



CITY OF West Linn

Date: July 14, 2022
To: Planning Commission
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 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 that 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](#)

Code Language: Current and proposed new code language for Chapter 96 is included as pages 4 and 6 of this memo. The proposed code language (memo page 6) is the recommended language from the 2022 CDC Working Group.

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

Questions for Planning Commission: There are two primary questions staff are asking of Planning Commission members:

1. Do you agree with the 2022 CDC Amendment Working Group recommendations?
2. If not, what changes should be made for the Planning Commission recommendation to City Council?

Chapter 96 Amendment Schedule:

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 1 September 6, 2022

City Council work session 2 (if needed) September 19, 2022

City Council public hearing October 10, 2022

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 a 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 when a fee-in-lieu is allowed.

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 that 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](#)

Current Code Language

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.~~

Proposed Code Language
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 street improvements (curb, gutter, sidewalk); or**
 2. **Located on a street less than 1,320 linear feet and not planned as a through street; or**
 3. **Located more than 1,320 linear feet from nearest street improvements (curb, gutter, sidewalk)**

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, that the applicant provides sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.