



CITY OF West Linn

Date: July 28, 2022
To: Planning Commission
From: Chris Myers, Associate Planner
Subject: CDC-22-03 Chapter 96 Code Amendments

The Chapter 96 Code Amendment project is included in the Planning Docket and has been prioritized by City Council. The project is a policy analysis to review and clarify what infill and redevelopment projects, typically single-lot developments, should require street improvements. In 2018, City Council provided interim policy direction that replacement of a single-family home with a new single-family home did not require street improvements. The outcome of this project will be to either confirm or change existing policy and adopt the associated code clean up to provide clarity to both staff and the community.

At the July 20, 2022 Planning Commission work session, staff presented proposed amendments to Community Development Code Chapter 96: Street Improvements. The proposed code amendments are the 2022 Code Amendment Working Group recommendation to the Planning Commission.

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](#)

During the Planning Commissioner discussion, a number of clarifications and language changes were requested. These are addressed below.

1. Clarifying cul-de-sac versus non-through street and the possibility to combine the proposed criteria language.

Staff Response - Staff examined the potential to combine the through street and cul-de-sac criteria in section 92.020 Fee-in-Lieu. The goal of the Chapter 96 Code Amendments is to ensure the code is clear and objective. After internal staff discussion it was determined that leaving criteria 1 and 2 as separate criteria creates a clearer and better defined code. Cul-de-sacs are typically in newer neighborhoods and are constructed with curbs and gutters and are wide enough to safely walk in the street. Some cul-de-sacs may be more than 1320 feet in length such as Kapteyns Street at approximately 1460 feet long (see picture below).



Non-through streets (dead ends) are typically in older neighborhoods and do not have adequate infrastructure aside from narrow or sub-standard pavement widths. The pictures below show Geer Street from above and street view. Geer connects to Buck Street, which has sidewalks. Geer Street dead ends at Burnside park and does not have an outlet.



2. Exemptions to street improvements for Accessory Dwelling Units (ADU).
Staff Response – In February 2021(<https://westlinnoregon.gov/planning/planning-commission-meeting-167>), staff brought the discussion of ADUs to the Planning Commission work session. At that time, the Commission expressed support for ADU policies that would enable rather than hinder the ability for property owners to build an ADU. It was also discussed that the benefits of ADUs aren't simply for profit seeking rental units but are more often used for other reasons such as:
- Aging in place
 - Care giver living quarters
 - Multi-generational housing
 - Adult children that need lifetime care
 - College graduates returning home but need independence
 - Lower income housing options

Accessory Dwelling Units pay a Transportation System Development Charge of approximately \$2150. Adding required costs to the construction of an ADU will potentially increase the cost of rent charged for such a unit. This does not support the City Council or current CDC language for ADUs to help provide affordable housing (see below for CDC definition).

The Community Development Code defines an Accessory Dwelling Unit as “Attached or detached dwelling unit which is secondary to the primary dwelling unit and intended to provide convenient and affordable housing opportunities.”

The CDC Code Amendment Working Group discussed the exemption proposal for ADUs. The Working Group expressed wide support for exempting ADUs from street improvement requirements as a means to create more housing options, help community members age in place, create lower income housing options, and to enable multi-generational housing.

3. If City policy changes to allow larger ADUs, then no exemption should be granted.
Staff Response - There is no current or planned proposal to amend the maximum ADU size from what is currently allowed by Community Development Code Chapter 34.

4. Could fee-in-lieu becoming a burden to homeowners in older homes if improvements are made?
Staff Response - Proposed code language does not require street improvements for additions to or replacement of an existing home. For this reason, there is no additional burden on homeowners based on age of the structure.

5. Previous Council policy was to address concerns in older neighborhoods that might not want street improvements in areas where they do not already exist.
Staff Response – The City Council approved Planning Docket States: “Policy work on Chapter 96, Street Improvement Construction. Review/clarification of West Linn’s policy on what infill and redevelopment projects should trigger street improvements.”

On July 9 2018 the West Linn City Council provided interim direction on one specific question (street improvements will not be required for projects that simply replace one single-family home with another single family home). This decision needs to be adopted into code, and the whole section needs review to ensure consistency with Council policy goals and to provide clarity for staff and citizens alike.

Planning and Engineering staff have worked together on the Chapter 96 Code Amendment project to ensure City Council direction is adhered to and completed in a timely fashion. The policy review and clarification process has several steps. The first step was getting a recommendation from the 2022 Code Amendment Working Group. The working group was appointed by City Council with one of its specific tasks to make a recommendation on Chapter 96 amendments. The next step is a recommendation from the Planning Commission. Lastly, City Council will confirm its policy position by reviewing the Planning Commission recommendation and adopting a final CDC Chapter 96 Code Amendment package.

6. Should the amendment package define “through-street”?
Staff Response – Staff proposes to include a new definition to CDC Chapter 2 as part of this amendment package.
Through-Street – a street that connects two or more adjacent streets to one another.

7. Clarify the quarter-mile proposal refers to the same street and not a parallel street by adding language to 96.020.3.
Staff Response – Staff added language to the criteria in 96.020.3 for same street or connecting street in order to ensure a nearby parallel street does not trigger street improvements. See track changes in Proposed Code Language document below.

8. Should the amendment package define “Street Improvements”?

Staff Response – Staff proposes to include a new definition to CDC Chapter 2 as part of this amendment package.

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.

9. Staff proposed to add “in length” to 96.020.2

Staff Response – Staff added the words “in length” to ensure specificity in the criteria language. See track changes in Proposed Code Language document below.

Chapter 96 Amendment Schedule:

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 6, 2022

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

City Council public hearing October 10, 2022

Below is additional information that was provided in the memo to Planning Commission for the first work session on July 20th.

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). All street improvements must meet the City of West Linn Engineering Standards.

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.

[Walk Shed/Ped Shed Description](#)

If you have questions about the Chapter 96 meeting materials, please feel free to email at cmyers@westlinnoregon.gov or call 503-742-6062. As always, please submit questions before the meeting to increase the efficiency and effectiveness of the discussion as it allows staff to prepare materials and distribute them for your consideration. Thanks.

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 ~~curb and/or no existing sidewalk street improvements (curb, gutter, 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 ~~(curb, gutter, sidewalk)~~ 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, 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 02 DEFINITIONS

Sections:

02.010 INTERPRETATION

02.030 SPECIFIC WORDS AND TERMS

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.