subsection (D)(1) of this section that would expire by June 30, 2010, shall be exempt from expiration pending a decision regarding the extension application; provided, that a complete application and deposit fee have been submitted to the Planning Director prior to that date. However, the extension shall begin on the date that the application's initial approval lapsed.

E. Extension procedures.

1. The application for extension of approval may be submitted only after a pre-application meeting under CDC 99.030(B).

2. The application shall satisfy the neighborhood meeting requirements of CDC 99.038 for those cases that require compliance with that section.

3. Applications for extensions must be submitted along with the appropriate deposit to the Community Development Department.

4. Applications for extensions will be processed if the initial approval lapses prior to issuance of a decision, consistent with subsection (D)(2) of this section.

5. Notice of the decision shall be issued consistent with CDC 99.080.

6. The decision shall not become effective until resolution of all appeal periods, including an opportunity for City Council call-up pursuant to this chapter. (Ord. 1589 § 1 (Exh. A), 2010; Ord. 1621 § 25, 2014)

99.330 REVOCATION OF APPROVALS – FAILURE TO FULFILL CONDITIONS

A. Conditions of approval shall be fulfilled within the time limit set forth in the decision, or by specific provisions in this code or, if no time limit is set forth, within three years unless an extension is granted per CDC 99.325. Failure to fulfill any condition of approval within the time limitations provided will be grounds for revocation of approval after notice and an opportunity to be heard as an administrative action as provided in this section. Alternately, the Planning Director shall pursue compliance through Chapter 106 CDC.

B. Substantial changes, alterations, or amendments to the substance of the conditions of approval shall be processed as a new administrative action per CDC 99.120.

1. Substantial changes in an application made after approval, but without applicant seeking approval under CDC 99.120, shall result in revocation of approval after notice and opportunity to appeal revocation order.

2. Director determination of what does or does not constitute substantial changes, alterations, or amendments is appealable to the City Council by anyone having standing in the original land use decision.

C. The conditional approval may require the owner of the property to sign within a time certain or, if no time is designated, within a reasonable time, a contract with the City for enforcement of the conditions. The Council shall have the authority to execute such contracts on behalf of the City. If a contract is required by a conditional approval, no building permit shall be issued for the use covered by the applications until the executed contract is recorded in the real property records of the County and filed in the County records. Such contracts shall be enforceable against the signing parties, their heirs, successors, and

ORDINANCE NO. 1635

AN ORDINANCE AMENDING NUMEROUS CHAPTERS OF THE COMMUNITY DEVELOPMENT CODE TO MAKE THE CODE CONSISTENT WITH THE OREGON REVISED STATUTES AND OREGON ADMINISTRATIVE RULES, RE-ORGANIZE TEXT, AND MAKE NECESSARY CORRECTIONS AND CLARIFICATIONS

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~**bold lined through**~~ and additions are **bold underlined**.

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides:

> Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

WHEREAS, City Council Goals provide for "Continue[d] efforts to update & improve the Community Development Code";

WHEREAS, The Planning Commission held a public hearing on October 1, 2014, and recommended the City Council adopt the proposed maintenance updates to the Community Development Code as contained within Chapters 1, 2, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 25, 27, 28, 32, 34, 36, 37, 38, 42, 44, 46, 48, 54, 55, 56, 59, 60, 65, 67, 68, 75, 76, 81, 85, 91, 92, 99 and 106; and

WHEREAS, Community Development Code Chapter 98 defines the procedures for legislative decision making.

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Amendment. West Linn Community Development Code (CDC) Section 1.030 is amended as follows:

01.030 COMPLIANCE

A. Except as otherwise specifically provided by this zoning code, no building or other structure shall be **erected,** constructed, **established, occupied, altered, maintained,** improved, ~~**altered,**~~ enlarged or moved, nor shall any use or occupancy of premises within the City be commenced or changed, nor shall any condition of or upon real property be caused or maintained after the effective date of this code, except in conformity with conditions prescribed for each of the several zones and general regulations established **in this code**~~**hereunder**~~.

B. It shall be unlawful for any person to erect, construct, establish, occupy, alter, **improve,** enlarge, or use, or cause to be used, any building, structure, improvement

or use of premises located in any zone described in this zoning code contrary to the provisions of this code. Where this zoning code imposes greater restrictions than those imposed or required by other rules or regulations or code provisions, the provisions of this zoning code shall control.

SECTION 2. Repeal. West Linn CDC Section 1.050 [Certificate of Occupancy] is repealed in its entirety. Any municipal code provisions in conflict with Section 1.050 are also repealed.

SECTION 3. Amendment. West Linn CDC Section 2.030, Specific Words and Terms, is amended as follows:

. . .

~~**Access. The way or means by which pedestrians and vehicles enter and leave property.**~~

~~**Access point. An access point includes a driveway, public or private street or access easement.**~~

~~**Bankful stage. The stage or elevation at which water overflows the natural banks of a stream or other waters of the State and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.**~~

. . .

City Engineer. The City Engineer of West Linn, Oregon, or his or her authorized agent.

. . .

FLOODPLAIN DEFINITIONS

Area of shallow flooding. A designated AO or AH zone as seen on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

Area of special flood hazard. The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

Base flood. The flood having a one percent chance of being equated or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

Base flood elevation. The base flood elevation is the elevation (normally in feet above sea level) which the base flood is expected to reach.

Below-grade crawlspace. An enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lower adjacent

exterior grade. The height of the crawlspace, as measured from the interior grade of the crawlspace to the top of the crawlspace foundation, may not exceed four feet at any point.

Design flood elevation. The elevation of the 100-year storm as defined in FEMA Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped floodprone soils or similar methodologies.

FEMA (Federal Emergency Management Agency). The agency which administers the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

Flood management areas. All lands contained in the Flood Management Area Overlay Zone, which include: lands within the 100-year floodplain, flood area, and floodway as shown on the FEMA flood insurance map dated June 17, 2008; the area of inundation for the February 1996 flood; and lands which have documented evidence of flooding.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood, base. The flood having a one percent chance of being equaled or exceeded in any given year.

Floodplain. Land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events.

Floodway. The portion of a watercourse required for the passage or conveyance of a given storm event as identified and designated by the City. The floodway includes the channel of the watercourse and the adjacent floodplain that must be reserved in an unobstructed condition in order to discharge the base flood.

Floodway fringe. The area of the floodplain, lying outside the floodway, which does not contribute appreciably to the passage of floodwater, but serves as a retention area.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non elevation design requirements of Chapter 27 CDC.

. . .

Grade, Street. The slope of a road, street~~, or~~ other public way, **or sidewalk** specified in terms of percentage of slope.

~~**Grade, ground level. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.**~~

Grade: The finished ground level adjoining the building at all exterior walls.

. . .

Structure. Anything **built or** constructed~~. or erected, the use of which requires location on or in the ground or attachment to something having such location, including buildings, fences, towers, utility equipment, utility poles, flag poles, signs, porches, pools, carports, platforms, walks, staircases, driveways and other similar objects, but not including fixtures or equipment attached to structures (e.g., antennas, lights).~~

Type I lands. Lands that have severe constraints that preclude the use of standard development techniques and technical criteria. Type I lands exist in **one or more of** the following areas:

A. Slope: **Land that has slopes of 35 percent or more over more than 50 percent of the site, as shown on the RLIS topography GIS layer.**

B. Drainage: All lands within the ~~**100-year floodplain**~~ **designated floodway as shown on the appropriate FEMA flood panel**.

C. Geological hazard: All ~~**existing or known**~~ landslide areas **shown in the City's Natural Hazard Mitigation Plan ("NHMP") and identified as "landslide potential exists" on Map 16 of the NHMP, or areas outside Map 16, but within Map 17, Landslide Vulnerable Analysis Area.**

Type II lands. Lands which have constraints that are sufficient to preclude most standard types of development. Constraints in these areas generally do not constitute a health or safety hazard, but require the use of non-standard technical design criteria. Type II lands exist in **one or more of** the following areas:

Slope: **Land that has slopes between 25 percent to 35 percent on more than 50 percent of the site, as shown on the RLIS topography GIS layer.**
Drainage: All drainage courses **identified on the Water Resource Area maps or areas identified as protected Goal 5 Wetlands, and areas outside the floodway, but within the floodway fringe, also known as the 100 year flood plain.**
Geology: All known mineral and aggregate deposits **identified on the Comprehensive Plan map as protected Goal 5 resources**.

Type III lands. These lands are considered within the major portion of the City's developable lands. Standard development criteria can be applied through normal implementation measures.
Type III lands **have slopes between 15 percent to 25 percent on more than 50 percent of the site, as shown on the RLIS topography GIS layer.**

Type IV lands. These lands are considered to have few, if any, constraints to development and are within the major portion of the City's developable lands. Normal development standards will apply in these areas.
Type IV lands have **slopes between 25 percent to 35 percent on more than 50 percent of the site, as shown on the RLIS topography GIS layer.**

. . .

~~**Top of bank.The same as "bankful stage."**~~

. . .

Utilities. All lines~~,~~ ~~**and**~~ facilities **and services** related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity, or similar service. There are two classes of utilities – major and minor:

> Utility, major. A **major** utility facility or service ~~**that will have, or the installation of which will have, a significant impact on the surrounding uses or the community in terms of generating or disrupting traffic, interfering with access to adjacent properties, creating noise or causing adverse visual effects. "Major utility"**~~ includes, but is not limited to~~:~~ a substation~~;~~ pump station~~;~~ water storage tank~~;~~ sewer**age treatment** plant~~;~~ **water treatment plant;~~,~~ and** transmission lines for water, drainage or sewerage collection systems, gas or electric, or other similar use.
>
> Utility, minor. A **minor** utility facility or service ~~**that will have, or the installation of which will have, a minor impact on the surrounding uses or on the community in terms of generating or disrupting traffic or access to adjacent properties, creating noise or causing adverse visual effects. "Minor utility"**~~ includes, but is not limited to~~:~~ overhead or underground electric, telephone or cable television poles and wires, **and** distribution lines for electric, gas, water, drainage or sewerage collection systems, or other similar use.

SECTION 4. Amendment. West Linn CDC Section 09.030 is amended as follows:

09.030 PERMITTED USES

The following are uses permitted outright in this zoning district:

1. Community recreation.
2. Family day care.
3. Residential home.
4. Single-family detached residential unit.
5. Utilities, minor.
6. Transportation facilities (Type I).
7. **Manufactured home.**

SECTION 5. Amendment. West Linn CDC Section 09.050 is amended as follows:

09.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Sign, subject to the provisions of Chapter 52 CDC.
3. Temporary use, subject to the provisions of Chapter 35 CDC.
4. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

~~**5. Manufactured home, subject to the provisions of CDC 36.020, Manufactured Homes Standards.**~~

5~~6~~. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

SECTION 6. Amendment. West Linn CDC Section 10.030 is amended as follows:

10.030 PERMITTED USES

The following uses are permitted outright in this zoning district:

1. Community recreation.
2. Family day care.
3. Residential home.
4. Single-family detached residential unit.
5. Utilities, minor.

6. Transportation facilities (Type I).

7. Manufactured home.

SECTION 7. Amendment. West Linn CDC Section 10.050 is amended as follows:

10.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Sign, subject to the provisions of Chapter 52 CDC.
3. Temporary use, subject to the provisions of Chapter 35 CDC.
4. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

~~**5. Manufactured home, subject to the provisions of CDC 36.020, Manufactured Homes Standards.**~~

5~~6~~. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

SECTION 8. Amendment. West Linn CDC Section 11.030 is amended as follows:

11.030 PERMITTED USES

The following are uses permitted outright in this zoning district

1. Single-family detached residential unit.
2. Community recreation.
3. Family day care.
4. Residential home.
5. Utilities, minor.
6. Transportation facilities (Type I).
7. **Manufactured home**

SECTION 9. Amendment. West Linn CDC Section 11.050 is amended as follows:

11.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.

2. Sign, subject to the provisions of Chapter 52 CDC.
3. Temporary uses, subject to the provisions of Chapter 35 CDC.
4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
5. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.
~~6. Manufactured homes subject to the provision of CDC 36.020, Manufactured Home Standards.~~
7. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

SECTION 10. Amendment. West Linn CDC Section 12.030 is amended as follows:

12.030 PERMITTED USES

The following uses are permitted outright in this zone.

1. Single-family detached residential unit.
2. Single-family attached residential units.
3. Community recreation.
4. Family day care.
5. Residential home.
6. Utilities, minor.
7. Transportation facilities (Type I).
8. **Manufactured home.**

SECTION 11. Amendment. West Linn CDC Section 12.050 is amended as follows:

12.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Signs, subject to the provisions of Chapter 52 CDC.
3. Temporary uses, subject to the provisions of Chapter 35 CDC.
4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
5. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

~~6. Manufactured home subject to the provisions of CDC 36.020, Manufactured Homes Standards.~~

7. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

SECTION 12. Amendment. West Linn CDC Section 13.030 is amended as follows:

13.030 PERMITTED USES

The following uses are permitted outright in this zoning district:

1. Single-family detached residential unit.
2. Single-family attached residential unit.
3. Duplex residential unit.
4. Community recreation.
5. Family day care.
6. Residential home.
7. Utilities, minor.
8. Transportation facilities (Type I).
9. **Manufactured home.**

SECTION 13. Amendment. West Linn CDC Section 13.050 is amended as follows:

13.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions.

1. Manufactured home park, subject to the provisions of Chapters 36 and 55 CDC.
2. Home occupations, subject to the provisions of Chapter 37 CDC.
3. Sign, subject to the provisions of Chapter 52 CDC.
4. Temporary uses, subject to the provisions of Chapter 35 CDC.
5. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
~~6. Manufactured homes subject to the provisions of CDC 36.020.~~
7. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.
8. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

SECTION 14. Amendment. West Linn CDC Section 19.090 is amended as follows:

19.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

A. The following standards apply to all development including permitted uses:

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.
2. Chapter 35 CDC, Temporary Structures and Uses.
3. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.
4. Chapter 40 CDC, Building Height Limitations, Exceptions.
5. Chapter 42 CDC, Clear Vision Areas.
6. Chapter 44 CDC, Fences.
7. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.
8. Chapter 48 CDC, Access, Egress and Circulation.
9. Chapter 52 CDC, Signs.
10. Chapter 54 CDC, Landscaping.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except detached single-family dwellings **and approved conditional use applications pursuant to 60.030(C)**.

SECTION 15. Amendment. West Linn CDC Section 27.060 is amended as follows:

27.060 APPROVAL CRITERIA

The Planning Director shall make written findings with respect to the following criteria when approving, approving with conditions, or denying an application for development in flood management areas.

A. Development, excavation, and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.

B. No net fill increase in any floodplain is allowed. All fill placed in a floodplain shall be balanced with an equal amount of soil material removal. Excavation areas shall not exceed fill areas by more than 50 percent of the square footage. Any excavation below ~~bankful stage~~ **the ordinary high water line** shall not count toward compensating for fill.

SECTION 16. Amendment. West Linn CDC Section 28.040 is amended as follows:

28.040 EXEMPTIONS/USES PERMITTED OUTRIGHT

The following development activities do not require a permit under the provisions of this chapter. (Other permits may still be required.)

. . .

T. The construction, remodeling or additions of home and accessory structures that take place completely within the "Habitat and Impact Areas Not Designated as HCAs" shall be exempt from a Willamette or Tualatin River Protection Area permit. Where the "Habitat and Impact Areas Not Designated as HCAs" goes to the edge of a clearly defined top of

bank, the applicant's home and accessory structures shall be set back at least 15 feet from top of bank. At-grade patios and deck areas within 30 inches of ~~natural~~ grade may extend to within five feet from top of bank. No overhang or cantilevering of structures is permitted over HCA or over setback area. If these terms are met then no permit will be required under this chapter.

. . .

BB. A new dock subject to the approval criteria of this Chapter.

CC. Public docks, gangways, and other water related accessory facilities.

SECTION 17. Amendment. West Linn CDC Section 28.110 is amended as follows:

28.110 **APPROVAL CRITERIA**

No application for development on property within the protection area shall be approved unless the decision-making authority finds that the following standards have been met or can be met by conditions of approval. The development shall comply with the following criteria as applicable:

. . .

I. Dock and other water-dependent structures

. . .

3. In no case except as provided in this section shall the **a private** ramp and **private** dock extend more than 100 feet from OLW towards the center of the river or slough. In the case of L-shaped docks, the 100 feet shall be measured from the OLW to the furthest part of the **private** dock closest to the center of the river.

. . .

7. For ~~both~~ **only** single-user and joint-user docks, pilings shall not exceed a maximum height of eight feet above the 100-year flood elevation.

SECTION 18. Amendment. West Linn CDC Section 28.130 is amended as follows:

28.130 GRADING PLAN

~~A.~~ **Docks, shall be reviewed and approved by Department of State Lands for the area within their jurisdiction.** The grading plan shall be at the same scale as the site plan (CDC 28.120) and shall show **or attach**:

A.~~1.~~ The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals.

B~~2~~. The location of the proposed drainageways.

C~~3~~. FEMA elevation certificate.

D. "No rise analysis" for potential impacts to the designated floodplain or floodway, if necesssary. ~~**All grading in the 100-year and 1996 floodplain areas and in areas at, or below,**~~

~~**OHWM shall require a study by an accredited professional to demonstrate that the addition or removal of material including the addition of rip rap and other stabilization measures will not adversely impact the subject property plus**~~

~~upstream or downstream properties by causing erosion or deposits on those properties, particularly in the event of a flood.~~
~~4. Show erosion control measures.~~

SECTION 19. Amendment. West Linn CDC Section 32.060 [Approval Criteria (Standard Process)], Table 32-2, "Required Width of WRA," shall be amended to delete all occurrences of "Edge of bankfull stage" in the column entitled, "Starting Point for Measurements from Water Resource."

SECTION 20. Amendment. West Linn CDC Section 36.020 is amended as follows:

36.020 MANUFACTURED HOMES STANDARDS
Manufactured homes shall be subject to the following requirements in all of the zoning districts in which they are allowed.
A. The unit shall satisfy the requirements for a manufactured home as defined in CDC ~~03.030~~ **02.030.**

SECTION 21. Repeal. West Linn CDC Section 37.030(A) [SPECIFIC HOME OCUPATION USES PROHIBITED] is repealed in its entirety. Any municipal code provisions in conflict with the repeal of 37.030(A) are also repealed.

SECTION 22. Amendment. West Linn CDC Section 38.060 is amended as follows:

38.060 PROJECTIONS INTO REQUIRED YARDS
~~A. An open deck may extend into an existing utility easement, provided a minimum vertical clearance of 12 feet is maintained between the lowest point of the deck and the ground, and that no posts are installed within the easement. No other structures shall be allowed in an easement.~~
. . .
E. **The presence of an easement within a required yard is a limitation to projections.** Uncovered open porches, decks, or balconies, not more than 30 inches in height above ~~natural~~ grade and not covered by a roof or canopy, may extend or project into a required front or rear yard **until the projection reaches a** ~~to~~ utility easement~~s~~ or **comes within** five feet of the property line, whichever ~~is more~~ **provides a greater distance from the property line**. The uncovered deck, porch or balcony may go into side yard setback leaving at least three feet to the property line. ~~No e~~**E**ncroachment **into a**~~upon~~ utility easement is **not** allowed**, except as provided below**.

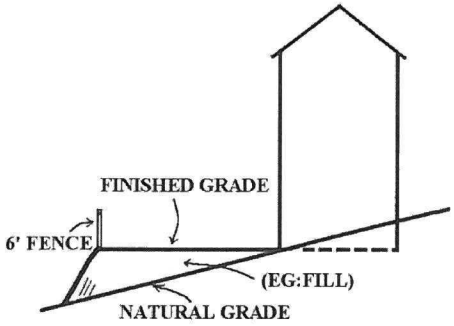
1. Uncovered open porches, decks, or balconies may extend into an existing utility easement, provided:

a. a minimum vertical clearance of 12 feet is maintained between the lowest point of the deck and the ground, and

b. that no posts are installed within the easement

2. These provisions do not apply in the Willamette Historic District.

SECTION 23. Amendment. The untitled diagram in West Linn CDC Section 44.020(B) is amended to read "~~Natural~~ Grade."



SECTION 24. Amendment. West Linn CDC Section 46.150 is amended as follows:

46.150 DESIGN AND STANDARDS

The following standards apply to the design and improvement of areas used for vehicle parking, storage, loading, and circulation:

...

B. Accessible parking standards for persons with disabilities. If any parking is provided for the public or visitors, or both, the needs of the people with disabilities shall be based upon the following standards or current applicable federal standards, whichever are more stringent:

1. Minimum number of accessible parking space requirements (see following table):

MINIMUM REQUIRED NUMBER OF TOTAL PARKING SPACES	TOTAL NUMBER OF ACCESSIBLE SPACES	NUMBER OF VAN-ACCESSIBLE SPACES REQUIRED, OF TOTAL	SPACES SIGNED "WHEELCHAIR USE ONLY"
1-25	1	1	-
26-50	2	1	-
51-75	3	1	-
76-100	4	1	-
101-150	5	-	1
151-200	6	-	1
201-300	7	-	~~1~~ 2
301-400	8	-	~~1~~ 2
401-500	9	-	2
501-999	2 percent of total spaces	-	1 in every ~~8~~ 6 accessible spaces or portion thereof
Over 1,000	20 spaces plus 1 for every 100 spaces, or fraction thereof, over 1,000	-	1 in every ~~8~~ 6 spaces or portion thereof

SECTION 25. Amendment. West Linn CDC Section 48.025 is amended as follows:

48.025 ACCESS CONTROL

. . .

B. Access control standards.

. . .

6. Access spacing.

a) The access spacing standards found in Chapter 8 of the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections~~, private drives,~~ and non-traversable medians.

b) Private drives and other access ways are subject to the requirements of 48.060.

SECTION 26. Amendment. West Linn CDC Section 55.100 is amended as follows:

55.100 APPROVAL STANDARDS - CLASS II DESIGN REVIEW

. . .

I. Public Facilities. An application may only be approved if adequate public facilities will be available to provide service to the property prior to occupancy.

. . .

~~**2. Drainage. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine off-site impacts from a 25-year storm. The City Engineer shall adjust storm drainage facilities for applications which contain permeable parking surfaces based upon a quantitative analysis of the increased water retention and water quality characteristics of the permeable parking surface.**~~

~~**Catch basins shall be installed and connected to pipelines leading to storm sewers or drainageways.**~~

~~**All plans will then be reviewed by the City Engineer.**~~

SECTION 27. Amendment. West Linn CDC Section 55.110 is amended as follows:

55.110 SITE ANALYSIS

A. A vicinity map showing the location of the property in relation to adjacent properties, roads, pedestrian and bike ways, transit stops and utility access.

B. A site analysis on a drawing at a suitable scale (in order of preference, one inch equals 10 feet to one inch equals 30 feet) which shows:

1. The parcel boundaries, dimensions, and gross area.
2. Contour lines at the following minimum intervals:

a. Two-foot intervals for slopes from zero to 25 percent; and

b. Five- or ten-foot intervals for slopes in excess of 25 percent.

3. A slope analysis which identifies portions of the site according to the slope ranges as follows:

a. **Type I - ~~Zero to 15 percent~~ (Under 15 percent)**;

b. **Type II - ~~Sixteen~~** (**Between Fifteen** to 25 percent);

c. **Type III – (Between ~~Twenty-six~~ 25** to 35 percent);

d. **~~Thirty-six to 50 percent;~~Type IV (Over 35 percent)**

~~e. Greater than 50 percent~~.

4. The location and width of adjoining streets.

5. The drainage patterns and drainage courses on the site and on adjacent lands.

6. Potential natural hazard areas including:

a. Floodplain areas **pursuant to the site's applicable FEMA Flood Map panel**;

b. **~~Seeps and springs~~ Water Resource Areas as defined by CDC 32**;

c. ~~Designated~~ Landslide areas **designated by the Natural Hazard Mitigation Plan, Map 16**; and

d. **~~Areas having a high erosion potential~~ Landslide Vulnerable Analysis areas, designated by the Natural Hazard Mitigation Plan, Map 17** .

SECTION 28. Amendment. West Linn CDC Section 60.030 is amended as follows:

60.030 **ADMINISTRATION AND APPROVAL PROCESS**

A. Conditional use applications shall be decided by the Planning Commission in the manner set forth in CDC 99.060(B). A petition for review by the Council may be filed as provided by CDC 99.240(B).

B. All approved conditional use applications **in new buildings or buildings with a major modification,** shall be subject to design review under the provisions of Chapter 55 CDC, and in the manner set forth in CDC 99.060(B).

C. All approved conditional use applications within existing buildings shall not be subject to design review.

SECTION 29. Amendment. West Linn CDC Section 81.050 is amended as follows:

81.050 APPROVAL CRITERIA

~~A.~~ The City Council shall approve **~~or deny~~** a boundary change proposal based on findings and conclusions **~~addressing the following criteria:~~**

~~1. If an annexation, the proposal complies with the requirements of Municipal Code Section 2.920(1); and~~

~~2. For all boundary changes,~~ that the proposal complies with the criteria of Metro Code Section 3.09.050(**D~~d~~**) **~~and, if applicable, (e)~~**.

SECTION 30. Amendment. West Linn CDC Section 81.055 is amended as follows:

81.055 **ZONING DESIGNATION**

A decision on annexation shall also incorporate a decision on a ~~**zone change**~~ **zoning designation.** The applicant may concurrently apply for a comprehensive plan amendment if desired. Any approval of an annexation shall designate the City zone to be applied if the annexation is approved by the voters. The City zone shall be designated based upon the existing West Linn comprehensive plan/land use designation, pursuant to the following table:

. . .

SECTION 31. Amendment. West Linn CDC Section 81.060 is amended as follows:

81.060 EXPEDITED PROCESS

A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.

B. An expedited boundary change proposal ~~**shall**~~ **may** be considered by the City Council without a public hearing. The Council decision on the proposal shall be considered the final decision for purposes of compliance with Metro Code Chapter 3.09.

SECTION 32. Repeal. West Linn CDC Section 81.070 [**APPEALS]** is repealed in its entirety. Any municipal code provisions in conflict with the repeal of CDC 81.070 are also repealed.

SECTION 33. Amendment. West Linn CDC Section 85.170 is amended as follows:

85.170 SUPPLEMENTAL SUBMITTAL REQUIREMENTS FOR TENTATIVE SUBDIVISION OR PARTITION PLAN

The following information shall be submitted to supplement the tentative subdivision plan:

A. General.

. . .

6. Where the proposed subdivision site includes hillsides, ~~**or where erosion hazard potential exists, including Type I and II lands**~~ as defined in CDC 02.030 **Type I and II lands**, ~~and~~ **or** any lands identified as a hazard site in the West Linn Comprehensive Inventory Plan Report, the ~~**standards and requirements of Chapter 24 CDC, Planned Unit Development, as well as the**~~ requirements for erosion control as described in CDC 85.160(F)(2), shall be addressed in a narrative.

. . .

F. Storm.

~~**1.**~~ A proposal shall be submitted for storm drainage and flood control including profiles of proposed drainageways with reference to the most recently adopted Storm Drainage Master Plan.

~~2. Storm treatment and detention facilities shall be sized to accommodate a 25-year storm incident. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff downstream or constriction-created upstream impacts. The plan and statement shall identify all on- or off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 25-year storm.~~

~~3. Plans shall demonstrate how storm drainage will be collected from all impervious surfaces including roof drains. Storm drainage connections shall be provided to each dwelling unit/lot. The location, size, and type of material selected for the system shall correlate with the 10-year storm incident and agree with the factual information provided in response to subsection (F)(2) of this section.~~

~~4. The detention facilities shall be designed by a licensed engineer to meet City standards. The detention facilities should include a vegetation plan for the facility and environs, if applicable.~~

SECTION 34. Amendment. West Linn CDC Section 85.200 is amended as follows:

85.200 APPROVAL CRITERIA

No tentative subdivision or partition plan shall be approved unless adequate public facilities will be available to provide service to the partition or subdivision area prior to final plat approval and the Planning Commission or Planning Director, as applicable, finds that the following standards have been satisfied, or can be satisfied by condition of approval.

. . .

E. Lot Grading. Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

. . .

5. **Type I Lands shall require a report submitted by an engineering geologist, and Type I and Type II Lands shall require a Geologic Hazard report.**

~~5. Where landslides have actually occurred, where the area is identified as a hazard site in the West Linn Comprehensive Plan Report, or where field investigation by the City Engineer confirms the existence of a severe landslide hazard, development shall be prohibited unless satisfactory evidence is additionally submitted by a registered geotechnical engineer which certifies that methods of rendering a known hazard site safe for construction are feasible for a given site. The City Engineer's field investigation shall include, but need not be limited to, the following elements:~~

~~a. Occurrences of geotropism.~~

~~b. Visible indicators of slump areas.~~

~~c. Existence of known and verified hazards.~~

~~d. Existence of unusually erosive soils.~~

~~e. Occurrences of unseasonably saturated soils. The City Engineer shall determine whether the proposed methods or designs are adequate to prevent~~

~~landslide or slope failure. The City Engineer may impose conditions consistent with the purpose of these ordinances and with standard engineering practices including limits on type and intensity of land use, which have been determined necessary to assure landslide or slope failure does not occur.~~
~~6. All cuts and fills shall conform to the Uniform Building Code.~~

. . .

J. Supplemental provisions.

. . .

~~10. Annexation and street lights. Developer and/or homeowners association shall, as a condition of approval, pay for all expenses related to street light energy and maintenance costs until annexed into the City, and state that: "This approval is contingent on receipt of a final order by the Portland Boundary Commission, approving annexation of the subject property." This means, in effect, that any permits, public improvement agreements, final plats, and certificates of occupancy may not be issued until a final order is received.~~

SECTION 35. Amendment. West Linn CDC Section 85.210 is amended as follows:

85.210 LOT LINE ADJUSTMENT APPROVAL STANDARDS

A. The Director shall approve or deny a request for a ~~lot~~ **property** line adjustment based on the criteria stated below:

1. An additional lot or **parcel** ~~buildable lot~~ shall not be created by the lot line adjustment. ~~and~~

2. T~~t~~he existing parcel shall not be reduced in size by the adjustments below the minimum lot size established by the approved zoning for that district.

3. By reducing the lot size, the lot or structure(s) on the lot shall not be in violation of the site development regulations for that district. For example, the lot line adjustment shall maintain setback requirements and shall not result in an overall loss of density below 70 percent, except as allowed by CDC 85.200(J)(7).

4. The lot line adjustment is ~~3. The lot line adjustment is intended to allow minor lot line deviations, or to consolidate undersized or irregular-shaped lots. It can also be used to change a limited number of property lines up to the point that the County Surveyor would determine~~ **not** a replat ~~of the subdivision is in order. A replat is the complete reconfiguration and realignment of a subdivision's lot lines~~ **as defined by ORS chapter 92.**

~~4. The lot lines shall be generally straight with only a few deviations. Lot lines shall not gerrymander or excessively zigzag along to accommodate tool sheds, accessory structures, other buildings, etc. The figure below serves as a guide to lot line adjustments~~.

. . .

5. The lot line adjustment will not affect existing ~~public utility~~ easements ~~n~~or existing utilities unless an easement vacation is obtained**, replacement easements are dedicated or** ~~and~~ any required utility relocations are paid for by the applicant.

6. Any appeal must be filed in accordance with CDC 99.240.

B. The provisions of CDC 85.070 shall also apply to lot line adjustments.

SECTION 36. Amendment. West Linn CDC Section 99.030 is amended as follows:

99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

. . .

B. Pre-Application Conference.

1. Subject to subsection (B)(4) of this section, a pre-application conference is required for, but not limited to, each of the following applications:

. . .

f. Historic design review(~~Class I and~~ Class II);

SECTION 37. Amendment. West Linn CDC Section 99.038 is amended as follows:

99.038 NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS

. . .

C. The letter shall be sent by ~~certified mail, return receipt requested,~~ to the president of the neighborhood association, and to one designee as submitted to the City by the neighborhood association, and shall be sent by regular mail to the other officers of the association and the property owners within 500 feet. If another neighborhood association boundary is located within the 500-foot notice radius, the letter shall be sent to that association's president, and to one designee as submitted to the City by the neighborhood association as well. The letter shall briefly describe the nature and location of the proposed development, and invite the association and interested persons to a meeting to discuss the proposal in more detail. . .

SECTION 38. Amendment. West Linn CDC Section 99.060 is amended as follows:

99.060 **APPROVAL AUTHORITY**

B. Planning Commission Authority. The Planning Commission shall have the authority to:

1. Make a recommendation to approve, deny, or approve with conditions to the Council:

a. A quasi-judicial Comprehensive Plan Map amendment (Chapter 105 CDC).

b. A quasi-judicial zone change ~~involving a concurrent~~ application ~~for a quasi-judicial Plan Map amendment as provided by CDC 99.030(A)~~ **pursuant to CDC (~~C~~chapter** 105 ~~CDC)~~**, excluding applications requesting the designation or removal of designation for a historic resource**.

~~c. The designation of an historic landmark.~~

2. Approve, deny, or approve with conditions the following applications:

~~a. A quasi-judicial zone change application (Chapter 105 CDC).~~

a.~~b. A~~ temporary use or structure application (Chapter 35 CDC), not including uses allowed through another land use approval process.

b.~~c. A~~ conditional use (Chapter 60 CDC). . .

C. City Council Authority. The Council shall have the authority to:

1. Approve, deny, or approve with conditions applications for the following development applications:~~.~~

a. A quasi-judicial Comprehensive Plan Map amendment (Chapter 105 CDC).

b. A quasi-judicial zone change ~~involving a concurrent~~ application ~~for a quasi-judicial Plan Map amendment (~~pursuant to CDC ~~C~~chapter 105 ~~CDC)~~.

D. Historic Review Board authority.

. . .

2. Make recommendations to the approval authority specified in this section regarding the following:

. . .

~~g. A zone change for property containing a historic resource.~~

SECTION 39. Amendment. West Linn CDC Section 99.070 is amended as follows:

99.070 **Consolidation of Proceedings**

A. When~~ever~~ an applicant requests more than one approval**,** and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding. In such cases, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under CDC 99.060, in the following order of preference: City Council, Planning Commission **or Historic Review Board**, or the Planning Director**~~,~~ .**

1. ~~**E**xcept for~~ **However,** expedited land division applications ~~which~~ shall be processed as described in **ORS ~~C~~chapter** 197 ~~**ORS**~~**, regardless of the number of approvals requested**. ~~**For example, if a conditional use permit (CUP) and Class I design review application were submitted, ordinarily the CUP would be heard by the Planning Commission, and Class I design review by the Planning Director. This hierarchy dictates that the higher body, the Planning Commission, would hear the consolidated hearing.**~~

B. When an applicant requests to undertake preliminary work, for site preparation or analysis, the Director may allow decisions within the Director's authority to precede the subsequent decision required for review by the decision making body.

SECTION 40. Amendment. West Linn CDC Section 99.080 is amended as follows:

99.080 NOTICE

Notice shall be given in the following ways:

A. Class A Notice. Notice of proposed action or a development application pursuant to CDC 99.060 shall be given by the Director in the following manner:

. . .

2. At least 10 days prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record.

a. Decisions pursuant to 99.060(A), Planning Director authority, are exempt from the requirements of this subsection.

. . .

D. Notice for a boundary change application~~s~~ shall comply with the requirements of ~~**Chapter 222 ORS and relevant Metro statutes.**~~ **ORS 197.763, ORS Chapter 222, and the Metro Code.**

SECTION 41. Amendment. West Linn CDC Section 99.160 is amended as follows:

99.160 **Decision by Director**

A. Pursuant to CDC 99.060(A), the Director is authorized to make certain decisions, and no hearing shall be held except where the Director has an interest in the outcome of the decision, due to some past or present involvement with the applicant or other interested persons or in the property or surrounding property, and cannot render an impartial decision. In such cases, **the application shall be reviewed by the Director's designee,** the application shall be subject to the jurisdiction of the Planning Commission.

SECTION 42. Amendment. West Linn CDC Section 99.180 is amended as follows:

99.180 **Exparte Contacts, Impartiality, Disqualification and Abstention**

. . .

F. Rights of abstaining or disqualified member of the hearing body

2. If sufficient members of a hearing body abstain or are disqualified, that renders the hearing body unable to take action on the application consistent with the applicable authority of the hearing body, **then the application shall be review as follows:**~~**all members of the hearing body shall be reinstated and participate in the decision of the application, consistent with the rule of necessity.**~~

a. Planning Director disqualified – referred to **Planning Director's designee, or if no alternatives available, referred to the Planning Commission** ~~**City Council**~~ for hearing and decision.

b. Historic Review Board disqualified – referred to Planning Commission for hearing and decision.
c. Planning Commission disqualified – referred to City Council for hearing and decision.
d.~~c.~~ City Council disqualified – **~~referred to Planning Commission for hearing and decision~~ City Council will hear it and make a decision if the disqualified member's vote is required to achieve a quorum and reach a decision on the matter, and no other person can act in the place of the disqualified person.**
e. .~~d.~~ City Council acting as appellate hearing authority disqualified – decision of the original authority becomes the final City decision.

SECTION 43. Repeal. West Linn CDC Section 99.325(D) [**Eligibility for extensions**] is repealed in its entirety. Any municipal code provisions in conflict with the repeal of CDC 99.325(D) are also repealed.

SECTION 44. Amendment. West Linn CDC Section 105.040 is amended as follows:

105.040 **QUASI-JUDICIAL AMENDMENTS AND PROCEDURES**
Quasi-judicial amendments to this code and to the map shall be in accordance with the procedures set forth in this code and the following:
A. The Planning Commission shall ~~decide~~ **make a recommendation to the Council on a** zone change application~~s~~ which do**es** not involve Comprehensive Plan Map amendments as provided by CDC 99.060. ~~A petition for review by the Council may be filed as provided by CDC 99.240.~~ . .

SECTION 45. Amendment. West Linn CDC Section 106.020 is amended as follows:

106.020 VIOLATION OF CODE PROHIBITED
No person shall:
A. erect, construct, **establish, occupy,** alter, maintain**, enlarge, use** or **cause to be** use**d,** any building**,** ~~**or**~~ structure, **improvement,** or ~~**use**~~ **premises, in violation of this code;** or
B. transfer any land in violation of this ~~**zoning**~~ code ~~**or any amendment thereto**~~.

SECTION 46. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 47. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 48. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections **[46-49]**) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

SECTION 49. Effective Date. This ordinance shall take effect on the 30th day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 2(C) of the City Charter on the 8th day of December, 2014, and duly PASSED and ADOPTED this 8th day of December, 2014.

JOHN KOVASH, MAYOR

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY