

Agenda Bill 2022-10-10-03

Date Prepared: September 28, 2022

For Meeting Date: October 10, 2022

To: Jules Walters, Mayor
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Darren Wyss, Planning Manager *DSW*

Subject: Chapter 96 Code Amendment Package Public Hearing

Purpose:

To hold a public hearing and consider adoption of Ordinance 1739, the proposed Chapter 96 Code Amendment Package.

Question(s) for Council:

Should the Council adopt the proposed Chapter 96 Code Amendment package as recommended by the West Linn Planning Commission?

Public Hearing Required:

Yes

Background & Discussion:

The intention of the Chapter 96 Code Amendment Project is to clarify which types of development require street improvements, at what point those improvements must happen, and whether the City should allow a fee-in-lieu of constructing street improvements and if yes, in what circumstances. The proposed changes relate only to single-lot development. The proposed changes do not include subdivisions, large commercial developments, conditional use permits, or industrial developments. The changes are specific to single-lot development, primarily residential properties that do not require Planning Commission approval.

The Chapter 96 Code Amendment project is a policy analysis aimed at determining which types of single-lot development require street improvements and the associated code clean up.

Chapter 96 of the Community Development Code (CDC) governs when street improvements are required for development. It is the intention of the Planning and Engineering Departments to clarify which types of development require street improvements, at what point those improvements must happen, and whether we should allow a fee-in-lieu of constructing street improvements. Clarifying these requirements will remove uncertainty for property owners and create clear and objective standards by which Planning and Engineering staff can evaluate development applications.

Budget Impact:

No immediate impact.

Sustainability Impact:

N/A

Council Options:

1. Adopt Ordinance 1739 as presented in Attachment 1;
2. Adopt Ordinance 1739 with changes; or
3. Do not adopt Ordinance 1739.

Staff Recommendation:

Approve CDC-22-03, as recommended by the Planning Commission, by adopting Ordinance 1739 following a public hearing

Potential Motion:

1. Move to adopt Ordinance 1739 as recommended by the Planning Commission
2. Move to adopt Ordinance 1739 with the following changes to the Planning Commission recommendation
3. Move to not adopt Ordinance 1739 as recommended by the Planning Commission

Attachments:

1. Ordinance 1739
2. Planning Commission Recommendation Memorandum, dated August 22, 2022
3. Staff Memo for City Council Work Session, dated September 12, 2022
4. Staff Memo and DLCD Comment Letter, dated September 27, 2022
5. Planning Commission Staff Report and Findings, August 17, 2022
6. Affidavit of Notice for City Council Public Hearing

ORDINANCE NO. 1739**AN ORDINANCE ADOPTING TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTERS 2 AND 96 IN ORDER TO CLARIFY WHICH TYPES OF SINGLE-LOT DEVELOPMENT REQUIRE STREET IMPROVEMENTS.**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~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, the City Council, in response to policy questions regarding when and where street improvements were required, prioritized a project on the West Linn Planning Docket to develop a package of text amendments with the goal of increasing clarity and consistency within Chapter 96 of the Community Development Code regarding development standards and process requirements applicable to the construction of street improvements for single-lot development; and

WHEREAS, the City Council appointed a working group to review Chapter 96 of the Community Development Code and make a recommendation of text amendments to the Planning Commission, which they did on June 22, 2022; and

WHEREAS, the West Linn Planning Commission (PC) held two work sessions on July 14 and August 3, 2022; and

WHEREAS, the PC held a public hearing, which was noticed in accordance with City standards, on August 17, 2022, and recommended approval of the proposed Chapter 96 and Chapter 2 Code Amendment Package; and

WHEREAS, the City Council held a work session on October 3, 2022; and

WHEREAS, the City Council held a public hearing, which was noticed in accordance with City standards, on October 10, 2022, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

WHEREAS, the City Council's decision is based on the findings contained in these Whereas Clauses, together with findings, conclusions, and substantial evidence found in the associated land use record file CDC-22-03, which is incorporated by this reference.

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

SECTION 1. CDC Chapter 2 Amendments. The West Linn Community Development Code Chapter 2: Definitions is amended to include new text as shown in Exhibit A.

SECTION 2. CDC Chapter 96 Amendments. The West Linn Community Development Code Chapter 96: Street Improvement Construction is amended to include new text and rescind existing text as shown in Exhibit B.

SECTION 3. 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 4. 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 of the ordinance 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 5. 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 2-4) need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

SECTION 6. 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 33(c) of the City Charter on the _____ day of _____, 2022, and duly PASSED and ADOPTED this _____ day of _____, 2022.

JULES WALTERS, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

Chapter 02
DEFINITIONS

Sections:

02.010 INTERPRETATION

02.030 SPECIFIC TERMS AND WORDS

2.010 INTERPRETATION

For the purpose of this code, certain terms or words used herein shall be interpreted as follows:

- A. The word “shall” is mandatory, the word “may” is permissive.
- B. The words “used” or “occupied” shall include the words “intended, designed, or arranged to be used or occupied.”
- C. The word “lot” or “parcel” includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- D. Words not specifically defined herein shall have the meaning specified in Webster’s Third New International Dictionary of the English Language, Unabridged. (Ord. 1604 § 1, 2011; Ord. 1636 § 2, 2014; Ord. 1732 § 2 (Exh. A), 2022)

02.030 SPECIFIC WORDS AND TERMS

For the purpose of these regulations, the following terms or words are defined as follows:

Street improvements. Typically includes sidewalk, planter strip, curb, gutter, drainage, and pavement improvements in the public right-of-way when conditioned as part of property development.

Through street. A street that connects two or more adjacent streets to one another.

Chapter 96
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Fee-in-Lieu

96.030 Standards

96.010 CONSTRUCTION REQUIRED

- A. Street improvements for residential construction are required when:
1. Construction of a new single-family attached or detached structure (Replacement of an existing structure is exempt); or
 2. Construction of a new multi-family structure; or
 3. Increase in dwelling unit density on-site (Accessory Dwelling Units are exempt).
- B. Street improvements for commercial construction are required when:
1. Construction of a new commercial structure; or
 2. Remodel of an existing commercial structure with an increase in floor area that requires additional parking; or
 3. Change in use that requires additional parking; or
 4. Construction that increases the dwelling unit density on-site; or
 5. Construction which requires a change in type, number, or location of accessways; or
 6. Replacement of an existing structure that requires additional parking.

96.020 FEE-IN-LIEU

- A. An applicant may apply for a waiver of street improvements and the option to pay a fee-in-lieu (in accordance with the city's adopted fee structure) of constructing street improvements if one of the following are met:
1. Located on a cul-de-sac with no existing curb and/or no existing sidewalk ; or
 2. Located on a street less than 1,320 linear feet in length and not planned as a through street; or
 3. Located more than 1,320 linear feet from nearest street improvements on the same street or connecting street.

96.030 STANDARDS

Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided the applicant submit sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.

Chapter 96
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Standards

96.010 CONSTRUCTION REQUIRED

~~A. — New construction.~~

~~1. — Building permits shall not be issued for the construction of any new building or structure, or for the remodeling of any existing building or structure, which results in an increase in size or includes a change in use, including building permits for single family dwellings but excepting building permits for alteration or addition to an existing single family dwelling, unless the applicant for said building permit agrees to construct street improvements as required by the land use decision authorizing the construction activity. The placement of new curbs and the drainage facilities required shall be determined by the City Manager or the Manager's designee.~~

~~2. — If the building permit did not require a prior land use decision, the applicant shall construct street improvements which shall include curbs, sidewalks, drainage facilities, and pavement widening to meet new curbs, along all City streets which abut the property described in the building permits.~~

~~3. — An applicant for a building permit may apply for a waiver of street improvements and the option to make a payment in lieu of construction. The option is available if the City Manager or the Manager's designee determines the transportation system plan does not include the street improvement for which the waiver is requested.~~

~~4. — When an applicant applies for and is granted a waiver of street improvements under subsection (A)(3) of this section, the applicant shall pay an in-lieu fee equal to the estimated cost, accepted by the City Engineer, of the otherwise required street improvements. As a basis for this determination, the City Engineer shall consider the cost of similar improvements in recent development projects and may require up to three estimates from the applicant. The in-lieu fee shall be used for in-kind or related improvements.—~~

~~B. — Remodeling of an existing building.~~

~~1. — Building permits shall not be issued for the remodeling and conversion of any existing building or structure which results in an increase in size or includes a change of use excepting building permits for the alteration or addition to an existing single family dwelling, unless:~~

~~a. — The applicant for said building permit agrees to construct street improvements; and~~

~~b. — The City Manager or the Manager's designee determines that the remodeling of a structure or change of use is sufficient to cause construction of street improvements.~~

~~2. The determination of whether the remodeling of an existing building or structure is sufficient to cause the property owner to construct street improvements, shall be made by the City Manager or the Manager's designee. This determination shall be based upon finding that the increase in building size or change of use results in either:~~

- ~~a. An increase in floor area which creates the need for additional on-site parking in accordance with the Community Development Code; or~~
- ~~b. A change in use that results in a need for additional on-site parking; or~~
- ~~c. An increase in the dwelling unit density on the site; or~~
- ~~d. A change in the type, number, or location of accessways where off-site traffic will be affected.~~

~~3. An applicant for a remodeling of an existing building or structure change may apply for a waiver of street improvements and the option to make a payment in lieu of construction utilizing the process described in subsection (A)(3) of this section.~~

~~C. Replacement of an existing building.~~

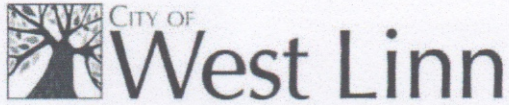
~~1. Building permits shall not be issued for the replacement of any existing building or structure which results in an increase in size unless:~~

- ~~a. The applicant for said building permit agrees to construct street improvements; and~~
- ~~b. The City Manager or the Manager's designee determines the the replacement is sufficiently increased in size to cause construction of street improvements.~~

~~D. Notwithstanding any other provisions of this chapter, in cases where the issuance of the building permit pertains to the construction or reconstruction of a building or structure within a large development owned by the same owner or owners, the City Council may, in its sole discretion, authorize the installation of street improvements of equivalent cost on another portion of the total development area. (Ord. 1314, 1992; Ord. 1442, 1999; Ord. 1544, 2007; Ord. 1547, 2007; Ord. 1590 § 1, 2009; Ord. 1613 § 21, 2013)~~

96.020 STANDARDS

~~Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided, that the applicant provides sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.~~



Memorandum

Date: August 22, 2022
To: West Linn City Council
From: West Linn Planning Commission
Subject: CDC-22-03 Recommendation

The Planning Commission held a public hearing on August 17, 2022, for the purpose of making a recommendation to the City Council on adoption of the proposed West Linn Community Development Code Amendments to Chapters 2 and 96 found in Land Use File CDC-22-03. The proposal before the Planning Commission was forwarded by the Council-appointed 2022 CDC Code Amendment Working Group after its discussion at two meetings. The proposal was discussed at Planning Commission work sessions on July 20 and August 3, 2022.

The Planning Commission considered public testimony during its legislative hearing on the proposed Chapter 96 Code Amendment Package. One community member provided oral testimony, at the public hearing, not in support of the proposed code amendment package, but rather supported a broader proposal with Neighborhood Association involvement.

After conducting the public hearing, the Commission discussed the fee-in-lieu of construction option, how fee-in-lieu funds would be spent, and how the Chapter 96 code amendments work with the middle housing bill. The Commission deliberated and voted four (Walvatne, Erwin, Carr, Metlen) to two (Mathews and Pellett) to recommend City Council adopt the proposal as presented.

Respectfully,

A handwritten signature in blue ink that reads "Gary Walvatne". The signature is written in a cursive style.

Gary Walvatne
Chair, West Linn Planning Commission



CITY OF West Linn

Date: September 12, 2022
To: Jules Walters, Mayor
Members, West Linn City Council
From: Chris Myers, Associate Planner
Subject: Chapter 96 Code Amendments

The Chapter 96 Code Amendment project is a policy analysis aimed at determining which types of single-lot development require street improvements and the associated code clean up.

Chapter 96 of the Community Development Code (CDC) governs when street improvements are required for development. It is the intention of the Planning and Engineering Departments to clarify which types of development require street improvements, at what point those improvements must happen, and whether we should allow a fee-in-lieu of constructing street improvements. Clarifying these requirements will remove uncertainty for property owners and create clear and objective standards by which Planning and Engineering staff can evaluate development applications.

Types of Development Included: The Chapter 96 Code Amendment proposal is specific in scope. The proposed changes relate only to single-lot development. The proposed changes do not include subdivisions, large commercial developments, conditional use permits, or industrial developments. These proposed changes are specific to single-lot development, primarily residential properties that do not require Planning Commission approval. The purview and approval authority of the Planning Commission will not change based upon the proposed code amendments.

The Process: As the first step in the process staff presented information and had discussions regarding street improvements and single-lot development with the 2022 CDC Amendment Working Group on May 25, 2022. At that meeting, staff presented two tables to the working group. The first table showed the current Chapter 96 requirements for **commercial** single-lot development and the proposed changes (page 15 of the Working Group meeting packet, link below). The second table showed the same for single-lot **residential** development (page 16 of the Working Group meeting packet, link below). After discussion, staff asked three questions of Working Group members:

1. Which types of development shall require half-street improvements?
2. Do we allow a fee-in-lieu of constructing half-street improvements?
3. If we allow a fee-in-lieu, do we designate areas within the City where a fee-in-lieu is allowed? Or do we utilize a set of criteria, which if met, would allow fee-in-lieu?

Click the link below for the Working Group meeting packet:

[2022 CDC Working Group Meeting 5 Packet](#)

The next step in the process was a second meeting with the 2022 CDC Amendment Working Group held on June 22, 2022. At the request of the Working Group, staff wrote two versions of proposed new code

language. Those two options were part of the 2022 CDC Working Group meeting 6 packet. Option 1 (page 14 of the meeting packet, link below) lists a set of proposed criteria for the street improvement waiver and fee-in-lieu option. Option 2 (page 15 of the meeting packet, link below) proposes a City adopted street improvement fee-in-lieu map.

Click the link below for the Working Group meeting packet:

[2022 CDC Amendment Working Group Meeting 6 Packet](#)

Working Group Recommendation: At the conclusion of the 2022 CDC Working Group meeting on June 22 members recommended to the Planning Commission:

1. Utilize a specific set of criteria to determine whether a waiver of street improvements for a fee-in-lieu is allowed. Working Group members felt that a map would be too difficult, costly, and time consuming to create and maintain.
2. Accessory Dwelling Units should not require construction of street improvements or a fee-in-lieu
3. Working group members confirmed the City Council decision in 2018 that replacing a single-family home with a new single-family home does not require street improvement construction.

On July 14, 2022 the Planning Commission (PC) held it's first of two scheduled work sessions to discuss the 2022 CDC Working Group recommendation of proposed text amendments to Chapter 96. At the July 14 meeting PC members asked staff to add two definitions to the code amendment package. The first was a definition for **Street Improvements** and the second was for the term **Through Street**. PC members also asked for further clarification within the proposed fee-in-lieu criteria that the working group recommended. The clarifications PC members wanted consisted of adding language about curb/gutter and sidewalk on a cul-de-sac and more specific language regarding nearest street improvements. The specific edits can be viewed in the PC Meeting Packet for August 3, 2022 meeting packet at the links below.

Click the links below for the Planning Commission meeting packet and video:

[Planning Commission Meeting Packet July 20, 2022](#)

[Planning Commission Meeting Packet July 20, 2022 Video](#)

At the August 3, 2022 PC work session, per the outcome of the first PC work session, staff brought forward two new definitions requested by the PC as well as edited code criteria language for the fee-in-lieu option. Staff discussed the changes made based upon PC input at the first work session as well as addressed several other clarifying questions requested by the PC. The questions and staff answers can be viewed in the August 3, 2022 PC work session packet at the link below.

Click the links below for the Planning Commission meeting packet and video:

[Planning Commission Meeting Packet August 3, 2022](#)

[Planning Commission Meeting August 3, 2022 Video](#)

Planning Commission Recommendation: At the conclusion of the Planning Commission public hearing on August 17, 2022 Commission members approved the proposed code amendment language as presented (See link for specific language):

<https://westlinnoregon.gov/planning/community-development-code-chapter-96-street-improvement-construction-amendments>

Chapter 96 Amendment Schedule:

CDC Code Amendment Working Group meeting 1 May 25, 2022

CDC Code Amendment Working Group meeting 2 June 22, 2022

Planning Commission work session 1 July 20, 2022

Planning Commission work session 2 (if needed) August 3, 2022

Planning Commission public hearing August 17, 2022

City Council work session October 3, 2022

City Council public hearing October 10, 2022

Summary of Outcomes: Approval of the proposed Chapter 96 Code Amendment language will accomplish four outcomes:

1. Codify the 2018 City Council decision regarding replacement of a single-family home with a new single-family home
2. Exempt Accessory Dwelling Units from required street improvements
3. Implement a fee-in-lieu of street improvement construction (under certain conditions)
4. Create and implement a set of clear and objective criteria for fee-in-lieu

Questions for City Council: Below are questions staff are asking of City Council members:

1. Do you agree with the Planning Commission recommendation?
2. If not, what changes should be made?
3. Is there further information Council would like from Staff?

Below is additional information intended to clarify terms utilized in the Chapter 96 code amendment discussion and proposed code language.

Street improvements: Also known as, half-street improvements are commonly required during single-lot development. The City requires a property owner to build a curb, gutter, sidewalk, planter strip, drainage, and pavement improvements as needed. The required improvements extend to the mid-point of the right-of-way. Half-street improvement requirements are how streets and sidewalks are connected and completed when previous development was not part of a subdivision or planned unit development (PUD).

Fee-in-lieu: In the past, the City of West Linn has allowed some development to forgo building half-street improvements and instead pay the estimated cost of the half-street improvements called a fee-in-lieu. This process has been loosely defined in the CDC. There are several challenges to a fee-in-lieu program. First, the estimates for half-street improvements are typically much lower than the actual cost. Construction companies giving the estimate realize they are not going to be hired and thus submit an inaccurate and typically very low estimate. Second, construction costs fluctuate depending on labor, product costs, permitting fees, etc... Lastly, it has been difficult, without clear and objective standards, to figure out which developments allow a fee-in-lieu.

Accessory Dwelling Units (ADU): Accessory Dwelling Units are small secondary structures typically found in a backyard or as an attached but separate unit of a single-family home. Current CDC standards

require the construction of half-street improvements when an ADU is built. ADUs must meet all zoning requirements including setbacks, lot coverage, and Floor to Area Ratio. The Planning and Engineering Departments feel the requirement of half-street improvements for the construction of an ADU is a barrier to entry for property owners and isn't proportional to the size and impact of such projects. Accessory Dwelling Units can be helpful to community members for numerous reasons such as aging in place, caregiver living quarters, multigenerational living space, downsizing, additional monthly income, and many more.

Walk Shed/Ped Shed: Within the proposed code amendment language is a list of criteria which if met would allow a property owner to pay a fee-in-lieu rather than build street improvements. The criteria list includes references to 1320 feet or one-quarter mile. This is a commonly used distance in transportation planning, engineering, and urban design. A Walk Shed also known as a **Ped Shed** will take the average person approximately five minutes to walk and is roughly the length a person is willing to walk to reach a destination. Below is a link with a description and examples of what a Walk Shed is and why they are important.

Click the link below for more information and details on pedestrian walking sheds:

[Walk Shed/Ped Shed Description](#)



CITY OF West Linn

Memorandum

Date: September 27, 2022

To: Jules Walters, Mayor
Members, West Linn City Council

From: Chris Myers, Associate Planner

Subject: Oregon Department of Land Conservation and Development (DLCD) Letter

On September 22, 2022, West Linn Planning Staff received a comment letter from DLCD regarding proposed Chapter 96 Code Amendments. In the letter, DLCD Community Services Director, Gordon Howard, offered input on the proposal, including confirming the proposed changes comply with state statute and administrative rules, but also addressing concerns about potential impacts on housing outcomes in the community. Mr. Howard offered three comments related to the proposed code amendments.

First, DLCD supports the exemption of street improvements for the construction of Accessory Dwelling Units (ADU). It is DLCD's belief that this action should encourage the construction of more ADUs and therefore expand the limited lower-cost housing options in West Linn.

Second, Mr. Howard expressed concern over the 2018 City Council policy decision to allow the replacement of a single-family home with a new single-family home without constructing half-street improvements. DLCD believes that this will incentivize "tear-downs" of existing older/smaller housing stock and encourage replacement with larger and more expensive new homes. Conversely, a property owner is not exempt if they convert an existing single-family home into a duplex thereby making it more expensive to build middle housing.

During the HB2001 process, the West Linn community was asked to comment on thirteen different policy questions, one of which was waiving street improvements for middle housing types. The community responded overwhelmingly (82 percent of survey respondents) that the City should not exempt middle housing from street improvements. Therefore, the proposed changes, which do not exempt middle housing from constructing street improvements, are consistent with prior feedback from the community.



CITY OF West Linn

Lastly, DLCD expressed concern over the lack of a “rough proportionality” analysis for development in West Linn. Below is the definition of Rough Proportionality as stated in the Community Development Code:

Rough proportionality. The allowed relationship between an exaction imposed to comply with a City code standard and the impact of the proposed development that is alleviated through imposition of the exaction.

City staff is currently working with the City Attorney’s office to develop and implement a rough proportionality test for all new development. This test will be applied consistently and will also protect the City from legal challenges associated with exactions related to public improvements.

In summary, Mr. Howard confirmed that the proposed Chapter 96 Code Amendments are legally compliant with state statutes and administrative rules, but DLCD is urging West Linn to consider the policy decisions applied through the code and potential consequences and cost burdens of the new standards on the development of housing.



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

Community Services Division

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



September 22, 2022

Darren Wyss
Planning Manager
City of West Linn
22500 Salamo Rd.
West Linn, OR 97068

Re: Proposed Amendment to West Linn Development Code Chapter 96

Dear Mr. Wyss,

Thank you for sending notice to the Department of Land Conservation and Development (DLCD) of the proposed amendments to Chapter 96 of West Linn's development code. DLCD has reviewed the proposed amendments and offers the following input to West Linn:

The proposed amendments will impact the cost of housing development in West Linn by requiring full improvements to street frontages, or fees-in-lieu of improvements. The exemption of ADUs from these standards is helpful in encouraging ADU development, and DLCD agrees that the city should make this distinction.

While the proposal is legally consistent with the state's new middle housing rules because it imposes the same standards on middle housing types as it does for single dwellings, DLCD has concerns about the consequences the proposed language will have in providing for good housing outcomes in the city.

By exempting replacement of single dwellings from providing street improvements, the city may be incentivizing "tear-downs" of existing older housing stock and replacement with large, more expensive homes. This dynamic has occurred already in our region as the housing market has become heated. Under the proposed code, a property owner could tear down a modestly-sized home and replace it with a much larger home without having to build any street improvements, while another owner who wants to convert a single dwelling into a duplex without adding more building area would be subject to costly street improvements.

In the first case, the city loses a more affordable house and gains a home likely only affordable to very high income individuals and does not gain any new housing overall. In the second case, the city would gain a new unit that is more affordable than a typical new house, while retaining existing housing. DLCD urges West Linn to consider the disparity in how different projects would be burdened (or not) with additional costs.

DLCD also has concerns about the lack of rough proportionality analysis in both the current findings and in the process for applying these standards. Based on recent conversations with city staff, we understand that the staff plan to analyze each individual proposal for rough proportionality at the time of building permit review. DLCD highly encourages the city to follow through on this intent, especially in situations such as corner lots, lots along major roadways that require more significant frontage improvements, or excessively long frontages, where improvements would be very costly. The city may also want to consider providing for a process for applicants to request exemptions or reductions to these standards to account for these situations.

In summary, DLCD does not dispute the consistency of the proposed amendments with state rules, but urges West Linn to consider the consequences and fairness of the standards on the development of housing.

Please don't hesitate to contact DLCD with any questions. Your Regional Representative, Kelly Reid, can be reached at kelly.reid@dlcd.oregon.gov or 971-345-1987.

Sincerely,

A handwritten signature in blue ink that reads "Gordon W. Howard". The signature is written in a cursive style and is positioned to the left of a vertical yellow line.

Gordon Howard
DLCD Community Services Director

cc. Kelly Reid, DLCD Regional Representative



CITY OF
West Linn

**STAFF REPORT
FOR THE PLANNING COMMISSION**

FILE NUMBER: CDC-22-03

HEARING DATE: August 17, 2022

REQUEST: To consider adoption of text amendments to West Linn Community Development Code Chapters 2 and 96. The proposed amendments were recommended by the City Council appointed 2022 Code Amendment Working Group.

APPROVAL CRITERIA: Community Development Code (CDC) Chapters 98 and 105

STAFF REPORT PREPARED BY: Chris Myers, Associate Planner

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GENERAL INFORMATION

APPLICANT: City of West Linn

DESCRIPTION: The City of West Linn proposes to amend its Community Development Code (CDC) to clarify which types of single-lot development require street improvements. The Planning Commission will review the proposal and make its own recommendation to City Council, who is the final decision-maker.

**APPROVAL
CRITERIA:**

Community Development Code (CDC) Chapter 98 provides administrative procedures for legislative amendments to the Comprehensive Plan and/or the Community Development Code. Section 98.100 of the CDC lists the factors upon which a decision shall be based. These are briefly described below and addressed in greater detail in a separate Section of this report:

1. The Statewide Planning Goals and rules adopted under ORS Chapter 197 and other applicable state statutes;
2. Any federal or state statutes or rules found applicable;
3. Applicable plans and rules adopted by the Metropolitan Service District (Metro);
4. The applicable Comprehensive Plan policies and map; and,
5. The applicable provisions of implementing ordinances.

PUBLIC NOTICE: Legal notice was published in the West Linn Tidings on August 3, 2022 and provided to required public agencies and persons who requested notice in writing on July 28, 2022.

120-DAY RULE: Not applicable to this legislative action.

EXECUTIVE SUMMARY

The Chapter 96 Code Amendment project is a policy analysis aimed at determining which types of single-lot development require street improvements and the associated code clean up. The West Linn City Council directed the Planning Department to develop a package of text amendments with the goal of increasing clarity and consistency within Chapter 96 of the Community Development Code regarding development standards and process requirements applicable to the construction of street improvements for single-lot development.

Chapter 96 of the Community Development Code (CDC) governs when street improvements are required for development. It is the intention of the project to clarify which types of development require street improvements, at what point those improvements must happen, and whether the City should allow a fee-in-lieu of constructing street improvements and if yes, in what circumstances. Clarifying these requirements will remove uncertainty for property owners and create clear and objective standards by which Planning and Engineering can evaluate development applications.

The City Council will hold two work session on September 19 and October 3, 2022 to discuss the Chapters 2 and 96 code amendment recommendations from the Planning Commission. The City Council will hold a public hearing on October 10, 2022 to consider the Planning Commission recommendation, receive public testimony, evaluate the decision-making criteria, and finalize the code amendment package.

The proposed amendments to Chapter 96 will accomplish three outcomes:

1. Codify the 2018 City Council decision that street improvements are not required when replacing a single-family home with a single-family home.
2. Exempt accessory dwelling units from constructing street improvements
3. Clarify that a fee-in-lieu of construction is acceptable under certain conditions

PUBLIC COMMENT

No public comments were received prior to publishing this staff report.

RECOMMENDATION

Staff recommends the Planning Commission finds the 2022 Working Group recommendation, with minor modifications to clarify language, to meet the necessary approval criteria. Therefore, staff recommends the Planning Commission **RECOMMEND** to the West Linn City Council that it approves Ordinance 1739, adopting amendments to West Linn CDC Chapters 2 and 96.

PROJECT BACKGROUND AND PURPOSE

In the Fall of 2021 the West Linn City Council appointed a working group to review proposed code amendments for HB2001, Chapter 96: Street Improvements, and Clear and Objective Standards.

The intention of the Chapter 96 Code Amendment Project is to clarify which types of development require street improvements, at what point those improvements must happen, and whether the City should allow a fee-in-lieu of constructing street improvements and if yes, in what circumstances. The project was prioritized as many older neighborhoods in the City currently do not have curb/gutter/sidewalk improvements and the community was questioning why 50 or 100 foot sections of improvements were being constructed as part of redevelopment projects where no other improvements existed. The idea was the improvements would be better utilized if located in areas where missing connections could be built.

The proposed changes relate only to single-lot development. The proposed changes do not include subdivisions, large commercial developments, conditional use permits, or industrial developments and are primarily residential properties that require neither staff nor Planning Commission approval.

The City Council appointed working group held its first Chapter 96 Street Improvements meeting on May 25, 2022. The working group reviewed staff's draft proposal of text amendments to Chapter 96. At that meeting, staff presented two tables to the working group. The first table showed the current Chapter 96 requirements for **commercial** single-lot development and the proposed changes (page 15 of the Working Group meeting packet, link below). The second table showed the same for single-lot **residential** development (page 16 of the Working Group meeting packet, link below).

Click the link below for the Working Group meeting packet and video:

[2022 CDC Working Group Meeting 5 Packet](#)

[2022 CDC Working Group Meeting 5 Video](#)

After discussion, staff asked three questions of Working Group members:

1. Which types of development shall require half-street improvements?
2. Do we allow a fee-in-lieu of constructing half-street improvements?
3. If we allow a fee-in-lieu do we designate areas within the City where that is allowed? Or do we utilize a set of criteria, which if met, would allow fee-in-lieu?

The working group agreed with the proposal that a fee-in-lieu should be allowed, but didn't find consensus on whether using clear and objective criteria or using a map was the better option to determine when it is allowed. The working group did agree that Accessory Dwelling Units should be exempt from constructing street improvements and directed staff to bring back code language for both the clear and objective criteria and map options on when to allow fee-in-lieu.

The second meeting with the 2022 CDC Amendment Working Group was held on June 22, 2022. Per the outcome of the Working Group Meeting 1, staff brought two versions of proposed new code language back to the group for feedback and a final recommendation on a code amendment package to the West Linn Planning Commission. The first version consisted of proposed code language for a fee-in-lieu with three specific criteria. The second version consisted of the addition of a fee-in-lieu that would be tied to a map that would highlight certain areas of the city that would allow the option of a fee-in-lieu. Those options can be found in the meeting packet below.

Click the link below for the Working Group meeting packet and video:

[2022 CDC Amendment Working Group Meeting 6 Packet](#)

[2022 CDC Working Group Meeting 6 Video](#)

At the conclusion of the 2022 CDC Working Group meeting on June 22 members recommended to the Planning Commission:

1. City code shall utilize a specific set of criteria to determine whether a waiver of street improvements for a fee-in-lieu under prescribed conditions is allowed as stated in option one listed above.
2. Accessory Dwelling Units should not require construction of street improvements or a fee-in-lieu
3. Codify the City Council policy decision from 2018 that replacing a single-family home with a new single-family home does not require street improvement construction.

On July 14, 2022 the Planning Commission (PC) held it's first of two scheduled work sessions to discuss the 2022 CDC Working Group recommendation of proposed text amendments to Chapter 96. At the July 14 meeting PC members asked staff to add two definitions to the code amendment package. The first was a definition for **Street Improvements** and the second was for the term **Through Street**. PC members also asked for further clarification within the proposed fee-in-lieu criteria that the working group recommended. The clarifications PC members wanted consisted of adding language about curb/gutter and sidewalk on a cul-de-sac and more specific language regarding nearest street improvements. The specific edits can be viewed in the PC Meeting Packet for August 3, 2022 meeting packet at the links below.

Click the links below for the Planning Commission meeting packet and video:

[Planning Commission Meeting Packet July 20, 2022](#)

[Planning Commission Meeting Packet July 20, 2022 Video](#)

At the August 3, 2022 PC work session, per the outcome of the first PC work session, staff brought forward two new definitions requested by the PC as well as edited code criteria language for the fee-in-lieu option. Staff discussed the changes made based upon PC input at the first work session as well as addressed several other clarifying questions requested by the PC. The questions and staff answers can be viewed in the August 3, 2022 PC work session packet at the link below.

Click the links below for the Planning Commission meeting packet and video:

[Planning Commission Meeting Packet August 3, 2022](#)

[Planning Commission Meeting August 3, 2022 Video](#)

Below is a brief explanation of the changes made to the two CDC chapters that are part of the proposed Chapter 96 Code Amendment Package:

CDC Chapter 2: Definitions

- Added definition for “through-street”
- Added definition for “street improvements”

CDC Chapter 96: Street Improvements

- Amended code language for commercial and residential construction requirements for street improvements, section 96.010 (A-B).
- Added a section for fee-in-lieu criteria, section 96.020

FINDINGS
PLANNING COMMISSION STAFF REPORT
August 17, 2022

APPLICABLE CRITERIA AND COMMISSION FINDINGS

West Linn Community Development Code

Chapter 98 - Procedures for Decision Making: Legislative

CDC 98.035 Citizen Engagement in Legislative Changes

A. Purpose. The purpose of a legislative working group is to provide a forum to discuss different points of view on a proposed land use legislative change.

B. New and modified land use legislative changes to this code will be developed by a representative working group of citizens and assisted by planning staff, unless the City Council determines that a working group is not necessary.

1. After receiving direction from the City Council, the Committee for Citizen Involvement shall recommend a purpose, goals, and a list of appointees for each proposed working group to the City Council for approval.

2. The working group will contain interested stakeholders, a member of the Planning Commission, and a staff representative.

3. The working group shall comply with WLMC 2.060 regarding the selection of officers and the other generally applicable citizen advisory group provisions.

Findings: In 2021, City Council determined a working group was necessary for the upcoming House Bill 2001 state mandated code changes, clear and objective code amendments, and Chapter 96 code amendments. City Council tasked the West Linn Committee for Community Involvement (CCI) with recommending a purpose, goals, and list of appointees. The CCI met and made its recommendation on November 23, 2021. City Council then appointed 12 members and four (4) alternates to the working group, including two (2) Planning Commissioners, on December 13, 2021. At its first meeting, the working group selected a chair to facilitate the meetings per WLMC 2.060. Meetings were conducted according to WLMC 2.060 and other generally applicable provisions.

C. Conduct of working group meetings.

1. Staff will prepare a suggested draft of the proposed changes. This draft will provide a starting point for discussion and education.

2. The working group will use the draft as a starting point for discussion, but then reconcile the implications of the draft with the goals established by the Council for the working group.

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

4. All working group meetings will be public meetings with an opportunity for anyone in attendance to provide public comment. The meetings and minutes will be conducted in accordance with the Council Rules, West Linn Municipal Code, City Charter, and State law.

5. In the event a consensus cannot be reached on an issue, the working group will prepare alternatives. Each alternative and its rationale will be presented to the Planning Commission.

6. Prior to submission to the Planning Commission, proposed code changes will be submitted to the City Attorney for review. The review should be limited to the identification of areas where the proposed

language conflicts with other parts of this code, State law or Federal law. As an alternative, legal counsel may attend and advise during the creation of the draft.

D. Presentation to the Planning Commission. When the working group reaches consensus that the code changes are ready, the proposed code changes will be presented by the Director to the Planning Commission pursuant to CDC 98.040(A)(2). If the working group fails to reach a consensus on the code changes, all proposals will be presented to the Planning Commission. Pursuant to CDC 98.110(A), the Planning Commission shall recommend approval, denial, or approval with modifications to the Council.

Findings: Working group meetings were held consistent with the procedures above. Staff prepared draft changes and presented relevant technical information as a starting point for discussion. The draft changes evolved in an iterative manner, with staff revising the text as directed and presenting the revised draft for consideration and approval. All meetings were open to the public and streamed live. On June 22, 2022, after two meetings, the working group made its recommendation on a proposed Chapter 96 Code Amendment package for Planning Commission consideration.

CDC 98.040 Duties of Director

A. The Director shall:

1. If appropriate, or if directed by the City Council or Planning Commission in their motion, consolidate several legislative proposals into a single file for consideration;

Findings: The proposal is for one legislative action. Adopting CDC code amendments to Chapters 2 and 96 Street Improvements.

2. Upon the initiation of a legislative change, pursuant to this chapter:

a. Give notice of the Planning Commission hearing as provided by CDC [98.070](#) and [98.080](#);

Findings: The Planning Commission public hearing will be held on August 17, 2022 with the City Council public hearing scheduled for October 10, 2022. Legislative notice was provided as required and documentation can be found in Exhibit PC-5. Notice was provided to the Department of Land Conservation and Development on July 12, 2022, meeting the required 35-day notice timeline. Measure 56 Notice, per ORS 227.186, was not required as part of this proposal.

b. Prepare a staff report that shall include:

1) The facts found relevant to the proposal and found by the Director to be true;

2) The Statewide planning goals and rules adopted under Chapter 197 ORS found to be applicable and the reasons why any other goal or rule is not applicable to the proposal except that goals 16 through 19 which are not applicable to the City of West Linn need not be addressed;

3) Any federal or State statutes or rules the Director found applicable;

4) Metro plans and rules the Director found to be applicable;

5) Those portions of the Comprehensive Plan found to be applicable, and if any portion of the plan appears to be reasonably related to the proposals and is not applied, the Director shall explain the reasons why such portions are not applicable;

6) Those portions of the implementing ordinances relevant to the proposal, and if the provisions are not considered, the Director shall explain the reasons why such portions of the ordinances were not considered; and

7) An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives; a recommendation for approval, denial, or approval with modifications; and at the Director's option, an alternative recommendation;

Findings: Relevant facts and associated analysis for applicable Statewide Planning Goals, federal and state statutes and rules, Metro Functional Plan requirements, West Linn Comprehensive Plan goals and policies, and West Linn Community Development Code criteria are found in the sections of the Staff Report below.

c. *Make the staff report and all case file materials available 10 days prior to the scheduled date of the public hearing under CDC [98.070](#);*

Findings: The staff report, proposed amendments, and all other associated project materials were made available on August 5, 2022, twelve days prior to the hearing.

d. *Cause a public hearing to be held pursuant to CDC [98.070](#);*

Findings: The West Linn Planning Commission is scheduled to hold the first evidentiary public hearing on August 17, 2022, with the West Linn City Council scheduled to hold its public hearing and make a final decision on October 10, 2022.

CDC 98.100 Standards for Decision

A. *The recommendation of the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:*

1. *The Statewide planning goals and rules adopted under Chapter 197 ORS and other applicable State statutes;*

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for the adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

Findings: The City has a citizen involvement program, which has been acknowledged by the State. This legislative process to review the proposed amendments will require two public hearings (one before the Planning Commission on August 17, 2022 and one before City Council on October 10, 2022) pursuant to CDC Chapter 98.

In developing code amendments, the City Council appointed a working group. All working group meetings were open to the public. A list of public meetings and outreach opportunities where public feedback could/can be submitted are listed below.

- Working Group meeting, May 25, 2022
- Working group meeting, June 22, 2022
- Planning Commission work session 1, July 20, 2022
- Planning Commission work session 2, August 3, 2022
- Planning Commission public hearing August 17, 2022
- City Council work session 1 September 19, 2022
- City Council work session 2 (if needed) October 3, 2022
- City Council public hearing October 10, 2022

Information was distributed throughout the process via the City's website and email communications. The aforementioned venues provided the opportunity for gathering feedback and comments.

The Planning Commission held work sessions on July 20 and August 3, 2022. The work sessions were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice requirements for the Planning Commission and City Council public hearings were met (see Exhibit PC-5). The notice was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the August 3, 2022 issue of the West Linn Tidings. The notice invited public input and included the phone number and email address of a contact person to answer questions. The notice also included the address of the City's webpage where the draft of the proposal can be viewed.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.

Findings:

The City of West Linn has an acknowledged Comprehensive Plan and enabling ordinances. The amendments to the West Linn Community Development Code are being undertaken to ensure clear and objective standards exist for when street improvements are required for single-lot development.

The amendments are being processed in accordance to the City's adopted procedures, which requires any applicable statewide planning goals, federal or state statutes or regulations, Metro regulations or plans, comprehensive plan policies, and the City's implementing ordinances be addressed as part of the decision-making process. The amendments are being processed as a post-acknowledgement plan amendment (PAPA) and noticing requirements have been met. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces:

This goal requires the inventory and protection of natural resources, open spaces, historic sites and areas.

Findings: The City is currently in compliance with the State's Goal 5 program and Metro's Title 13: Nature in Neighborhoods program, which implements Goal 5. The amendment does not alter the City's acknowledged Goal 5 inventories or associated land use programs. No changes will occur to current natural resource protections. As a result, the amendments are in compliance with Goal 5 process requirements.

Statewide Planning Goal 6 – Air, Water, and Land Resource Quality:

To maintain and improve the quality of air, water, and land resources of the state.

Findings: The City is currently in compliance with Metro's Title 3: Water Quality and Flood Management program, which implements Goal 6. The amendments do not alter the City's acknowledged land use programs regarding water quality. The amendments are consistent with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Hazards:

To protect people and property from natural hazards.

Findings: The City is currently in compliance with Goal 7 and Metro's Title 3: Water Quality and Flood Management program. No changes will occur to city programs related to flood management or other natural hazards. The amendments are consistent with Goal 7.

Statewide Planning Goal 8 – Recreational Needs:

This goal requires the satisfaction of the recreational needs of the citizens of the state and visitors.

Findings: The proposed amendments do not address or alter any City recreational programs or land use requirements related to parks and recreation. The amendments are in compliance with Goal 8.

Statewide Planning Goal 9 – Economic Development:

To provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Findings: The City is currently in compliance with Goal 9 and Metro's Title 4: Industrial and Other Employment Areas. The amendments do not alter the City's compliance with Goal 9.

Statewide Planning Goal 10 – Housing:

To provide adequate housing for the needs of the community, region and state.

Findings: The City is currently in compliance with Goal 10 and has implemented new code in compliance with Oregon House Bill 2001. The amendments do not alter the City's compliance with Goal 10.

Statewide Planning Goal 11 – Public Facilities and Services:

To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as framework for urban and rural development.

Findings: The City is currently in compliance with Goal 11 through its acknowledged Comprehensive Plan. This includes an adopted Public Facility Plan as required by Oregon Revised Statute 197.712 and Oregon Administrative Rule 660-011. The Public Facility Plan shows the City's water, sanitary sewer, transportation, and stormwater facilities have adequate capacity to service development. The proposed amendments do not alter the City's compliance with Goal 11 and are consistent with this goal.

Statewide Planning Goal 12 – Transportation:

To provide and encourage a safe, convenient, and economic transportation system.

Findings: The City is currently in compliance with Goal 12 and Metro's Regional Transportation Plan through its acknowledged Comprehensive Plan and TSP as required by Oregon Administrative Rule 660-012 (Transportation Planning Rule). The proposed amendments do not significantly affect an existing or planned transportation facility.

Statewide Planning Goal 13 – Energy Conservation:

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.

Findings: The City is currently in compliance with Goal 13 through its acknowledged Comprehensive Plan. The amendments do not alter the City's compliance with Goal 13 and are consistent with this goal.

Statewide Planning Goal 14 – Urbanization:

To provide for orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Findings: The City is currently in compliance with Goal 14 and Metro’s Title 11: Planning for New Urban Areas through its acknowledged Comprehensive Plan and land use regulations. The City also has a signed Urban Growth Management Agreement with Clackamas County as required by ORS 195.065. The amendments do not alter the City’s compliance with Goal 14 and are consistent with this goal.

Statewide Planning Goal 15 – Willamette River Greenway:

To provide for keeping the land green along the banks of the river and providing for recreation access.

Findings: The City is currently in compliance with Goal 15 through its acknowledged Comprehensive Plan and land use regulations. The amendments do not alter the City’s compliance with Goal 15 and are consistent with this goal.

Conclusion: Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable Statewide Planning Goals.

2. Any federal or State statutes or rules found applicable;

Oregon Administrative Rules. Chapter 660, Division 12: Transportation Planning Rule

Findings: The Transportation Planning Rule implements Statewide Planning Goal 12 to provide and encourage a safe, convenient, and economic transportation system. If an amendment to a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the City must either find the changes consistent with the planned facilities or adopt measures to improve the facilities. The amendments do not alter the City’s compliance with goal 12 and are consistent with this goal.

Conclusion: Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable federal or state statutes or rules.

3. Applicable plans and rules adopted by the Metropolitan Service District;

The Metro Urban Growth Management Functional Plan

Findings: The purpose of the Metro Urban Growth Management Functional Plan (UGMFP) is to recommend and require changes to city comprehensive plans and implementing ordinances in order to achieve regional goals and objectives. These goals and objectives include housing capacity and choices, water quality and flood management, industrial and employment lands, protection of natural areas, and urbanization patterns. The City of West Linn is currently in compliance with the UGMFP. Metro staff was sent notice of the proposal and provided the opportunity to comment. The proposed changes will not impact compliance with requirements found in the UGMFP.

Conclusion: Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable plans and rules adopted by Metro.

4. The applicable Comprehensive Plan policies and map;

Goal 1: Citizen Involvement

Policy 2. Support neighborhood associations as a forum for discussion and advice on issues affecting the community.

Findings: Notice was sent to the president of all eleven recognized neighborhood associations for the Planning Commission work sessions on July 20 and August 3, 2022 work as well as the public hearing scheduled for August 17, 2022. Notice will be sent to all eleven recognized neighborhood associations for the City Council work sessions on September 19 and October 3 as well as the City Council public hearing on October 10, 2022. Each president had the opportunity to relay information back to the associations for feedback and comment. Meeting agendas and materials were available for review and comment on the City's website.

Policy 3. Encourage individuals to organize and work in groups to develop recommended programs or position on various issues.

Findings: The City Council appointed a working group for code amendments. Both working group meetings were open to the public for feedback and comment. The Planning Commission held two work sessions (July 20 and August 3, 2022) and a public hearing (August 17, 2022). All Planning Commission meetings were open to the public. City Council is scheduled to have two work sessions (September 19 and October 3, 2022) and a public hearing (October 10, 2022). All City Council meetings will be open to the public. Meeting agendas and materials are available for review and comment on the City's website.

Policy 4. Provide timely and adequate notice of proposed land use matters to the public to ensure that all citizens have an opportunity to be heard on issues and actions that affect them.

Findings: As part of the legislative process, public notice of the Planning Commission and City Council public hearings was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the August 3, 2022 issue of the West Linn Tidings. The notice invited public input and included the phone number and email address of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the proposed amendment could be viewed.

The Planning Commission held work sessions on July 22 and August 3, 2022 that were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

City Council will hold work session on September 19 and October 3, 2022. The City Council public hearing will be held October 10, 2022. All work sessions and public hearings will be open to the public. All materials for the work sessions and public hearing, including meeting recordings and summaries will be made available throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

Policy 5. Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.

Findings: Information was distributed throughout the process via the City website and email communications. The aforementioned venues provided the opportunity for gathering feedback and comments. The Planning Commission work sessions, were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice of the Planning Commission work sessions and public hearing were sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the August 3, 2022 issue of the West Linn Tidings. The notice invited public input and included the phone number and email address of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the proposed amendment could be viewed. The aforementioned venues provided the opportunity for gathering feedback and comments.

Goal 2: Land Use Planning

Goal 5: Open Spaces, Scenic and Historic Areas & Natural Resources

Goal 6: Air, Water & Land Resources Quality

Goal 7: Areas Subject to Natural Disasters and Hazards

Goal 8: Parks and Recreation

Goal 9: Economic Development

Findings: None of the goals or policies under Goals 2-9 apply to this application.

Goal 12: Transportation

1. Provide a transportation system for the City of West Linn that:
 - a. Provides for maximum mobility while encouraging modes of transportation other than the automobile.
 - b. Provides for connectivity within and between neighborhoods, developments and community centers, using new and existing transportation services consistent with Metro's street and walkway spacing standards, the 2008 West Linn Transportation System Plan and 2013 West Linn Trails Plan.
 - c. Is convenient, safe, and efficient.
 - d. Maintains the cohesiveness of the City's neighborhoods.
 - e. Is built with consideration for community priorities and affordability.
 - f. Respects and preserves the natural environment on both a neighborhood and City-wide basis.
2. Provide a cost-effective balanced transportation system, incorporating all modes of transportation (including motor vehicle, bicycle, pedestrian, transit, and other modes).
3. Develop transportation facilities that are accessible to all members of the community and minimize out-of-direction travel.

Findings: The City has an adopted Transportation System Plan (TSP). The comprehensive plan Goal 12 is aimed at providing a transportation system that provides options other than the automobile, connects neighborhoods to one another, is convenient and safe, incorporates all modes of transportation, and is accessible to all members of the community. The proposed Chapter 96 code amendments will enable an increased level of flexibility in connecting neighborhoods to schools, community centers, and other

services throughout West Linn. Utilizing a fee-in-lieu, under certain conditions, the City can construct street improvements such as sidewalks for larger community benefit.

Goal 13: Energy Conservation

Goal 14: Urbanization

Goal 15: Willamette River Greenway

Findings: None of the goals or policies under Goals 13-15 apply to this application.

Conclusion: Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable West Linn Comprehensive Plan policies and map.

5. The applicable provisions of the implementing ordinance.

Chapter 105 – Amendments to the Code and Map

CDC 105.030 Legislative Amendments to this Code and Map

Legislative amendments to this code and to the map shall be in accordance with the procedures and standards set forth in Chapter 98 CDC.

Findings: The legislative process is being carried out in conformance with CDC Chapter 98 per Findings found in this Staff Report.

Conclusion: Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable provisions of the implementing ordinance.

EXHIBIT PC-1 – PROPOSED COMMUNITY DEVELOPMENT CODE AMENDMENTS

ORDINANCE NO. 1739

AN ORDINANCE ADOPTING TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTERS 2 AND 96 IN ORDER TO CLARIFY WHICH TYPES OF SINGLE-LOT DEVELOPMENT REQUIRE STREET IMPROVEMENTS.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~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, the City Council, in response to policy questions regarding when and where street improvements were required, prioritized a project on the West Linn Planning Docket to develop a package of text amendments with the goal of increasing clarity and consistency within Chapter 96 of the Community Development Code regarding development standards and process requirements applicable to the construction of street improvements for single-lot development; and

WHEREAS, the City Council appointed a working group to review Chapter 96 of the Community Development Code and make a recommendation of text amendments to the Planning Commission, which they did on June 22, 2022; and

WHEREAS, the West Linn Planning Commission (PC) held two work sessions on July 14 and August 3, 2022; and

WHEREAS, the PC held a public hearing, which was noticed in accordance with City standards, on August 17, 2022, and recommended approval of the proposed Chapter 96 and Chapter 2 Code Amendment Package; and

WHEREAS, the City Council held a public hearing, which was noticed in accordance with City standards, on October 10, 2022, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

WHEREAS, the City Council's decision is based on the findings contained in these Whereas Clauses, together with findings, conclusions, and substantial evidence found in the associated land use record file CDC-22-03, which is incorporated by this reference.

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

SECTION 1. CDC Chapter 2 Amendments. The West Linn Community Development Code Chapter 2: Definitions is amended to include new text as shown in Exhibit A.

SECTION 2. CDC Chapter 96 Amendments. The West Linn Community Development Code Chapter 96: Street Improvement Construction is amended to include new text and rescind existing text as shown in Exhibit B.

SECTION 3. 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 4. 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 of the ordinance 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 5. 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 2-4) need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

SECTION 6. 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 33(c) of the City Charter on the ____ day of _____, 2022, and duly PASSED and ADOPTED this ____ day of _____, 2022.

JULES WALTERS, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

Chapter 02
DEFINITIONS

Sections:

02.010 INTERPRETATION

02.030 SPECIFIC TERMS AND WORDS

2.010 INTERPRETATION

For the purpose of this code, certain terms or words used herein shall be interpreted as follows:

- A. The word “shall” is mandatory, the word “may” is permissive.
- B. The words “used” or “occupied” shall include the words “intended, designed, or arranged to be used or occupied.”
- C. The word “lot” or “parcel” includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- D. Words not specifically defined herein shall have the meaning specified in Webster’s Third New International Dictionary of the English Language, Unabridged. (Ord. 1604 § 1, 2011; Ord. 1636 § 2, 2014; Ord. 1732 § 2 (Exh. A), 2022)

02.030 SPECIFIC WORDS AND TERMS

For the purpose of these regulations, the following terms or words are defined as follows:

Street improvements. Typically includes sidewalk, planter strip, curb, gutter, drainage, and pavement improvements in the public right-of-way when conditioned as part of property development.

Through street. A street that connects two or more adjacent streets to one another.

Chapter 96
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Fee-in-Lieu

96.030 Standards

96.010 CONSTRUCTION REQUIRED

- A. Street improvements for residential construction are required when:
1. Construction of a new single-family attached or detached structure (Replacement of an existing structure is exempt); or
 2. Construction of a new multi-family structure; or
 3. Increase in dwelling unit density on-site (Accessory Dwelling Units are exempt).
- B. Street improvements for commercial construction are required when:
1. Construction of a new commercial structure; or
 2. Remodel of an existing commercial structure with an increase in floor area that requires additional parking; or
 3. Change in use that requires additional parking; or
 4. Construction that increases the dwelling unit density on-site; or
 5. Construction which requires a change in type, number, or location of accessways; or
 6. Replacement of an existing structure that requires additional parking.

96.020 FEE-IN-LIEU

- A. An applicant may apply for a waiver of street improvements and the option to pay a fee-in-lieu (in accordance with the city's adopted fee structure) of constructing street improvements if one of the following are met:
1. Located on a cul-de-sac with no existing curb and/or no existing sidewalk ; or
 2. Located on a street less than 1,320 linear feet in length and not planned as a through street; or
 3. Located more than 1,320 linear feet from nearest street improvements on the same street or connecting street.

96.030 STANDARDS

Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided the applicant submit sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.

Chapter 96
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Standards

96.010 CONSTRUCTION REQUIRED

~~A. — New construction.~~

~~1. — Building permits shall not be issued for the construction of any new building or structure, or for the remodeling of any existing building or structure, which results in an increase in size or includes a change in use, including building permits for single family dwellings but excepting building permits for alteration or addition to an existing single family dwelling, unless the applicant for said building permit agrees to construct street improvements as required by the land use decision authorizing the construction activity. The placement of new curbs and the drainage facilities required shall be determined by the City Manager or the Manager's designee.~~

~~2. — If the building permit did not require a prior land use decision, the applicant shall construct street improvements which shall include curbs, sidewalks, drainage facilities, and pavement widening to meet new curbs, along all City streets which abut the property described in the building permits.~~

~~3. — An applicant for a building permit may apply for a waiver of street improvements and the option to make a payment in lieu of construction. The option is available if the City Manager or the Manager's designee determines the transportation system plan does not include the street improvement for which the waiver is requested.~~

~~4. — When an applicant applies for and is granted a waiver of street improvements under subsection (A)(3) of this section, the applicant shall pay an in-lieu fee equal to the estimated cost, accepted by the City Engineer, of the otherwise required street improvements. As a basis for this determination, the City Engineer shall consider the cost of similar improvements in recent development projects and may require up to three estimates from the applicant. The in-lieu fee shall be used for in-kind or related improvements.—~~

~~B. — Remodeling of an existing building.~~

~~1. — Building permits shall not be issued for the remodeling and conversion of any existing building or structure which results in an increase in size or includes a change of use excepting building permits for the alteration or addition to an existing single family dwelling, unless:~~

~~a. — The applicant for said building permit agrees to construct street improvements; and~~

~~b. — The City Manager or the Manager's designee determines that the remodeling of a structure or change of use is sufficient to cause construction of street improvements.~~

~~2. The determination of whether the remodeling of an existing building or structure is sufficient to cause the property owner to construct street improvements, shall be made by the City Manager or the Manager's designee. This determination shall be based upon finding that the increase in building size or change of use results in either:~~

- ~~a. An increase in floor area which creates the need for additional on-site parking in accordance with the Community Development Code; or~~
- ~~b. A change in use that results in a need for additional on-site parking; or~~
- ~~c. An increase in the dwelling unit density on the site; or~~
- ~~d. A change in the type, number, or location of accessways where off-site traffic will be affected.~~

~~3. An applicant for a remodeling of an existing building or structure change may apply for a waiver of street improvements and the option to make a payment in lieu of construction utilizing the process described in subsection (A)(3) of this section.~~

~~C. Replacement of an existing building.~~

~~1. Building permits shall not be issued for the replacement of any existing building or structure which results in an increase in size unless:~~

- ~~a. The applicant for said building permit agrees to construct street improvements; and~~
- ~~b. The City Manager or the Manager's designee determines the the replacement is sufficiently increased in size to cause construction of street improvements.~~

~~D. Notwithstanding any other provisions of this chapter, in cases where the issuance of the building permit pertains to the construction or reconstruction of a building or structure within a large development owned by the same owner or owners, the City Council may, in its sole discretion, authorize the installation of street improvements of equivalent cost on another portion of the total development area. (Ord. 1314, 1992; Ord. 1442, 1999; Ord. 1544, 2007; Ord. 1547, 2007; Ord. 1590 § 1, 2009; Ord. 1613 § 21, 2013)~~

96.020 STANDARDS

~~Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided, that the applicant provides sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.~~

**EXHIBIT PC-2 – DRAFT PLANNING COMMISSION TRANSMITTAL LETTER TO CITY
COUNCIL**

Memorandum

Date: May 20, 2022
To: West Linn City Council
From: West Linn Planning Commission
Subject: CDC-22-03 Recommendation – CDC Chapter 96 Code Amendment Package

The Planning Commission held a public hearing on August 17, 2022, for the purpose of making a recommendation to the City Council on adoption of the proposed CDC Chapter 96 Code Amendment Package. The proposal was previously discussed at Planning Commission work sessions on July 20, 2022 and August 3, 2022.

After conducting the public hearing, the Commission deliberated and voted # to # to recommend City Council adopt (or adopt with changes or not adopt) the proposal as presented (with the following changes or explain not adopt recommendation). Written testimony was submitted by # community members and # community members provided oral testimony at the public hearing.

The primary topics of the testimony included:

- Topic 1
- Topic 2
- Topic 3
- Etc.

Respectfully,

Gary Walvatne
Chair, West Linn Planning Commission

EXHIBIT PC-3 – AFFIDAVIT AND NOTICE PACKET

**AFFIDAVIT OF NOTICE
LEGISLATIVE DECISION**

We, the undersigned, certify that, in the interest of the party (parties) initiating a proposed legislative change, the following took place on the dates indicated below:

PROJECT

File No.: **CDC-22-03**

Project: **Chapter 96 Code Amendments**

Planning Commission Hearing: **August 17, 2022**

City Council Hearing: **October 10, 2022**

MAILED NOTICE

Notice of Upcoming Hearing was mailed at least 10 days before the Planning Commission and City Council hearings, per Section 98.070 and 98.080 of the Community Development Code to:

ODOT	8/2/22	<i>Lynn Schroder</i>
METRO	8/2/22	<i>Lynn Schroder</i>
TRIMET	8/2/22	<i>Lynn Schroder</i>
Clackamas County Planning Department	8/2/22	<i>Lynn Schroder</i>
All Neighborhood Associations	8/2/22	<i>Lynn Schroder</i>
Stafford/Tualatin CPO	8/2/22	<i>Lynn Schroder</i>
City of Lake Oswego	8/2/22	<i>Lynn Schroder</i>
Oregon City	8/2/22	<i>Lynn Schroder</i>
Transportation Advisory Board	8/2/22	<i>Lynn Schroder</i>
Economic Development Committee	8/2/22	<i>Lynn Schroder</i>
Committee for Citizen Involvement	8/2/22	<i>Lynn Schroder</i>
Budget Committee	8/2/22	<i>Lynn Schroder</i>

WEBSITE

Notice was posted on the City's website at least 20 days before the Planning Commission and City Council hearings, per Section 98.070 and 98.080 of the CDC:

7/28/22	<i>Lynn Schroder</i>
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TIDINGS

Notice was posted in the West Linn Tidings at least 10 days before the Planning Commission and City Council hearings, per Section 98.070 and 98.080 of the CDC.

8/3/22	<i>Lynn Schroder</i>
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STAFF REPORT

The proposed amendments and staff report were posted on the website and provided to Planning Commissioners at least 10 days before the hearing, per Section 98.040 of the CDC.

8/5/22	<i>Lynn Schroder</i>
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STAFF REPORT

The proposed amendments and staff report were posted on the website and provided to the City Council at least 10 days before the hearing, per Section 98.040 of the CDC.

8/5/22	Chris Myers
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FINAL DECISION

A Notice of Final Decision was mailed to the Department of Land Conservation and Development and persons who

participated in the proceedings or otherwise requested such notice no later than 5 working days after the final decision per Section 98.140 of the CDC.

	<i>Lynn Schroder</i>
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**CITY OF WEST LINN
PUBLIC HEARING NOTICE
CDC-22-03**

**TO ADOPT TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE
CHAPTERS 2 AND 96 IN ORDER TO DETERMINE WHICH TYPES OF SINGLE-LOT DEVELOPMENT
REQUIRE STREET IMPROVEMENTS.**

The West Linn Planning Commission will hold a hybrid public hearing on **Wednesday, August 17, 2022 at 6:30 p.m.** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider adoption of text amendments to West Linn Community Development Code Chapters 2 and 96. The purpose of the amendments is to determine which types of single-lot development require street improvements and the associated code clean up.

Following the Planning Commission hearing, the Commission will make a recommendation to the City Council. The Council will make a final decision regarding the Commission recommendation following its own hybrid public hearing on **Monday, October 10, 2022 at 6:00pm** in the Council Chambers of City Hall.

At least 10 days prior to the hearings, a copy of the proposed amendments and associated staff report will be available for inspection at no cost at City Hall and on the City website <https://westlinnoregon.gov/planning/community-development-code-chapter-96-street-improvement-construction-amendments>. Alternately, copies may be obtained for a minimal charge per page.

The hybrid hearings will be conducted in accordance with the rules of CDC Chapters 98 and 105. The public can attend in person or watch the meeting online at <https://westlinnoregon.gov/meetings> or on Cable Channel 30.

The Commission and Council will receive a staff presentation and invite both oral and written testimony at the public hearings. The Body may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the proposed amendments as provided by state law.

Anyone wishing to present written testimony for consideration should submit all materials before 12:00 pm on the meeting day or in-person at the hearing. Persons interested in party status must establish standing by submitting oral or written testimony before or at the public hearings. Written comments may be submitted to cmyers@westlinnoregon.gov. Failure to raise an issue in person or by letter before the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

To participate remotely during the meeting, please complete the form at: <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by 4:00 pm on the meeting day. Staff will email a Webex invitation before the meeting. If you do not have email access, please call 503-742-6061 for assistance 24 hours before the meeting. If you require special assistance under the Americans with Disabilities Act, please call City Hall 48 hours before the meeting date 503-657-0331.

For further information, please contact Chris Myers, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, (503)742-6062 or cmyers@westlinnoregon.gov.

Publish: West Linn Tidings, August 3, 2022



**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # CDC-22-03
MAIL: 8/2/2022 TIDINGS: 8/3/22**

CITIZEN CONTACT INFORMATION

To lessen the bulk of agenda packets and land use application notice, and to address the concerns of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.

**AFFIDAVIT OF NOTICE
LEGISLATIVE DECISION**

We, the undersigned, certify that, in the interest of the party (parties) initiating a proposed legislative change, the following took place on the dates indicated below:

PROJECT

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