

Memorandum

Date: July 14, 2025

To: West Linn Historic Review Board

From: Darren Wyss, Planning Manager

Subject: 2025 CDC Code Clean Up Amendments

At its July 15, 2025 meeting, the Historic Review Board (HRB) will hold a work session to discuss proposed West Linn Community Development Code (CDC) amendments to address “Limited Land Use Decisions” and the impact on decision-making related to the HRB. It is necessary to amend decision-making roles in order to be compliant with state statutes. Staff has worked with the City Attorney’s office to draft the proposed code amendments.

The Planning Commission (PC) held its first work session on the proposed amendments on [June 18, 2025](#) and will hold a second work session on [July 16, 2025](#). The PC asked how HRB decision-making will occur with the amendments.

Limited Land Use Decisions – Compliance with State Statutes

[ORS 197.015/ORS 197.195](#) does not allow quasi-judicial hearings for certain application types.

Staff has provided some general information about “Limited Land Use Decisions” and a series of questions to discuss with the HRB.

Limited Land Use Decisions – Compliance with State Statutes (CDC Chapters 55, 65, 85, and 99)

Oregon Revised Statutes (ORS) outline the State’s land use planning process and rules, including for development applications. [ORS 197.015](#) has defined certain types of development applications as “Limited Land Use Decisions” and outlined the decision-making process in [ORS 197.195](#). The rules date back to 1991, but were modified in [2024 by Senate Bill 1537](#), which added three additional decision types to the definition of “Limited Land Use Decisions”.

ORS 197.015(12) “Limited land use decision”:

(a) Means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(C) The approval or denial of an application for a replat.

(D) The approval or denial of an application for a property line adjustment.

(E) The approval or denial of an application for an extension, alteration or expansion of a nonconforming use.

(b) “Limited land use decision” does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

The legislation also amended the rules on how “Limited Land Use Decisions” are reviewed via ORS 197.195(6):

(6) A city shall apply the procedures in this section, and only the procedures in this section, to a limited land use decision, even if the city has not incorporated limited land use decisions into land use regulations, as required by ORS 197.646 (3), except that a limited land use decision that is made under land use standards that do not require interpretation or the exercise of policy or legal judgment may be made by city staff using a ministerial process.

The previous statute set the “floor” for reviewing decisions, which allowed cities to use quasi-judicial hearings and different noticing protocols, however the new language requires cities to apply the processes in the statute. This modification has resulted in numerous cities around the state, including West Linn, realizing its existing development code decision-making processes are not compliant with state statute. The statute rules do not allow for a quasi-judicial hearing for “Limited Land Use Decisions”.

After discussions with the Department of Land Conservation and Development (DLCD) and the City Attorney’s office, it has been determined the City of West Linn needs to amend the CDC decision-making process to comply with state statute. The following development application types are currently part of the HRB purview:

1. Historic Design Review Class II – currently the HRB holds a public hearing. The proposed amendments keep the HRB as the decision-maker, however state statute does not permit a public hearing. Staff will compile all written comments submitted during the 14-day comment period, write a staff report, and provide the application materials to the HRB. The HRB will meet and deliberate to a decision to approve, approve with conditions, or deny the proposal based on materials submitted and its compliance with the development code.
2. Willamette Fall Drive Commercial Design District (WFDCDD) – the HRB currently makes a recommendation on both Class I (staff decision) and Class II (staff decision) Design Review applications within the WFDCDD. The code (CDC Chapter 58) gives authority to the HRB to grant design exceptions for the WFDCDD.

- a. Would the HRB be comfortable with eliminating the recommendation step for Class I Design Review and simply allow staff to make the decision?
 - b. Would the HRB be comfortable with eliminating the recommendation step for Class II Design Review and simply allow staff to make the decision?
 - c. Would the HRB be comfortable If a design exception is requested, staff would provide information to the HRB as outlined in #1 above and the HRB could either grant the exception or not? Staff would then make the final decision.
3. HRB Partition/Subdivision Recommendation – currently the code requires an HRB recommendation on a land division of a property containing a historic resource. Staff proposes to eliminate this step as there is no mechanism to deny a land division if all code criteria are met.

If you have questions about the meeting or materials, please feel free to contact me at dwys@westlinnoregon.gov or 503-742-6064. As always, please submit questions before the meeting to increase the efficiency and effectiveness of the discussion as it allows staff to prepare materials and distribute them for your consideration.

Existing Historic Review Board Authority (CDC Chapter 99.060)

D. Historic Review Board authority. The Historic Review Board shall review an application for compliance with Chapters 25 and 58 CDC, as applicable. The Historic Review Board shall have the authority to:

1. Approve, deny, or approve with conditions an application regarding the following:
 - a. Class II Historic Design Review;
 - b. A demolition permit for a historic landmark or primary contributing structure within a historic district;
 - c. Relocation of a historic resource;
 - d. Revocation or modification of an approval as provided by CDC 99.330 for any application approved by the Historic Review Board; and
 - e. Extension of an approval with proposed modifications when the Historic Review Board acted as the initial decision-making authority.
2. Make recommendations to the approval authority specified in this section regarding the following:
 - a. Designation of a historic resource;
 - b. Removal of historic resource designation;
 - c. Class I or Class II design review on a property within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;
 - d. New construction within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;
 - e. A partition or subdivision of property containing a historic resource;
 - f. Conditional use of property containing a historic resource.