



22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

CITY COUNCIL AGENDA

Monday, March 18, 2024

6:00 p.m. – Work Session – Council Chambers & Virtual*

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| 1. Call to Order | [6:00 pm/5 min] |
| 2. Approval of Agenda | [6:05 pm/5 min] |
| 3. Public Comments | [6:10 pm/10 min] |

The purpose of Public Comment is to allow the community to present information or raise an issue regarding items that do not include a public hearing. All remarks should be addressed to the Council as a body. This is a time for Council to listen, they will not typically engage in discussion on topics not on the agenda. Time limit for each participant is three minutes, unless the Mayor decides to allocate more or less time. Designated representatives of Neighborhood Associations and Community Advisory Groups are granted five minutes.

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|---|------------------|
| 4. Joint Meeting with the Planning Commission | [6:20 pm/90 min] |
| a. Quasi-Judicial Public Hearing Training | |
| b. Planning Docket Discussion | |
| c. Code Concepts | |
| d. Climate Friendly & Equitable Communities (CFEC) Initiative | |
| 5. Adjourn | [7:50 pm] |

**City Council meetings will be conducted in a hybrid format with some Councilors, staff, presenters, and members of the public attending virtually and others attending in person. The public can watch all meetings online via <https://westlinnoregon.gov/meetings> or on Cable Channel 30.*

Submit written comments by email to City Council at citycouncil@westlinnoregon.gov. We ask that written comments be provided before noon on the day of the meeting to allow City Council members time to review your comments.

If you cannot attend the meeting in person and would like to speak live at a public meeting by videoconferencing software or by phone, please complete the form located at: <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by 4:00 pm the day of the meeting to be input into our system. Instructions on how to access the virtual meeting will then be provided to you by email prior to the meeting. If you miss the deadline and would like to speak at the meeting, please fill out the form and staff will send you a link as time allows.

If you require special assistance under the Americans with Disabilities Act, please call City Hall 48 hours before the meeting date, 503-657-0331.

When needed, the Council will meet in Executive Session pursuant to ORS 192.660(2).



West Linn City Council and Planning Commission Quasi-Judicial Land Use Hearing Training

**Presented by Jordan Ramis Attorney Bill Monahan
March 18, 2024**

Introduction

- Observations from the City Attorney's Chair – Bill Monahan
 - Tools to be familiar with
 - Roles
 - Hearings – requirements, process
 - Transparency
 - Some best practices

Land Use Hearing Tools

- Typical land use hearing tools include:
 - City Development Code, ordinances and studies
 - City staff reports
 - Comprehensive Plan
 - Applicable Oregon Revised Statutes
 - Local rules of procedure, scripts
 - Training sessions, work sessions, and materials/resources
 - Teamwork – planning commission, city council, staff, attorney

Roles of Quasi-Judicial Participants

- Planning Commission – quasi-judicial decision maker on certain applications
- City Council – quasi-judicial decision maker – certain land use actions and appeals
- Planning Commission Chair/Mayor – presides over meeting, maintains order, leads and follows process toward decision-making
- Planning staff – experts on plan and code
 - Initial contact for applicant and public – provide information
 - Draft and present staff report and recommendations
 - Prepare land use decision with findings
 - Process appeals of Planning Commission decisions to City Council
 - Resource during public hearings (respond to questions, assist in process, prepare modified conditions, prepare findings)
- City Attorney – resource on legal issues, provide input on process, assist in developing conditions and findings

What is Needed from Planning Commissioners and Council Members?

- Prepare fully for meetings – be present, read the packet, ask questions (in advance when possible), suggest improvements
- Know the plan, code, local rules of procedure
- Listen carefully to all – respect staff, applicant, audience, and fellow commission/council members equally
- Preserve the public trust in the process
 - fully and accurately declare conflicts, bias, site visits
 - make open and impartial decisions
- Understand the laws that apply, including:
 - ORS 197.797 – Public Hearing Process
 - ORS 244.120 – Conflicts of Interest
 - ORS Chapter 192 – Oregon Public Meeting and Public Record Law

What Is Needed By Citizens Participating in the Process?

- Citizens participating in quasi-judicial land use hearings need:
 - An open process – access to plans, code, reports
 - Easily understood procedures
 - Staff that is accessible and provides clear direction on land use proposals, applicable criteria, schedule, and process
 - Access to comprehensive plan, code, reports, application materials, staff report
 - An unbiased decisionmaker
 - Due process

Hearing Procedures

- Types:
 - Legislative
 - Quasi-Judicial

The differences:

Legislative involves the adoption of laws. Typically, the Planning Commission recommends to the City Council. In a quasi-judicial process, the Planning Commission or City Council applies existing law to a set of facts as an impartial tribunal.

Legislative is less restrictive and allows ex-parte contacts. The notice is prescribed in a quasi-judicial matter and findings are required.

Legislative Process

- Less procedural restrictions apply
- Decision-makers sit as lawmakers
- Information used in making a decision may come from many sources (ex parte contact is allowed)
- Findings are less specific, but some are needed
- Adequate findings or accessible materials in the record must show applicable criteria were considered and applied

Quasi-Judicial Process

- Decision-makers sit as an impartial tribunal
- Articles 5 and 14 of the U.S. Constitution require due process
- Impartiality requires:
 - Treat all parties fairly
 - Allow all parties to know what the decision makers “know”
 - Ex parte contacts must be announced so all parties know what information was provided to the receiver, and

Quasi-Judicial Process

- Impartiality requires:
 - Information considered by the decision maker should be factual
 - The process allows information placed before the Planning Commission or City Council to be challenged by participants in the process
 - In order for a participant to challenge information, the participant (or party) needs to know what has been submitted

Elements of Due Process

- Opportunity to present and rebut evidence
 - Every party to a quasi-judicial hearing has the right to:
 - Present evidence
 - Rebut evidence presented by other parties
 - The Planning Commission/City Council has the right to set time, place and manner on presentations, usually adopted within formal Council rules of procedure
 - Create the order for presenters, set time limits, hold the record open
 - To rebut evidence a party must:
 - Know what evidence is in the record; review the evidence

The Record

- The record includes:
 - All documents, application materials, letters and emails submitted concerning the application
 - The written minutes of the hearing
 - Tape or video of the hearing (today this includes WebEx, Zoom, etc.)
 - The decision including conditions of approval and findings

The Record

- The record is everything “placed before” the Planning Commission or City Council during the hearing
- When the City Council hears an appeal of a Planning Commission decision, the record brought forward is everything that the Planning Commission reviewed as well as the decision it made.
- Record materials are submitted by:
 - The applicant – application, studies, testimony of the applicant and its advisors, maps, photographs, drawings, etc.
 - Staff – notice of hearing, staff report, comments from officials
 - Public – letters, emails, testimony, documents
 - City Council members – the record of disclosures, questions

Procedural Items and Requirements

- Pay attention to ORS 197.797
 - Notice of Hearing – what is in it, when is it sent, who is it sent to?
 - Staff report – what is in it, when is it available, who receives it?
 - Documents submitted by the applicant in support of the application must be available to the public
 - Statement made at the commencement of the hearing providing direction on hearing conduct
 - Right to a continuance –
 - automatic if requested before conclusion of the first evidentiary hearing on an application (typically the first evidentiary hearing is at the Planning Commission level)
 - Discretionary if requested at any hearing other than the first evidentiary hearing

Scripts

- The script must be legally sufficient with all the required statutory language
- It should be easy for the Chair or Mayor to follow
- The Chair or Mayor typically delegates responsibility for the “legal matters” if the attorney attends the hearing
- It must provide notice of the right to request a continuance or keep the record open before the conclusion of the first evidentiary hearing
- Some cities provide the script to all or some Planning Commissioners or Council members as it may include sample motions which might be made.

Elements of the Script

- Introduction and Opening Statement – identify application
- Hearing Procedure – including time limits if used
- Legal Matters – Burden of Proof, Criteria, Appeal Rights
- Testimony Order
- Staff Report and Presentation
- Presentation of the Applicant
- Public Testimony
- Rebuttal by the Applicant
- Address Request for Continuance – if any
- Questions of Staff
- Deliberations and Decision
- Sample motions for the land use action
- Final Comments Including Appeal Rights

Impartial Tribunal

- Parties to a quasi-judicial land use proceeding have a right to an “impartial tribunal” – the hearing body must be free of personal interest or bias.
- Members of the hearing body may have certain situations arise that challenge the ability of a member of the hearing body to make an impartial decision.
- The situations arise when there are ex parte contact, site visits, conflicts of interest, and bias.
- Procedural requirements must be followed.

Ex Parte Contacts

- What are they?
 - Contacts by a party on a fact in issue under circumstances which do not involve all parties to the proceedings.
 - All three underlined elements must be present for an ex parte contact to exist.
 - Contacts may be oral or in writing.
 - Ex parte communications should be discouraged in favor of the public hearing process.
 - If ex parte contact occurs, action can be taken to address the issue: disclosure, make a record, continue without influence.

Ex Parte Contact

- If an ex parte contact takes place, what should you do?
 - Disclose - put the matter on the record at the next hearing on the matter before any testimony is received and before any proceedings on the matter take place.
 - Describe the substance of the contact or communication.
 - Be sure the disclosure is noted in the record (minutes) of the hearing.
 - The Chair/Mayor should provide a right to the public to comment on the statement of the communication.
 - Failure to make a disclosure of ex parte contact could result in a remand.

Site Visits

- During a site visit a Commissioner or Councilor may gain information outside the public hearing which may or may not otherwise be part of the record. Example: site visit.
- Site visits are legal and allowed – if there is disclosure.
- What should a Commissioner or Councilor do if they make a site visit:
 - Make a disclosure as early as possible on the record to give other interested parties a chance to rebut the evidence, and
 - State on the record in detail what was observed, who was talked to, what was discussed, etc. during the site visit.

Conflict of Interest

- Potential Conflict of Interest – ORS 244.020(13)
- **Potential conflict**: You must declare but “may” participate in a decision, action or recommendation that “could” result in financial gain or detriment to
 - You
 - Your relative
 - Member of the household, or
 - Business with which you, your relative, or member of the household is associated

Conflict of Interest

- Actual Conflict of Interest – ORS 244.020(1)
- **Actual conflict**: You must declare and must not participate in a decision, action or recommendation that “would” result in financial gain or detriment to:
 - You
 - Your relative
 - Member of the household, or
 - Business with which you, your relative, or member of the household is associated.

Conflict of Interest – Potential

- What should you do if you have a potential conflict?
 - Publicly announce the potential conflict prior to participating in debate and voting on an issue – provide details.
 - Announce the potential conflict when the Chair or Mayor calls for declarations before the hearing is opened, have it recorded.
 - If the conflict is not apparent until the hearing has begun, ask the Chair or Mayor for permission to be recognized and make the disclosure as soon as possible.
 - When there is a potential conflict, the Commissioner or Councilor can take part in the hearing. But, be concerned about appearance.
 - If there is more than one hearing on the matter – make the announcement each time the matter is on the agenda.

Conflict of Interest – Actual

- What should you do if you have an actual conflict?
 - Publicly announce the conflict prior to participating in the hearing, and
 - Refrain from participating in a debate on the issue or from voting on the issue.
 - Have the declaration go into the minutes of the hearing.
 - Make the announcement at each meeting the matter is on the agenda.
 - Best practice tip: leave the hearing room after making the declaration. Do not discuss the item with anyone. You can return for the next agenda item.

Exception

- ORS 244.120(B) provides an exception if an official's vote is necessary to meet a minimum number of votes to take official action.
- The exception is limited to “be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.”
- This is the “Rule of Necessity” and should only be used on rare occasions.
- Be cautious using the exception.

Personal Bias

- Bias is when a member of the Commission or Council cannot render fair judgment in a matter because of:
 - An acquaintance or relationship.
 - With someone or something in the land use case.

Personal bias differs from conflict of interest because there is no potential for financial gain only the existence of a relationship.

Bias: What to Do

- When bias exists a Commissioner or Councilor should:
 - Disclose the nature of the bias.
 - State whether or not in their opinion it requires disqualification.

Simple bias does not require disqualification, but if you cannot be fair and impartial in the matter, you should step down.

Best practice: when there is a sufficient quorum to conduct business without participation of a member who has been challenged for bias, the member should consider recusal.

Challenges to the Participation of a Commissioner or Councilor

- The West Linn Council Rules, Section D.1.a. provide a process to handle a challenge to the qualifications or impartiality of a Councilor about to participate in a quasi-judicial land use matter (which would apply to the Planning Commission) It is:
 - The challenger states the facts they rely on to conclude a person is not likely to be impartial.
 - The challenged person is given an opportunity to respond.
 - There is a vote by the Commission or Council to accept or deny the challenge.
 - The challenged person shall not vote unless required by the law of necessity to do so.
 - If the body determines by majority vote the member is biased, it may disqualify the member from participating in the decision.
 - The disqualified person can participate as a private citizen if they are a party with standing.

Burden of Proof

- The applicant (proponent) has the burden of proving that all elements necessary to grant the proposed application are met. All applicable criteria must be met.
- The greater the change proposed, the greater the burden.
- The burden is met by submitting a complete application with substantial evidence showing compliance with each applicable criterion.

Burden of Proof – continued

- The applicant should respond to all issues raised by opponents by pointing to evidence in the record or bringing forward more evidence.
- Applicants should not rely on staff presentations alone to meet the burden. An applicant can rely on its experts to address the application, code criteria and questions.
- If an applicant or its experts provide new information at a hearing, the public must be given a chance to rebut it.

Appeal Process When a Planning Commission Decision is Appealed to City Council

- Appeals of Planning Commission decisions are processed as a de novo hearing at Council.
- Any appeal must be filed by the applicant or someone with “standing” who participated in the Planning Commission process in some way.
- An appeal must be filed within the appeal period, be in writing, and state the reasons for the appeal. Since the appeal is de novo, parties can raise additional issues at the hearing.
- Anyone who established standing has the right to participate in the City Council appeal hearing.

The Record of the Planning Commission Decision – what is in it?

- The items in the record brought to the City Council on appeal include:
 - The original notice.
 - The application and supporting documents.
 - The staff report and agency comments.
 - All comments submitted by the public pro, con and neutral about the application.
 - Any documents submitted at the Planning Commission hearing(s) and during the period the record was open.
 - All documents and illustrations submitted at the hearing.
 - Minutes of the Planning Commission hearing(s).
 - The decision of the Planning Commission and the notice of decision that was sent.
 - The appeal notice(s) filed within the established appeal period.

City Council On the Record Appeal Hearing

- The Mayor will have a script to follow to conduct the hearing.
- The order of the hearing is similar to that followed by the Planning Commission.
- Typically, those who participated at the Planning Commission level are entitled to take part in the appeal hearing.
- The Planning Staff will prepare a staff report that compiles the process to that point and report on the Planning Commission decision and the basis of the appeal(s) filed.
- At the close of public testimony after rebuttal of the applicant, the City Council has the ability to deliberate to make a decision or continue to a date certain.
- If the City Council wishes to continue the hearing, it should consult with staff first regarding the 120 Day Rule and how it applies to the application.

Allowing a Continuance and Keeping the Record Open

- A continuance is mandatory if requested by any participant prior to the closure of the first evidentiary hearing. A participant can request the record be left open to present additional information.
- If there is a request: continue the hearing by scheduling a date to finish the hearing (a continuance) or leave the record open for at least seven days for additional written evidence, argument or testimony. Be sure to consider the 120 Day Rule. Unless requested by the applicant, the clock rolls.

Some Issues With Continuances, etc.

- A continuance might raise issues of:
 - At what point in the continuation hearing will the City Council resume the hearing? Who will be able to speak at the next hearing? Be clear when you grant the continuance.
 - If the record is left open to accept additional information, how will it be handled? A possible scenario:
 - Seven days to submit additional written information (including applicant).
 - Seven days for rebuttal opportunity to address new information submitted into the record – by any party.
 - The applicant has the right to the final word, limited to addressing issues raised by opponents.

Evidence in Land Use Cases

- Evidence in the record must be the basis of the City Council's decision.
- Evidence is defined in ORS 197.797(9)(b) as “facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.”
- Evidence rules are not as strict in land use settings.

Evidence in Land Use Cases - continued

- Administrative law standards apply in land use cases:
 - Is the evidence the kind a reasonable person would rely on in the conduct of their own affairs?
 - The Commission and Council have some discretion to determine whether evidence should be accepted.
 - During deliberation, the Commission or Council can discuss and consider which evidence is relevant, reliable, trustworthy, and strongest.
 - Substantial evidence – a decision must be based on reliable evidence in the record and the quantity must be substantial.

Substantial Evidence

- Evidence may be disputed. It does not have to be “uncontroverted”.
- Evidence may not be “voluminous”.
- There may be inconsistencies in evidence presented.
- The Commission or Council should determine whether the evidence in support of the decision, when viewed in light of contrary evidence in the record, was sufficient that a reasonable person could rely on it.

Substantial Evidence on Appeal

- On appeal, the standard is that a reviewing body will not disturb a decision that is based on substantial evidence even if there is some conflicting evidence in the record.
- The findings must be sufficient to show why certain evidence was believed over other evidence in the record.

Admitting Evidence

- There may be doubt whether evidence is reliable or relevant. Examples – hearsay, signed petitions.
- Best practice: accept the evidence conditionally and allow rebuttal. If there is objection to evidence, the Commission or Council can accept the evidence and decide later in the hearing (before making a decision on the application) whether to admit the evidence into the record. Ask the city attorney for assistance.

Raise It Or Waive It

- Oregon requires detailed notice and certain procedural requirements at quasi-judicial land use hearings.
- ORS 197.797 Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures.
- The statute provides procedures to govern the conduct of quasi-judicial land use hearings on land use applications and must be made part of local land use regulations.

Raise It Or Waive It - continued

- It provides standards for:
 - Notice
 - Who notice must be provided to
 - What must be included in the notice – ORS 197.797(3)
 - The nature of the application and the proposed uses
 - The applicable criteria that apply to the application
 - The address of the subject property
 - The date, time and location of the hearing
 - “failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue”
 - And more details.

Raise It Or Waive It - continued

- The burden is on the local government to properly issue notice.
- By complying with the requirement, a local government benefits because participants must raise issues during local proceedings. Any issues not raised are waived if the matter is appealed to LUBA.
- The benefit to a local government is less appeals are remanded by the Land Use Board of Appeals (LUBA) to address new issues raised for the first time at LUBA.

Findings

- A land use decision must be supported by findings that are based on the record.
- Essential requirements for findings:
 - Based on information found in the record.
 - They are facts not conclusions.
 - They are relevant to and address all relevant criteria for the decision.
- Findings are significant to explain why the Commission or Council decided a matter and are often the means by which an appeal is avoided or won.

Findings - continued

- When an application is approved:
 - The applicant typically introduced the majority of evidence.
 - The staff interpreted the evidence against the criteria and stated whether it believes the evidence shows criteria is met.
 - Opponent testimony has been responded to with evidence.
- When an application is denied:
 - The staff provided code interpretation, data and suggested findings recommending denial, or
 - The staff recommended approval, but the Commission or Council determined that the application did not meet all approval criteria and voted to deny. The decision-maker must state on the record the reason for denial supported by evidence in the record. Staff can assist to develop findings.

Findings - continued

- Are an outline of the evidence in the record relied upon for the decision.
- Are not conclusions or opinions.
- Are drawn from the facts to arrive at a decision.
- State what the relevant criteria are and apply the facts proven in the hearing to those criteria.

The Final Order

- The final order must be legally sufficient once a decision is made.
- For approval of a land use application – all criteria must be addressed in the decision.
- For a denial of an application – findings are required but a failure to meet any relevant approval criteria is enough to support denial. Findings only need to address the criterion that is not met.

The 120 Day Rule

- ORS 227.178 provides that final action on certain applications are required within 120 days. The statute provides the procedure, exceptions, and when there is a refund of fees.
- Extensions can be granted by the applicant through a written request.
- What happens if a city does not act in 120 days?
 - The city loses jurisdiction to make a decision.
 - A court may order approval without detailed conditions.
 - A partial refund may be ordered

Oregon Land Use Board of Appeals - LUBA

- Land use decisions may be appealed to the Oregon Land Use Board of Appeals.
- Final local decisions include a notice of appeal rights to LUBA – an appeal must be filed within 21 days of mailing of the final decision to those who participate or have standing to appeal.
- Appeals are filed by submitting a “Notice of Intent to Appeal” along with a filing fee.
- The City then files the local record.
- Intervenors may file a request to intervene – this is primarily the applicant.
- Once the record is finalized, the appellant or “petitioner” files a brief raising its issues challenging the decision.

LUBA - continued

- The city (and any intervenor accepted by LUBA – on either side) may file a Respondents brief.
- There may be a request by the petitioner to file an additional response brief limited to issues raised in the respondent's brief – LUBA decides whether to allow.
- LUBA conducts a hearing limited to the petitioner, respondent, and intervenor (if any).
- The hearing is limited to the record and the briefs, no new evidence is introduced.
- LUBA issues its decision to reject the appeal, reverse the local decision, or remand the decision back to the city.
- Appeal is to the Oregon Court of Appeals on the record.

Thank you!
Any Questions?

Presented by Bill Monahan

Email: bmonahan20@comcast.net

Work Session Agenda Bill

Date: March 18, 2024

To: Rory Bialostosky, Mayor
Members, West Linn City Council

Through: John Williams, City Manager *JRW*

From: Darren Wyss, Planning Manager *DSW*

Subject: Joint Meeting with Planning Commission

Purpose:

Hold a joint work session with Planning Commission to receive quasi-judicial public hearing training from the City Attorney's Office and discuss Planning Docket projects/priorities.

Question(s) for Council:

Does the Council wish to add, remove, or re-prioritize Planning Docket projects?

Does the Council wish to pursue any of the five Code Concepts?

Does the Council have any initial feedback on the policy questions regarding removal of all parking mandates under Climate Friendly and Equitable Communities (CFEC) rules implementation?

Background & Discussion:

The City Council and Planning Commission will hold a joint work session with four primary objectives:

1. Quasi-Judicial Training

Receive a brief training session from the City Attorney's Office on quasi-judicial decision-making. This is intended to give new Councilors/Commissioners some basic tools to prepare for a hearing and to act as a refresher for the rest of the group. The training will be approximately 45 minutes.

2. Planning Docket Review

West Linn Community Development Code (CDC) 98.030 requires that Comprehensive Plan, Community Development Code (CDC), and Zoning Map amendments to be undertaken each year be listed on a docket that is reviewed by the Planning Commission and approved by the City Council. Other planning and historic preservation-related plans and studies are also to be considered through the docketing process.

The docket is intended to provide clarity to the West Linn community, advisory committees, and staff on the Mayor and Council's project priorities and of projected timelines to initiate and accomplish the work. It also documents recently completed projects.

This list was initially developed by the City Council and Planning Commission at the beginning of 2017 through a joint work session and further Council/Commission discussion and has been amended multiple times since then. The City Council has the discretion to amend this list as appropriate and prioritize projects to best achieve community goals.

To successfully complete prioritized projects in an efficient and effective manner, there needs to be an appropriate allocation of City resources to the projects. This includes both staff time and funding for consultant services to provide topic specific expertise and community engagement assistance. In addition, it is critical to maintain focus on the list of prioritized projects and not amend the docket unless resources are identified to assist in expanding the capacity to get more projects completed.

The dedication of resources to a project allows the City to develop a scope of work and timeline that can be tracked and implemented to completion. This approach also provides staff clear guidance and direction on Council priorities and helps to eliminate “scope creep” and the dilution of available resources and staff capacity to provide the necessary attention to these priorities.

The Planning Docket is up to date as of March 2024 (Attachment 1). Staff recommends the Council amend the prioritized projects list to include one or more of the Code Concepts discussed in the next section.

3. Code Concepts

The attached Code Concepts stem from development review-related hearings or processes that Council and/or the Commission have been involved in recently. Based on discussion during these items, there is room for improvement in our CDC to make our process more effective in serving community needs. The processes currently have code requirements that are ambiguous, could lead to legal challenges, or are not aligned with standard planning processes utilized by most cities in the Metro region.

As a result, staff worked with the City Attorney to summarize five CDC process concepts (Attachment 2) for initial Council and Commission discussions. At a minimum, several of the concepts would lead to clear and objective standards that an applicant, staff, and the community can readily understand and interpret. This could help alleviate potential appeals and the associated costs to the community, applicant, and appellant. Additional benefits could be realized through more efficient and effective decision-making.

The [Council was presented with the five Code Concepts in October 16, 2023](#). Code Concepts 1, 3, 4, and 5 seemed to have Council support, with a concern on the impact to staff workload with Concept 3 changes. Staff recommends implementing the code changes in the near-term and process changes in the long-term. Council requested additional information on how other cities process appeals for Code Concept 2 (Table below) and directed staff to bring the concepts to a joint CC/PC work session.

Jurisdiction	Appeal Body (Staff Decision)	Appeal Body (QJ Hearing Decision)
Lake Oswego	DRC to CC	CC
Oregon City	CC	CC
Wilsonville	DRC to CC	CC
Tualatin	CC	CC
Gladstone	PC to CC	CC
Milwaukie	PC	CC

All of the southern Metro area Clackamas County jurisdictions utilize the City Council for both Type II (staff decision) and Type III (quasi-judicial hearing decision) decisions, except Milwaukie who sends Type II decisions to the Planning Commission.

The [Planning Commission also reviewed the Code Concepts on November 15, 2023](#), which allowed for questions and gathering initial feedback. The Commission was briefed on the direction from Council to bring to a joint work session in early 2024.

4. Climate Friendly and Equitable Communities Implementation – Parking Policy Questions

The state of Oregon adopted administrative rules to implement the Climate-Friendly and Equitable Communities (CFEC) initiative, which aims to reduce climate pollution and improve equity to ensure all Oregonians are served by a community's transportation, housing, and planning efforts. The City is required to comply with the rules by amending the CDC but first must make some policy decisions regarding parking mandates in the community.

The biggest policy question before the Council and Commission is to whether remove off-street parking mandates for the entire city or implement a series of other policies/programs within different areas of the city. Several areas of the community (Highway 43 corridor, Bolton Town Center, and Willamette Town Center) require no parking mandates under the rules and account for most of the commercially zoned land within the city.

Council appointed the Planning Commission as the project working group, so staff provided [Planning Commission with an initial briefing on November 15, 2023](#), which included a memo that details the CFEC process and the policy choices that require attention (see Attachment 3). Since that briefing, staff have completed a series of maps (Attachment 4) to help better visualize what areas of the city are impacted by the various policy choices. Staff is looking for the Council and Commission to offer initial feedback on removing all parking mandates policy questions and request any additional information before moving forward with additional Planning Commission work sessions to find consensus on the policy questions.

Council Options:

1. Direct staff to continue working on the prioritized projects and make no changes to the Planning Docket.
2. Add or remove projects from the Planning Docket and prioritize accordingly with available staffing and budget resources.

Staff Recommendation:

Continue working on current prioritized projects and add one or more of the Code Concepts to the Planning Docket as a prioritized project.

Attachments:

1. Planning Docket (updated March 2024)
2. Code Concepts
3. CFEC Memo to Planning Commission (November 2023)
4. CFEC Parking Mandate Maps



CITY OF West Linn

PLANNING DOCKET

POTENTIAL AMENDMENTS TO COMMUNITY DEVELOPMENT CODE, COMPREHENSIVE PLAN AND ZONING MAP

UPDATED 03/01/2024

West Linn Community Development Code (CDC) 98.030 requires that Comprehensive Plan, CDC and zoning map amendments to be undertaken in a given year be listed on a docket that is reviewed by the Planning Commission and approved by the City Council. Other planning and historic preservation-related plans and studies are also to be considered through the docketing process.

This list is intended to provide clarity to the West Linn community, advisory committees, and staff on the Mayor and Council's project priorities and projected timelines to initiate and accomplish the work. It also documents recently completed projects.

This list was initially developed by the City Council and Planning Commission at the beginning of 2017 through a joint work session and further Council/Commission discussion and has been amended multiple times since then. The City Council has the discretion to amend this list as appropriate to best achieve community goals.

Projects completed in 2017

- *Geotechnical and surface water code revisions.* Code amendments to ensure the CDC/Municipal Code allow appropriate review of geotechnical and surface water elements of development.
- *Robinwood Station.* Code amendments to allow Robinwood Station to operate as permitted use in residential zone.
- *White Oak Savanna.* Code amendments to allow park improvements in OBC zone.
- *De Novo appeal review.* Code amendment to remove provisions for on-the-record appeal review and restore previous provisions for "de novo" appeals, providing additional process flexibility to the City Council.

Projects completed in 2018

- *Willamette Neighborhood Mixed-Use Transitional Zone - list of permitted/conditional uses.* Amended the list of permitted and conditional uses in the mixed use zoning district.
- *Minor code cleanup including Property Line Adjustment policy update and Day Care code alignment with State of Oregon regulations.*

Projects completed in 2019

- *Willamette Neighborhood Mixed-Use Transitional Zone – zoning map changes.* Updated zoning of properties on 8th Avenue to reflect current uses and vision. Adopted by Council March 11.

- *Sanitary Sewer Master Plan.* Repeal and replacement of the 1999 Plan to address a variety of issues including facilities constructed since 1999, capital planning for aging facilities, regulatory changes, population trends, and implementation of modern best practices. Adopted by Council September 9.
- *Parks and Recreation Master Plan.* Per Council goal, develop an overall planning vision for the project area through a robust citizen involvement program and then further refine the vision into comprehensive plan/zoning map/development code amendments for implementation. Adopted by Council November 12.
- *Storm Water Master Plan.* The updated Storm Water Master Plan includes new goals, policies, and action measures. Accompanying code and Comprehensive Plan amendments will ensure consistency and compliance with regional and state plans and policies, efficient use of public dollars, and maximize protection of important natural resources. Adopted by Council November 12.

Projects completed in 2020

- *Review of zoning on developable residential lands – Phase 1 inventory.* Evaluated developable residential properties over one-acre for consistency with neighborhood plans and visions. Council discussed on March 2, 2020 and directed staff to not move onto Phase 2: Zone Changes, and concentrate on the Waterfront Project and Hwy 43 for potential rezoning.
- *Street Width Standards.* Staff worked with the Planning Commission to develop proposed CDC changes and Council adopted a 28-foot pavement width standard for public streets in new subdivisions on September 14, 2020.

Projects completed in 2021

- *Willamette Falls Drive TSP update.* Amendments to Transportation System Plan to incorporate Willamette Falls Drive Concept Plan, including the re-alignment and design, from Highway 43 to Tualatin River. Adopted by Council August 2, 2021.

Projects completed in 2022

- *FEMA Code Amendments.* Amendments to Community Development Code Chapters 2 and 27 to ensure compliance with FEMA minimum requirements for flood hazard zones. The Oregon Model Code was adopted by Council February 14, 2022.
- *HB2001 Code Amendments.* Amendments to Community Development Code Chapters 2, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 21, 24, 43, 46, 55, 59, and 60 to comply with HB2001 and OAR 660 Division 46. The adopted amendments go above minimum requirements by allowing detached plexes, increasing maximum floor-area ratio (FAR) for R-10/R-7 zoning to 60% and eliminating maximum FAR and lot coverage for R-5/R-4.5/R-3/R-2.1 zoning. Adopted by City Council June 21, 2022.
- *Historic review code update.* Amendments to Chapters 25 and 58 discussed by the Historic Review Board (HRB). Includes a variety of changes to both the commercial and residential district codes. Adopted by City Council May 16, 2022.
- *Policy work on Chapter 96, Street Improvement Construction.* Amendments to Community Development Code Chapters 2 and 96 to clean-up language and clarify when single-lot development requires street improvements and when the City will accept a fee-in-lieu of construction of the improvements. Adopted by City Council December 12, 2022.

Projects completed in 2023

- *Accessory Dwelling Unit (ADU) regulations.* Amendments to Community Development Code Chapter 34 to remove barriers to constructing an ADU. The amendments also ensure the code language is clear and objective and in compliance with state statutes and administrative rules. Adopted by City Council on July 10, 2023.
- *West Linn Response to HB2003.* Adoption of the 2021 Housing Capacity Analysis as a supporting document to West Linn Comprehensive Plan Goal 10, as well as amendments to the West Linn Zoning Map and Comprehensive Plan Map to comply with HB2003 requirements. Adopted by City Council on October 9, 2023.
- *Clear and Objective Standards Audit.* Amendments to multiple chapters of the Community Development Code to ensure compliance with ORS 197.307, which requires the City to provide clear and objective standards, conditions, and procedures for housing. Adopted by City Council on September 18, 2023.

Projects underway

- *West Linn Waterfront.* Per Council goal, develop an overall planning vision for the project area through a robust citizen involvement program and then further refine the vision into comprehensive plan/zoning map/development code amendments for implementation.
 - *Status: Project underway. Last round of public outreach was open houses on December 10 and 12, 2019 to glean feedback on preferred future land uses. Council has budgeted funds for the next phase of work, which will include finalizing the vision plan, public engagement activities, and zoning/design standards for the three districts. Staff chose and finalized a contract with the consultant team. The Community Engagement Plan has been reviewed by the CCI and Council has appointed the project working group. The working group has met two times and reviewed the draft vision plan. Community engagement events will begin in Winter 2024 to glean feedback on the draft vision plan. Staff will schedule regular updates/presentations to both Planning Commission and Council.*
 - *Staff: John Floyd, Darren Wyss, Aaron Gudelj, Lynn Schroder, Chris Myers, John Williams*
- *Highway 43 Land Use and Neighborhood Connectivity Plan (Vision43).* Development of a community vision along Hwy 43 and implementing regulations to facilitate the type of development West Linn would like to see along this important commercial corridor and complement the planned road improvements. The project will also identify preferred bicycle/pedestrian connections from neighborhoods to safely access services along the corridor.
 - *Status: Council has provided funding for the project. Staff chose and finalized a contract with the consultant team. The community engagement plan was reviewed by the CCI and Council appointed the project working group. Community outreach will begin in Spring 2024 and lead to a preferred vision. Zoning, code, and design standards amendments will follow. Staff will schedule regular updates/presentations to both the Planning Commission and Council.*
 - *Staff: Chris Myers, Darren Wyss, Aaron Gudelj, Lynn Schroder, John Floyd, John Williams*
- *West Linn Response to HB 2003.* The bill, passed by the 2019 Oregon Legislature, creates requirements the City is mandated to implement. HB2003 requires West Linn to complete a Housing Capacity Analysis (HCA), and take steps (Housing Production Strategy) to address issues

identified in the analysis related to the provision of a broad cross-section of housing types. The project is listed in this section because it is not optional for West Linn.

- *Status: City Council adopted the Housing Capacity Analysis in October 2023. The City received additional grant funding from DLCD to complete the Housing Production Strategy, which must be adopted by the end of 2024. Staff is working with the CCI to recommend a working group, which will be brought to Council for appointment in early April 2024. Strategy discussion and outreach will begin in Spring 2024, with preferred strategies identified and brought before Council by end of 2024. Council and Planning Commission will be an integral part of identifying preferred strategies and staff will schedule regular meetings to discuss.*
 - *Staff: Darren Wyss, Aaron Gudelj, John Williams*
- *Climate Friendly and Equitable Communities Rules Implementation. Governor Kate Brown issued [Executive Order No. 20-04](#) in March 2020 directing state agencies to meaningfully and urgently address climate change. The Land Conservation and Development Commission adopted rules in July 2022 that require City compliance. Not only are the rules focused on reducing greenhouse gas emissions, but they also aim to improve equity in the community's transportation, housing, and planning efforts. The first rules to implement involve parking mandates and electric vehicle charging infrastructure.*
 - *Status: Council appointed the Planning Commission (PC) as the working group. Staff briefed the Council and PC in October 2022 and the PC again in October 2023. The City received an extension to adopt required code amendments and secured grant funding to implement the program from the Department of Land Conservation and Development. A consultant has been appointed and work will begin in Spring 2024. The biggest policy question that must be answered is whether to eliminate parking mandates only in required areas and implement programmatic changes or to eliminate parking mandates for all properties within the city limits. Code amendments are anticipated for adoption in December 2024.*
 - *Staff: Darren Wyss, Aaron Gudelj*

Prioritized projects

The following projects have been prioritized by Council.

- *Committee for Citizen Involvement (CCI) review of community engagement in land use process.*
 - *Status: CCI report and recommendations were provided to City Council. The report addresses education, administrative proposals, and potential code changes. Council had an initial discussion and staff is awaiting direction on implementation process, particularly appointment of a working group to review potential code changes.*
 - *Staff: Darren Wyss*

Projects identified by Council/Planning Commission/public/staff but not yet prioritized by Council

Small projects

These projects are expected to require a modest amount of staff resources, public engagement and attention from the City Council, Planning Commission and advisory committees. They are generally improvements to or refinements of existing processes or code. These items would result in modest improvements to efficiency, customer service and outcomes in the community.

- *Wireless Ordinance update.* Changes to modernize code language and facilitate minor installations, such as small cell technology, to improve wireless service in the city.
- *Parking standards change for High Schools.* On 8/6/18 Council discussed changing the parking requirements for a High School but this project has not been moved into higher prioritization by Council yet.

Medium projects

These projects are expected to require a moderate amount of staff resources, public engagement and attention from the City Council, Planning Commission and advisory committees.

- *Flood plain ordinance.* The State of Oregon is working with the State of Washington to address needed updates to the Flood Plain program to address Endangered Species Act requirements. For Oregon, the Department of Land Conservation and Development will be provided a model ordinance that addresses agreed upon provisions. Implementing this ordinance in West Linn would ensure compliance with federal, state and regional standards and provide clear guidance on regulations and procedure to property owners.
- *Code consolidation.* Consolidate divergent code sections including moving procedures dispersed throughout the CDC back into Division 9 and addressing a variety of other inconsistencies; more substantive changes than a simple annual cleanup.
- *Code work to address inconsistencies and mapping questions in CDC Chapters 28 and 32.* This work would respond to inconsistencies and mapping issues noted in working with property owners and developers dealing with West Linn's requirements in Water Resource Areas, Willamette River Greenway and Habitat Conservation Areas. This project could easily veer into the "large" category considering the state and regional policy and regulatory framework.
- *Surface water code changes.* The Planning Commission has discussed creating additional code requirements for surface water treatment facilities, beyond those currently contained in the Municipal Code/Public Works Standards. This project would require involvement from property owners, neighborhoods, and developers.
- *Public property zoning and process requirements.* Consideration of a new Comprehensive Plan designation and zone along with the appropriate zoning and process requirements for city-owned property. This project would address a significant gap in West Linn's code, but would likely require extensive neighborhood and Advisory Committee involvement.
- *Additional follow-up projects related to Willamette Mixed-Use Zoning work.* The Mixed Use Zoning Working Group recommended several possible additional projects that arose during their meetings but did not fit within their Council-directed project scope. These include:
 - *Changes to the dimensional/design standards for Chap. 59: MU Zone to make them more flexible for potential redevelopment of properties in the future.* Some ideas for potential changes: allowing zero lot lines at front and side yards abutting a street, moving from maximum building size to lot coverage/maximum floor area ratio standard, eliminating maximum lot size, and removing the residential style design standards.
 - *Parking evaluation of the Willamette Main Street area, especially the on-site parking exemptions found in CDC Chapter 58: Willamette Falls Drive Commercial Design District.* This could be a challenging project, requiring significant work with business and property owners, the main street group, historic advocates, and surrounding neighborhoods.
 - *Addressing zoning on island MU properties.* Several small islands of MU zoning exist at some distance from the downtown core; the Working Group discussed potential changes to these areas but has not assessed what those changes should be.

- *Historic Preservation Master Plan.* On 8/6/18 Council discussed the possibility of a Master Plan for all Historic Resources in West Linn. More policy discussion is necessary to identify the objectives and scope of this item.
- *Underutilized Right Of Way (ROW) Review.* Council has discussed reviewing all of the unused/underutilized ROW in West Linn with an aim to returning unneeded property to residents and minimizing the City's maintenance responsibilities. This project would require a fair amount of community outreach and involvement.
- *Short-term rental regulations.* As more short-term rentals become available in West Linn via companies such as AirBnB or VRBO, there has been some community discussion about concerns and potential regulatory changes. Current regulations are summarized at <https://westlinnoregon.gov/planning/faq-short-term-rentals-west-linn>. This project would likely require significant input from property owners and neighborhoods; in other jurisdictions this has been a complex issue to resolve. The project would also include a review of West Linn's Transient Lodging Tax code to ensure revenues assist in the planning and compliance work.

Large projects

These projects are expected to require a significant amount of staff and financial resources, public engagement and attention from the City Council, Planning Commission and advisory committees.

Projects of this size would need to be sequenced to allow appropriate focus from all of these groups.

- *Sign code update.* Review, organize, streamline and modernize the sign code. If focused simply on cleanup and organization, this would require less work. A larger review would address community concerns and Council Goal on Economic Development. As demonstrated consistently in other jurisdictions, sign code work is always time-consuming.
- *Planned Unit Development (PUD)/Infill code work.* Review and take action on recommendations by the Planning Commission tabled by City Council in 2015. This large project could be divided into smaller parts: Planned Unit Developments; flag lots; and other infill development. A comprehensive review would ensure consistency but even small tweaks could help, such as increasing allowable lot coverage for single story homes.
- *Tree Code Evaluation and Amendments.* The City's Community Development Code only encourages, but does not mandate, tree retention. The community has consistently requested the City establish a minimum tree retention requirement during development projects. This project would require extensive public involvement from property owners, neighborhoods, and developers. Statewide Planning Goal 5 processes would need to be followed if mandates were preferred. Evaluating the tree code/programs in the Municipal Code is also recommended to ensure consistency. Significant staff time and budget for consultant services would be required.

Community Development Code Process Concepts

City Council Work Session, October 16, 2023

1. Appeal Process for Development Projects

[Currently CDC 99.250](#) (Application for Appeal or Review) does not require an appellant to identify the code criteria they feel is proposed to have not been met or have been misapplied. Prior to the adoption of [Ordinance 1663](#), the CDC required an appellant to provide this information. For reference, the last five appeals have been based on:

- AP-21-01 “require a two-way street on east side of property”
- AP-21-02 “the proposed plan failed to meet the goals of WL Comp Plan”, “not opposed to school, but prefer a different configuration”, “fear increased traffic would lock in the exit from cul-de-sac”
- AP-22-01 “I do not believe the denial has legal or factual merit”, “violation of due process provisions of US Constitution”, “code has been interpreted erroneously by the planning director”
- AP-23-01 “inappropriate/incorrect interpretation/application of WRA regulations/code”, “establish precedent that would further threaten the safety/welfare citizens”, “the basis for concerns are found in CDC Chapters 32, 34, 99 and the City Charter”.
- AP-23-02 “We appeal the decision because certain criteria for approval of the permits were not met”.

Not requiring an appellant to identify the grounds for appeal is potentially unfair to some parties as the applicant, staff, public, and City Council cannot reasonably prepare fully and efficiently for the appeal hearing without the benefit of knowing the appellant’s basic argument. The present system essentially sets the City up for an entirely new round of decision-making by a second review authority.

Amending the code to require the appellant to identify the code criteria they believe has been violated and provide at least initial argument as to why the decision is not consistent with the City’s code - that is identify what was code is not met/misapplied - should be considered. That explanation should be required to be submitted with the appeal application so the appeal hearing can be conducted fairly.

The hearing can remain de novo, except that the hearing will be focused on addressing only the limited basis of the appeal as stated by the appellant so any criteria that was not submitted with the appeal application would be off limits. If this change to appeal process is pursued for review, language will need to be developed for consideration saying a decision will only be reviewed on the basis of the code criteria cited by the appellant as not being met or has been misapplied. The hearing will be conducted de novo rather than on the record on the criteria so identified as not being met or has been misapplied.

Some language that could be added to the code might be:

“An appeal shall include a detailed statement describing the basis of the appeal” or
“An appeal application shall contain the following information:

- a) Date and file number of the decision being appealed.
- b) Documentation that the person filing the appeal application has standing to appeal.
- c) Detailed statement describing the basis of the appeal that is:
A statement that identifies which approval criterion or development standard is believed by the appellant to have been overlooked or incorrectly interpreted or applied and/or which aspect of the proposal is believed to have been overlooked or incorrectly evaluated by the approval authority.
- d) If the appeal application and applicable fee are not submitted within the established appeal period, or if the appeal application does not contain the required statement with details in item c above, the application shall not be accepted by the City.

2. Appeal Authority

Currently [CDC 99.060.C](#) and [CDC 99.240](#) give authority to the City Council to hold a public hearing and decide on an appeal of a Planning Director, Planning Commission, or Historic Review Board decision. Many jurisdictions have adopted procedures that send an appeal of a non-discretionary decision (commonly known as Type I or Type II decisions) to a Hearings Officer. The City could determine whether to have either or both appeals of Type I and Type II decisions processed using a Hearings Officer. In West Linn's case, this could be limited to all decisions made by the Planning Director. Decisions from the HRB or PC would continue to be appealed to City Council.

3. Home Occupation Permits (HOP)

- a. Ambiguous Terms. [CDC Chapter 37](#) contains many ambiguous approval criteria that need to be cleaned up to be clear and objective as an HOP Permit should be a Type I Decision (non-discretionary).
- b. Vehicle Trips for Schools. Based on an issue that arose in 2022, the Council also needs to weigh in on the policy question about the code criteria that exempts "home occupations with pupils or students" from the cap on vehicle trips. This has the potential for significant impacts on a neighborhood as there are trends in West Linn and other cities where more types of "schools" are being added to the list of educational or recreational pursuits being offered by instructors in their homes.
- c. Application Process. Another consideration is to return to the traditional application process and review of Type I and Type II decision-making for an HOP. In many cities a home occupation is processed as a land use application that may include notice to the surrounding properties and a staff analysis of the proposed use against established criteria in the CDC. The City moved away from this process several years ago, possibly to reduce the number of land use applications processed by staff. However, the change has resulted in unanticipated consequences as the present system does not provide an opportunity for staff to hold a discussion with an applicant to explain the meaning of code restrictions so the applicant can properly determine whether their proposed use can be allowed as a home occupation, and if approved, whether they can conform to the limits.

The code has certain limitations which an applicant should fully understand to avoid independently concluding that they can meet all code criteria. Without staff input, an applicant could err and violate city standards and community expectations. Without the benefit of staff input, an applicant could interpret the code incorrectly and invest in a

venture that is not approvable under the CDC. Presently, approvals are done through the business license software, which doesn't leave a very good trail and record of what information the applicant reviewed and understood as they accepted the terms associated with being granted a HOP permit. Requiring submittal of an application with more details, which could be kept in perpetuity with other land use records, would be beneficial for any enforcement needs in the future.

4. Expedited Land Divisions (ORS 197.360 to 380)

[ORS 197.365\(4\)\(b\)\(A\)](#) states the local government shall not hold a hearing on an expedited land division application. Currently, [CDC 99.060.E](#) requires an expedited land division to be processed by the Planning Commission without a public hearing. While it may come down to semantics, if a meeting of the Planning Commission is held with seven members of the community deliberating to a decision, even if no oral testimony is taken, such a meeting seems to qualify as a hearing. It is the nature of a Planning Commission to want to know what the approval criteria are that apply to an application, how the staff interprets an application meets or does not meet the criteria, what the public has to say about an application, and what role the Commission has in interpreting the code to apply it to the facts of an application. An expedited land division under Oregon law does not allow for this process and could open the City up to legal challenges. The staff has been processing HB2001/SB458 expedited land divisions as a staff level decision based on legal guidance from the City Attorney's office. Amending the code to eliminate the Planning Commission from approval of expedited land division applications to be consistent with the practice should be considered to avoid potential legal challenges.

5. Extensions of Approval

[CDC 99.325](#) does not specify if an extension must be applied for and approved by the Planning Commission or Planning Director prior to expiration of the approval. Previous direction on an expiring application given by City Attorney Tim Ramis in 2020 was that if the extension application was deemed complete before the expiration date, the applicant had the right to a decision, even if the decision was rendered after the expiration. Mr. Ramis' interpretation of the code and his logic may have been influenced by the unclear language and the additional fact that Covid-19 was affecting development activities, contributing to the need for extensions. Since that time, three additional extension applications have been processed through the Planning Commission where the applications were filed late in the three-year period when development was to have taken place.

Another issue is the circular language in [99.325\(A\)](#) that allows an extension of an extension. Most jurisdictions clearly state only one extension can be granted for an application. The City could benefit by having updated code language so applicants and the community have a clear understanding of the extension process and the number of extensions that can be granted.

Language to be considered could be as simple as:

"An extension may be granted by the original decision-making body for one, but not more than one, additional two-year period to complete the project from the effective date of approval pertaining to upon finding that:

1.

2.
3.

“In order for an extension to be granted, an application for an extension under CDC 99.325 must be filed and approved by the original decision-making body prior to the established expiration date of the effective date of the original decision.”

Memorandum

Date: November 9, 2023

To: West Linn Planning Commission

From: Darren Wyss, Planning Manager

Subject: DLCD Climate Friendly and Equitable Communities (11/15/2023 Agenda Item 5)

At its November 15, 2023 meeting, the Planning Commission (PC) will receive a briefing on the City's required implementation of the [Climate Friendly and Equitable Communities \(CFEC\) rules](#). Staff has scheduled this briefing as CFEC specific grant funds were just announced by the state, and the City will be applying in the near future. If awarded funds, staff anticipates work on the project to begin in Spring 2024. Any funds received will be used to secure consultant services to assist in the implementation of the required parking reforms and parking policy decisions.

City Council appointed the PC as the working group for the project and this will be the first in a series of briefings intended to familiarize the PC with the policy decisions that the City must make and their potential impacts. The primary policy decision the City must make is to either eliminate all parking mandates in the community or implements a series of regulations/programs to meet the CFEC rules.

The goals of the briefing are:

1. Get PC members familiar with parking related CFEC rules and future policy decisions
2. Provide PC the opportunity to ask clarifying questions
3. Allow the PC to request additional information for future briefings

Background

In 2007, Oregon legislators adopted a goal to reduce Oregon's climate pollution 75 percent by 2050. Fifteen years later, the state is far off track in meeting those goals, while also experiencing real-world impacts of increasing size, severity, and frequency of wildfires and record heat waves that impact communities.

Transportation pollution accounts for about 38 percent of Oregon's climate pollution. On the current path, Oregon will only reduce transportation pollution by about 20 percent by 2050. In response, Governor Kate Brown issued [Executive Order No. 20-04](#) in March 2020 directing state agencies to meaningfully and urgently address climate change by developing measures to reduce Oregon's greenhouse gas emissions.

The [Land Conservation and Development Commission \(LCDC\)](#) launched the [Climate-Friendly and Equitable Communities \(CFEC\)](#) rulemaking project in response to Governor Brown's order. LCDC directed the [Department of Land Conservation and Development \(DLCD\)](#), Oregon's land use planning agency, to draft changes to the state land use and transportation planning programs for communities in Oregon's eight most populated areas. Over the course of two-years, and with the assistance of a rulemaking committee, DLCD created draft rules, which were presented to LCDC and [adopted in July 2022](#). LCDC initiated [additional rulemaking in 2023](#) in order to retain the outcomes of the program while making implementation easier for cities and counties.

The adopted rules, found in [Oregon Administrative Rules \(OAR\) Chapter 660, Division 12](#), aim to improve equity, while ensuring all Oregonians are served by a community's transportation, housing, and planning efforts. The four primary areas of impact to the City of West Linn include:

1. Reforming parking mandates and amending parking lot design standards
2. Preparing for the electric vehicle future
3. Planning for future transportation options
4. Adopting Metro 2040 Growth Concept town center boundaries

The City of West Linn is currently implementing several of the adopted administrative rules as required and will implement the remaining rules over the next several years. More detail is provided later in this memorandum, but the most immediate actions involve reforming the City's parking codes and implementing parking lot design and electric vehicle charging infrastructure requirements.

Staff has provided general details about areas of impact 2-4 listed above. The primary focus is on required parking reform regulations and the specific policy questions/decisions that will need to be made regarding parking reform. Additional information and details on the policy options will be discussed with the Planning Commission and City Council as the project moves forward.

Reforming parking mandates and amending parking lot design standards

Parking mandates, also known as minimum parking requirements, are a one-sized approach that often hide the costs of providing parking in other goods, such as housing and business costs. The CFEC adopted administrative rules require the City to eliminate parking mandates in some cases and reduce them in other cases. The rules also require the City to ultimately make a policy decision to either eliminate all parking mandates for the City or eliminate/reduce them in some areas and for certain land uses, while also implementing a series of programmatic changes.

The following are required changes the City is currently implementing or will be implemented with the policy decisions via a CFEC code amendment package.

Required Changes

1. [OAR 660-012-0430](#) – Implementation began on January 1, 2023
 - Cannot require more than one parking space per unit in residential developments with more than one dwelling unit on a single legally-established property.
 - Cannot enforce parking mandates for certain development or use types (small residential units, affordable units, childcare, facilities for people with disabilities, and shelters)
2. [OAR 660-012-0440](#) – Implementation began on January 1, 2023 via staff action. CDC amendments will be included in full CFEC code amendment package.
 - Cannot enforce parking mandates within ½ mile of TriMet Bus Line 35 (Hwy 43)
3. [OAR-660-012-0410](#) – Implementation began March 31, 2023 via staff action. CDC amendments will be included in full CFEC code amendment package.
 - Electric vehicle charging conduit required to serve 40 percent of parking spaces in new multi-family or mixed-use development with more than five dwelling units
4. [OAR-660-012-0405](#) – Implementation will begin after adoption of full CFEC code amendment package.
 - Requires allowing redevelopment of parking lots for bicycle/transit use, facilitating shared parking, parking lot design changes, and adopting parking maximums
5. [OAR-660-012-0415](#) – Implementation will begin after adoption of full CFEC code amendment package.
 - Requires parking maximums in the City's two Metro 2040 Town Centers and within the ½ mile boundary of TriMet Bus Line 35 (Hwy 43)

The following are policy decisions the City must make regarding parking mandates in the community. The primary decision the Planning Commission will need to discuss in the future, and ultimately the City Council will need to decide, is 1) To eliminate all parking mandates within the City; or 2) Implement a series of regulations/programs that will require funding and additional staff to manage. Some basic information is provided to help frame the level of effort required for the two choices. More detailed information will be provided for the policy discussion work sessions to begin in 2024.

Policy Decisions

1. [OAR-660-012-0420](#) – Either eliminate all parking mandates within the City or comply with OAR-012-0425 to 0450 regulations.
 - If mandates are eliminated, only the five required changes listed above will need compliance
 - If mandates are not eliminated, the following regulations and/or policy decisions will need to be implemented
2. [OAR-660-012-0425](#) – Requires adoption of eight specific regulations to reduce parking mandates.

- Garage spaces, shared parking, provided off-site, solar panels, car-sharing spaces, electric vehicle charging stations, accessible dwelling units above minimum.
3. [OAR-660-012-0435](#) – Parking reform in Metro 2040 Town Centers
- Remove all mandates within the area and within ¼ mile; or
 - Adopt parking benefit district with paid on-street parking; and
 - Require no more than ½ off-street space per dwelling unit that is not a townhouse or rowhouse; and
 - Require no mandates for commercial development
4. [OAR-660-012-0445](#) – Parking management alternative approaches requires choosing between Option A or Option B.
- Option A: Fair Parking Policy requires implementing two of five provisions
 - 1. Multi-family residential unbundled parking (would require development of a City program and tracking system)
 - 2. Commercial unbundled parking (would require development of a City program and tracking system)
 - 3. Flexible commute benefit program for 50+ employee businesses that provide free or subsidized parking (would require development of a City program and tracking system)
 - 4. Revenue tax on commercial parking lots (would require development of a City program and tracking system)
 - 5. Parking mandate no higher than ½ space per multi-family unit, including visitor parking
 - Option B: Reduced parking regulations including all of the following:
 - Repeal parking mandates within 1/2 miles of Metro 2040 Town Centers
 - Repeal parking mandates for mixed-use developments
 - Repeal parking mandates for group quarters (dorms, retirement homes, care facilities, etc.)
 - Repeal parking mandates for studio and one-bedroom apartments, and condos in multi-unit housing developments
 - Repeal of parking mandates for a change of use or redevelopment of a two-plus year vacant building
 - Repeal of additional parking requirements for change of use or redevelopment when at least 50 percent of building floor area is retained
 - Repeal parking mandates for expansion of existing building by less than 30 percent
 - Repeal parking mandates for historic properties/buildings
 - Repeal parking mandates for commercial properties with less than 10 employees on site or less than 3,000 sq. ft. floor space
 - Repeal parking mandates for developments build under the Oregon Residential Reach Code
 - Repeal parking mandates for LEED certified buildings
 - Repeal parking mandates for schools
 - Repeal parking mandates for bars and taverns

- Implement at least one pricing mechanism (would require development of a City program and tracking system):
- 1. Designate at least one residential parking district where on-street parking is by paid permits, meters, or other payments
- 2. Multi-family housing units be unbundled from parking upon lease renewal or sale

A proposed CFEC code amendment package will be determined by the policy decisions made during the work session discussions with the Planning Commission and Council. The Department of Land Conservation and Development (DLCD) has also distributed informational and implementation documents for use by communities required to follow the CFEC rules. Some of the parking related documents are linked below.

[DLCD Parking Reform Summary](#)

[DLCD What Happens When Parking Mandates are Reduced?](#)

[DLCD Welcome to Parking Reform Webinar \(Presentation .pdf\)](#)

Preparing for the electric vehicle future

As of July 1, 2022, state statute and building codes require new commercial buildings, new mixed-use buildings with five or more residential units, and new multi-family residential buildings with five or more units to install conduit to support at least 20 percent of the parking spaces for electric vehicle charging.

The [CFEC rules](#) required the City to implement, on March 21, 2023, installation of conduit to support at least 40 percent of the parking spaces for electric vehicle charging. The rules apply to new mixed-use or multi-family residential building with five or more residential units. The provisions will be included in a final CFEC code amendment package.

Planning for future transportation options

The majority of [transportation related CFEC rules](#) are focused on the update or creation of transportation system plans (TSP), including how proposed projects are evaluated. The City has an adopted TSP and an update to the [2016 West Linn Transportation System Plan](#) may be necessary to comply with any new policy directives that result from [Metro's 2023 Regional Transportation Plan](#) (RTP) update. The RTP update is scheduled for adoption in December 2023.

Any necessary updates to the City's TSP would occur after adoption of the RTP and City staff would seek grant funding through the State's Transportation and Growth Management program for the work.

Adopting Metro 2040 Growth Concept Town Center boundaries

One of the primary components of the CFEC rules is the requirement to create and adopt climate friendly areas with associated zoning and development code requirements. However, the Portland Metropolitan Area is exempt from the requirements since the region has already adopted the [2040 Growth Concept](#) with associated Regional Centers, Town Centers, Corridors, Station Communities, and Main Streets where urban density growth is anticipated to occur. The CFEC rules require Metro to establish requirements for adoption of Centers by the end of calendar year 2024.

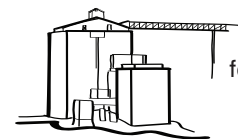
The City has two Town Center areas identified on the [2040 Growth Concept Map](#). One in the Bolton Neighborhood commercial area and the second in the Willamette Neighborhood commercial area. The City will need to adopt the two Town Center boundaries and any associated zone changes or development code updates resulting from the requirements Metro establishes for adoption of Centers. The City must complete the adoption process by end of calendar year 2025.

If you have questions about the meeting or materials, please feel free to email or call me at dwys@westlinnoregon.gov or 503-742-6064.

Save **LADY B** *from demolition*



March 18th, 2024



Advocates
for Willamette Falls **Heritage**

History



WEST LINN RIVER MEN. At the original boathouses of Joe Bernert Towing Company and



77 year old tugboat offered by the Bernert family

Moved logs between Salem, West Linn, though the locks and down river

One of last mid-20th century working tugboats from the upper Willamette's logging and paper-making heyday

She is qualified for nomination to the National Register of Historic Places, joining the Sternwheeler



Organizations in Support of Lady B



THE OREGON
HISTORICAL
SOCIETY
FOUNDED 1898



Friends of Maddax Woods

Asking for Temporary Storage



Collaborating for two years to save

Asking city to take title and store for up to 10 years

AWFH will fund moving of Lady B and fencing

AWFH will raise funds for permanent placement and interpretive signage

AWFH will provide a \$10,000 assurance to dispose if no display location and owner found after 10 years

Owner has extended deadline until April 30th, 2024 before demolition



CITY OF

West Linn

Public Comment Form

I wish to speak during Public Comments (comments are limited to three minutes). Topic listed will be reflected in the meeting minutes.

Please specify topic (required): Cedar Lady B

I wish to wait and speak on the agenda item listed below (comments are limited to three minutes).

Please specify agenda item (required):

Public Comments - Lady B

Please print:

Name: Troy Bowers - Advocates for Will Falls Heritage

Phonetic spelling, if difficult to pronounce: _____

Address (Optional): 22095 Chelan Loop

City: West Linn State: OR Zip: 97068

Email (Optional): Troy.Bowers22095@outlook.com Phone (Optional): 503-763-7303

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

West Linn

Public Comment Form

I wish to speak during Public Comments (comments are limited to three minutes). Topic listed will be reflected in the meeting minutes.

Please specify topic (required): SRTS - CEDAR OAK DR

I wish to wait and speak on the agenda item listed below (comments are limited to three minutes).

Please specify agenda item (required):

Please print:

Name: OLE COLSEN

Phonetic spelling, if difficult to pronounce: _____

Address (Optional): 3993 KENTHORPE WAY

City: WEST LINN State: OR Zip: 97068

Email (Optional): _____ Phone (Optional): 503.927.1867

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

West Linn

Public Comment Form

I wish to speak during Public Comments (comments are limited to three minutes). Topic listed will be reflected in the meeting minutes.

Please specify topic (required): SAFE ROUTE TO SCHOOL

I wish to wait and speak on the agenda item listed below (comments are limited to three minutes).

Please specify agenda item (required):

Please print:

Name: Paul Hansen

Phonetic spelling, if difficult to pronounce:

Address (Optional): 3810 CEDAR OAK DRIVE

City: WEST LINN

State:

Zip:

Email (Optional): phansen@comcast.net

Phone (Optional): 503 6355257

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

West Linn

Public Comment Form

I wish to speak during Public Comments (comments are limited to three minutes). Topic listed will be reflected in the meeting minutes.

Please specify topic (required): Cedar Oak Dr. Safe Rout to Schools

I wish to wait and speak on the agenda item listed below (comments are limited to three minutes).

Please specify agenda item (required):

Please print:

Name: Anthony M Bracco

Phonetic spelling, if difficult to pronounce:

Address (Optional): 2716 Roberson Way

City: West Linn

State:

Zip:

Email (Optional): anthonybracco

Phone (Optional):

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.

WL OR	SAFE ROUTES TO SCHOOL	2024 CEDAROAK PRIMARY FRONT	WL SRTS 00-01 FRONT
ABBR	DIVISION WORKBOOK NAME	DESCRIPTION & SUBJECT	© JH CC SAFE ROUTES TO SCHOOL
LAW DIVISION	OLSEN - HUNTER PRODUCTS	3993 KENTHORPE WAY	WEST LINN OR 97068 503.927.1867 OLE OLSEN

2024 SAFE ROUTES PROGRAM DESIGN

OWNER/DEVELOPER

CITY OF WEST LINN
DEPARTMENT OF PUBLIC WORKS
22500 SALAMO RD
WEST LINN, OR 97068

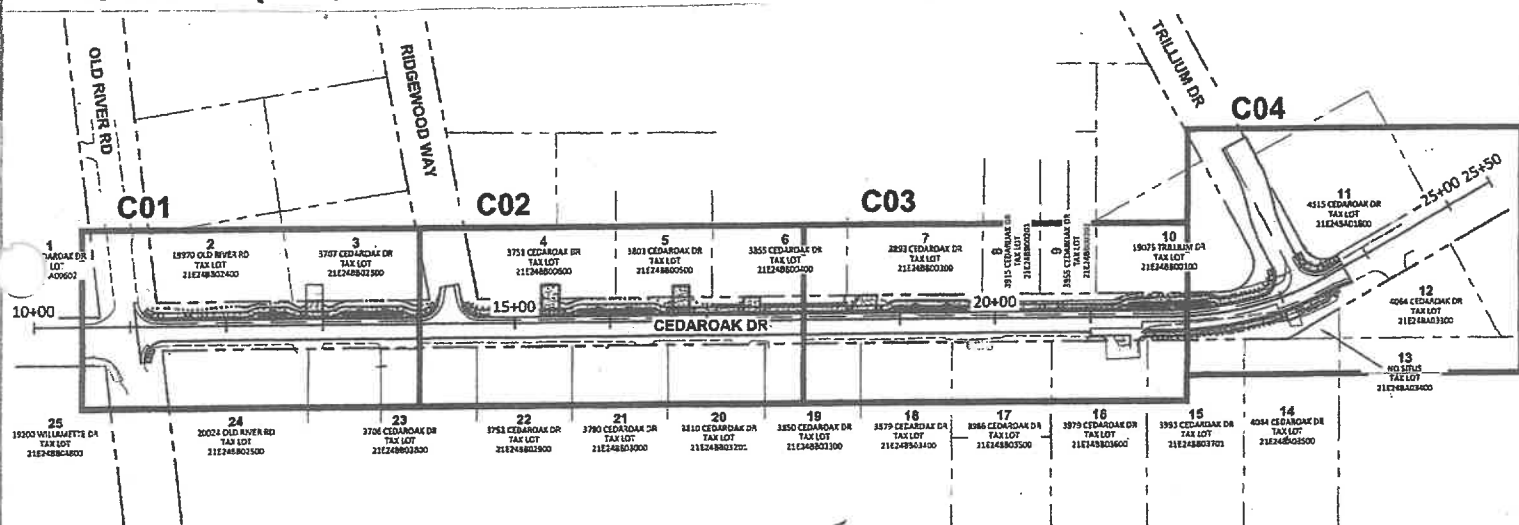
CONTACTS:
CLARK IDE, PE
PHONE: (503) 722-3437
JAMESON LUMPKIN
PHONE: (503) 722-4739

CEDAROAK DRIVE

WEST LINN, OREGON
02/12/2024

ENGINEER

HARPER HOUF PETERSON RIGHELLIS INC.
205 SE SPOKANE STREET, SUITE 200
PORTLAND, OREGON 97202
PHONE: (503) 221-1131
CONTACTS: JIMMY HOUF, PE



KENTHORPE WAY

THE SAFE ROUTES TO SCHOOL (SRTS) IS FOR REDUCING BARRIERS & HAZARDS TO CHILDREN WALKING OR BICYCLING TO & FROM SCHOOLS. SEE ORS 184.740 TO .742, ORS-OREGON REVISED STATUTES. THE TSD TRANSPORTATION SAFETY DIVISION OF ODOT, OREGON DEPARTMENT OF TRANSPORTATION HAS ADOPTED OAR 737-025-0000 TO 0080 TO REGULATE THE SAFE ROUTES TO SCHOOL FUND AND PROCEDURES TO APPLY BY OUTLINE:

OAR 737-025-0030 WHO MAY APPLY

OAR 737-025-0040 ELIGIBLE PROJECTS & ACTIVITIES

OAR 737-025-0050 GRANT APPLICATION REQUIREMENTS

OAR 737-025-0060 ACTION PLAN

OAR 737-025-0070 PROJECT SELECTION CRITERIA

OAR 737-025-0080 PROJECT SELECTION AND AWARDING GRANTS

SEE ALSO ORS 195.115 AND ORS 814.400 TO 489 REGARDING BICYCLE LAWS. NO WEST LINN OFFICIALS HAS INDICATED KNOWLEDGE OR USE OF THE ABOVE.

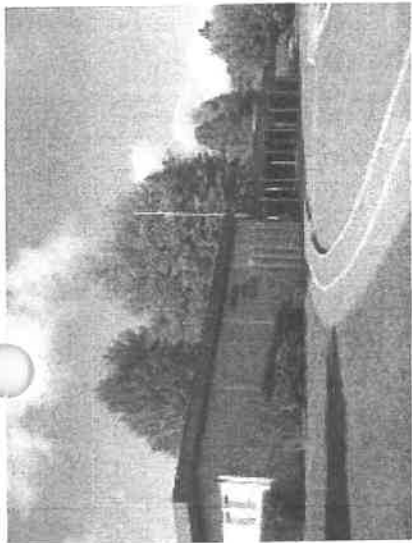


VICINITY MAP

REDRAWN FOR CLARITY OLE OLSEN 3993 KENTHORPE WAY 503.927.1867

LAW DIVISION OLSEN - HUNTER PRODUCTS 3993 KENTHORPE WAY WEST LINN OR 97088 503.927.1867 OLE OLSEN			
LEGISLATIVE - CITY COUNCIL			
CITY OF WEST LINN			
OREGON INCORPORATED CITY GOVERNMENT			
ADOPT BUDGET, CODES & RULES, ENHANCE LIABILITY			
POSITION	PART VI PERSON	OUTLINE OF JURISDICTION	
WL3-00		CITY OF WEST LINN	
WL4-01		PART I AREA WL (NOT US, ST-STATE, CI Co - COUNTY)	
WL3-01		PART II BRANCH: 30 LEGIS, 40 ADMIN, 50 JUDICIAL	
COUNCIL PRES.		PART III DEPARTMENT, TYPE OF LAW, CODE & ADVISE	
WL3-02		PART IV SUBJECT & CONDITIONS	
COUNCILOR		PART V PROCEDURE FOR DEPARTMENTS	
WL3-03		PART VI PEOPLE (DISTRICT, PUBLIC, BUSINESS, PERSON)	
COUNCILOR		WL3-10 PLANS & CODES	
WL3-04		WL3-11 WLCP - WEST LINN COMPREHENSIVE PLAN	
COUNCILOR		WL3-12 WLMC - WEST LINN MUNICIPAL CODE	
WL3-05		WL3-13 WLDC - WEST LINN COMMUNITY DEV. COD	
COUNCILOR		WL3-20 ADVISE & REPORTS	
WL3-06		WL3-21 LEGAL WLCH CH 5.8 (WL3-22 PUBLIC COMMENT (2 MIN))	
COUNCILOR		WL3-23 BUDGET WLMC 2.085C; ORS 294.336	
		WL3-24 AUDIT	
WL3-09.1	VACANCY, DISMISS ORS 221.904	WL3-25 BID, CONTRACTS WLMC 2.085E.	
WL3-09.2	CITY COUNCIL RULES	WL3-26 CONSULTANTS REPORTS - ADOPTED	
WL3-09.3	CITY COUNCIL MEETINGS	WL3-27 DEPARTMENT REPORTS - ADOPTED	
		WL3-28 STAFF/COMMITTEE SPECIAL REPORT	
WL3-30	PART III TYPE OF COMMITTEE - PUBLIC SERVICES & FACILITIES	PUBLIC SERVICES & FACILITIES	
PART III NAME	PART IIIb MEMBERS	PART IV SUBJECT	CITY CODE; STATE STATUTE
WL3-31	PUBLIC SAFETY 7 MEMBERS	CRIME, TRAFFIC, FIRE	WLMC 2.085 J.
ENGINEERING			
WL3-32.1	TRAFFIC 7 MEMBERS	TRANSPORTATION, MASS TRANS.	WLMC 2.085 P.
SUSTAINABILITY	7 MEMBERS	ENVIRONMENT NR 0.0	WLMC 2.085 Q.
WL3-32	UTILITY 7 MEMBERS	WATER RATES, OTHER	WLMC 2.085 D.
WL3-33	PARKS & RECREATION 7 MEMBERS	NEEDS, BUDGET, LAND	WLMC 2.085 H.
WL3-35.1	LIBRARY 9 MEMBERS	PARKS MASTER PLAN	
WL3-35.7	HISTORIC 5 MEMBERS	NEEDS, BUDGET, LAND	WLMC 2.085 G.; ORS 357
WL3-36.5	ARTS 9 MEMBERS	PROTECT HISTORIC PLACES	WLMC 20085 O.
		MUSIC, DANCE, POETRY	WLMC 2.085 I.; 2.200
WL3-36.6	FAIR 12 MEMBERS	PAINTING, PHOTO, OTHE	
WL3-36.8	NBHD 10 MEMBERS	WEST LINN FAIR	WLMC 2.085 M.
			WLMC 2.100
WL3-40	PART III TYPE OF COMMITTEE - PROPERTY SERVICES	PROPERTY SERVICES	
WL3-41	PLAN COMMISSION 7 MEMBERS	TRAFFIC, HOUSING, LOT SIZE	WLMC 2.085 A.; ORS 227
		BUILDING SIZE, GROWTH	
WL3-48	PART III TYPE OF COMMITTEE - PRIVATE SERVICES	PRIVATE SERVICES	

STEPS TO FOLLOW			
WL3-00			
PART I - AREA JURISDICTION	CITY OF WEST LINN	CLACKAMAS COUNTY	
D - CITY, (NOT US, ST, CO)	MUNICIPAL COURT	CIRCUIT COURT	
PART II - BRANCH 5 JUDICIAL (NOT 3 LEG.; 4 ADMIN)			
PART III - TYPE OF LAW	WL5-51 WL INFRACTION	CI Co 5-60 CIVIL LAW	ORS-70 VIOLATIONS (NEW 2000)
MAJOR SECTION NAME	CHARTER, ORDINANCE	CIVIL ACTION - PROPERTY	QUASI - CRIMINAL (NON JAIL)
PART IV - SUBJECTS- MAIN	SAFETY, ENGINEERING, PROPERTY, PARKS, SERVICE	REAL PROPERTY LAW WORKBOOK	WILDLIFE, FISHING, BOATING
MINOR SECTION/SUBSECTION	WEST LINN MUNICIPAL CODE	TITLE DIVISION, SALES	TRAFFIC, CITY NUISANCE, OTHER
SECTION # AND NAME	WLMC 1.235(6)	CIVIL PROCEDURES - ORS 11-25	NO RULES ? ORS 153.033
S 20 INVESTIGATION	POLICE, ANIMAL, CODES	PLAINTIFF & DEFENDANT	POLICE, SHERIFF, DOJ, OTHER
COMPLAINT, EVIDENCE	WLMC 1.235 (1-4), MGR, CITIZEN	PLAINTIFF INVESTIGATION	STATE v. DEFENDANT
S 30 ALLEGATION/CHARGE	WEST LINN v. DEFENDANT	PLAINTIFF v. DEFENDANT	FORM ORS 1.525, 133.007-.015
NOTICE, VIOLATION	CITY ATTY		ORS 153.061
S 40 ANSWER/RESPONSE			
PAY, PETITION, RECORDS	WLMC 1.240 (1), (2), (3), (4)		
S 50 PRE-HEARING/TRIAL	DOES NOT APPLY ?		
NOTICE, MOTIONS			
S 60 DURING HEARING/TRIAL	HEARING, MUNICIPAL JUDGE	TRIAL: JUDGE & JURY	TRIAL BY JUDGE
TESTIMONY, EVIDENCE	JUDGE RHETT BERNSTEIN	ORS 221.358, ORS 221.354	
DEFAULT, RECORD	WLMC 1.245, JURY WLMC 2.600-.650	ORS 40-45	
BURDEN OF PROOF	REASONABLE & PRUDENT	PREPONDERANCE OF EVIDENCE	
S 70 AFTER HEARING/TRIAL	WLMC 1.250 - 1.260		
	CLASS A INFRACTION \$500	PRIVATE PROPERTY - RESIDENTIAL	PREPONDERANCE OF EVIDENCE
	CLASS B INFRACTION \$250	PRIVATE PROPERTY - COMMUNITIES	ORS 153.090, .012, .018
	CLASS C INFRACTION \$150	PRIVATE PROPERTY - PUBLIC USE	CLASS A VIOLATION \$720
	CLASS D INFRACTION \$50	PUBLIC PROPERTY - PUBLIC USE	CLASS B VIOLATION \$360
	MUNICIPAL COURT MAX \$	PUBLIC PROPERTY - PRIVATE USE	CLASS C VIOLATION \$180
	WLMC 1.250 (FORFEITURE)		CLASS D VIOLATION \$90
S 80 REMEDY/ENFORCE			UNCLASSIFIED - USE B
			ORS 30.315, LIEN ORS 221.351
FA CASE APPEAL	CIRCUIT COURT ORS 221.359		
INSTRUCTIONS	WEST LINN MUNICIPAL CODE	L-LAND, S-SALES, P-PERMIT	
W = WORKBOOK	ORS = OR REVISED STATUTES	KW-00 INDEX, INTRO & PROCESS	
F = FILE, S = SECTION	WLMC ORS	LW10-16 APPLY PARTITION/DIVISION	
C = CLOSED GATE	GENERAL CH 1	SW17-20 SALE PROPERTY W/HOUSE	
O = OPEN GATE	GOVERNMENT CH 2 221.928	PW21-29 BUILDING PERMIT	
	PUBLIC IMPROVE CH 3	Oregon Dept. of Consumer &	
	UTILITIES CH 4	Business Services 8DIVS	
	PUBLIC PROTECTION CH 5	S30 PRE-PROCESS	
WL = WEST LINN	VEHICLES & TRAFFIC CH 6	S40 ADMINISTRATIVE DEPT	
MC = MUNICIPAL CODE	BUSINESS CH 7	S50 DISCLOSURE	
CDC = COMMUNITY DEV. CODE	BUILDING CH 8	R00 NATURAL RESOURCES	
ORS = OR REVISED STATUTES	FRANCHISES CH 9	S60 TENT, FINAL PLAT DRAW	
OAR = OR ADMIN RULES		S70 PROCESS & PURPOSE	
		S80 FINAL APPROVE & FILE	
		FA APPEAL - CIRCUIT COURT	



Safety tips and bike laws

Be predictable! Be alert! Be prepared!

Obey traffic signs and lights

Use hand signals when biking

Go slowly on sidewalks when biking and ride in the roadway when safe

Use caution when cars are turning across bike lanes or through sidewalks

Be visible! Where bright clothing

Ride and walk so drivers can see you and predict your movements

Why walk and bike to school?

Walking and biking promotes healthy, active living and is a great source of exercise! It can promote weight loss and heighten energy levels. Walking and biking also reduces the need to drive, which cost money and produce greenhouse emissions. METRO found that households that walk and cycle as the primary modes of travel save an average of \$694 per month."

Additional Resources

Visit the state and national Safe Routes to

School program websites for more information about safe routes in the community and safe walking and biking practices. Also, METRO and the Bicycle Transportation Alliance (BTA) also have great resources for families. See the following websites below.

www.saferoutes.org

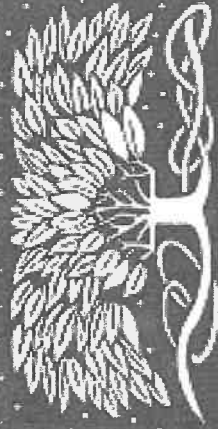
www.bta.org

www.metro.gov/drivelessavemore

www.oregonsaferoutes.org

CedarOak Park Primary School

4515 S CedarOak Drive
West Linn, OR 97068
www.wlww.k12.or.us



**CEDAR OAK
PARK
PRIMARY
SCHOOL**

Walk and

Bike To

School!

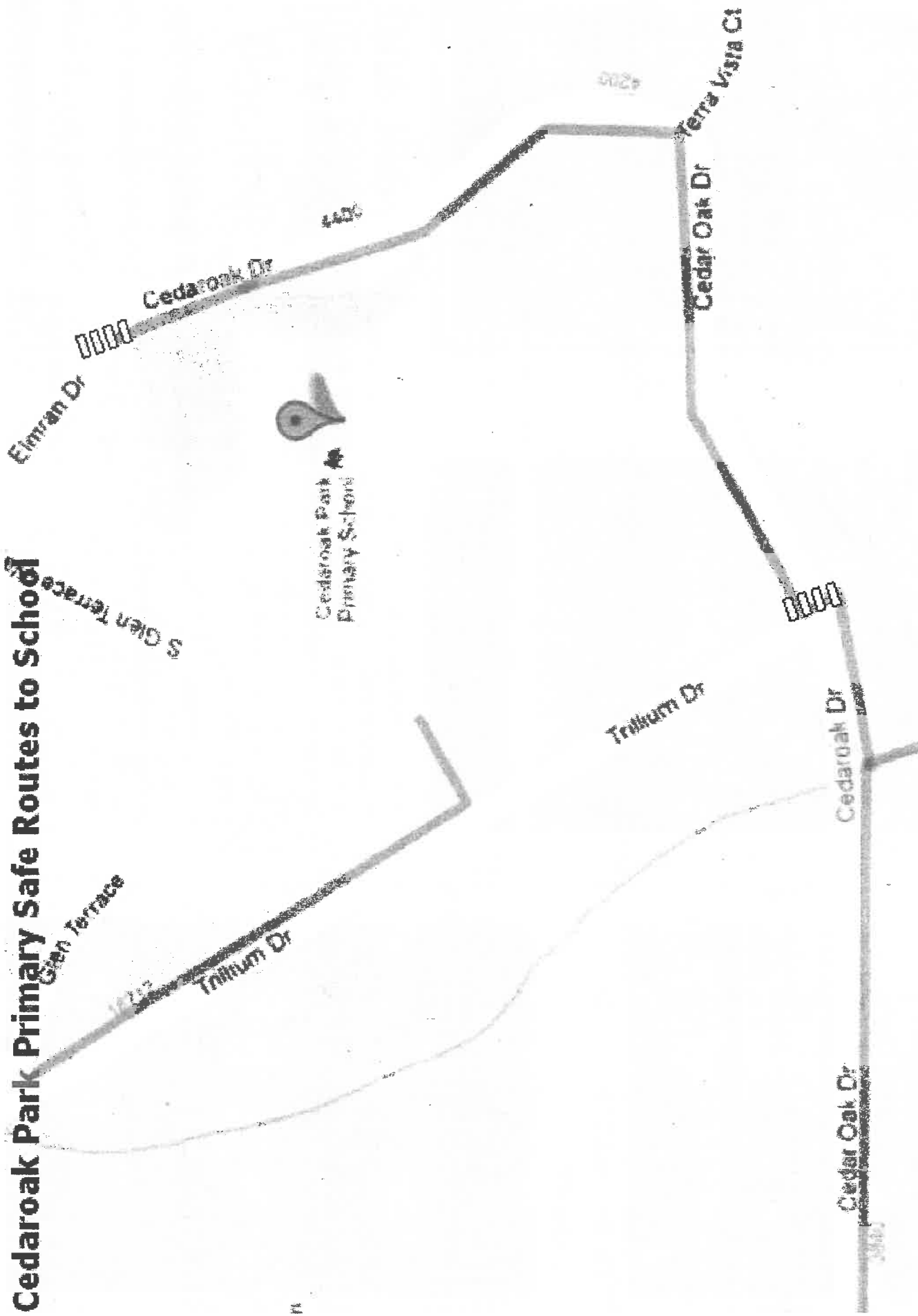
**OPERATION'S
503-673-7995
MARCH 5, 2024
PAT M. MADD
OPERATION'S, COO
503-673-7979**

**NEW WL CITY ENGINEER A guide and map
ERIC LAIS**

**to encourage safe
walking and biking**

**PAT M. MADD
KNOWLEDGE OF
2/12/2024 DESIGN**

CedarOak Park Primary Safe Routes to School



Developed collaboratively with parents, the school principal, community members, School District staff and with support from the City of West Linn

(Safe Routes to Schools)**184.740 Safe Routes to Schools Fund.**

(1) The Safe Routes to Schools Fund is established separate and distinct from the General Fund. Interest earned by the Safe Routes to Schools Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Transportation to implement a safe routes to schools program as described in ORS 184.741 and to fund projects described in ORS 184.742.

(2) The department may apply for, accept, receive and disburse gifts, grants, donations and other moneys from the federal government or from any other source to carry out a safe routes to schools program. Moneys received by the department under this subsection shall be deposited in the Safe Routes to Schools Fund.

(3) The department, in consultation with the Transportation Safety Committee, may award grants from the Safe Routes to Schools Fund to applicants who comply with criteria adopted by the department under ORS 184.741 or who qualify under ORS 184.742. [2005 c.484 §1; 2017 c.750 §124]

184.741 Safe routes to schools program; rules. (1) The Department of Transportation, in consultation with the Transportation Safety Committee, shall establish a safe routes to schools program to assist communities in identifying and reducing barriers and hazards to children walking or bicycling to and from school.

(2) The department may provide the following kinds of assistance:

- (a) Grants;
- (b) Technical services and advice;
- (c) Public information and education; and
- (d) Evaluation and measurement of community programs.

(3) If the department awards grants under this section:

(a) The department shall award grants for all of the following:

- (A) Education;
- (B) Engineering; and
- (C) Enforcement;

(b) No one grant is required to include moneys for all the components specified in paragraph (a) of this subsection; and

(c) The department shall adopt rules specifying criteria that will be used in awarding grants.

(4) A city, county or school district that has developed or is preparing to develop a plan described in ORS 195.115 to reduce barriers and hazards to children walking or bicycling to and from school may apply to the department for assistance in developing or carrying out the plan. [2005 c.484 §2]

184.742 Matching grant program; rules. (1) The Oregon Transportation Commission may provide matching grants under this section for safety improvement projects near schools.

(2) To qualify for a matching grant an applicant shall:

(a) Demonstrate that a project fits within the applicable plan developed pursuant to ORS 195.115;

(b) Provide a cash match of at least 40 percent of the project's costs; and

(c) Provide any other information required by the commission.

(3) Notwithstanding subsection (2) of this section, by rule, the commission may reduce the amount the applicant must provide for a cash match.

(4) The commission shall prioritize the expenditure of funds as authorized under this section for projects that are located within a two-mile radius of a school that serves students in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels.

(5) The matching grants shall be used to reduce barriers and hazards to children walking or bicycling to and from school, including but not limited to safety improvement projects that:

- (a) Improve sidewalks;
- (b) Reduce vehicle speeds;
- (c) Improve pedestrian and bicycle crossings; or
- (d) Create or improve bicycle lanes.

(6) The commission may adopt rules specifying the application process and the selection criteria that will be used in awarding matching grants. [2017 c.750 §123; 2023 c.400 §1]

195.115 Reducing barriers for pedestrian and bicycle access to schools. City and county governing bodies shall work with school district personnel to identify barriers and hazards to children walking or bicycling to and from school. The cities, counties and districts may develop a plan for the funding of improvements designed to reduce the barriers and hazards identified. [2001 c.940 §1]

Note: 195.115 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 195 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

OLE'S NOTE: SEE OAR 737-025-0000

OREGON SAFE ROUTES TO SCHOOL FUND

737-025-0000

Purpose of the Rules

ORS 184.740 establishes the Safe Routes to School Fund to assist communities in identifying and reducing barriers and hazards to children walking or bicycling to and from school. The purpose of the rules in division 25 is to establish the criteria used in awarding grants from the Safe Routes to School Fund.

Stat. Auth: ORS 184.616, 184.619, 184.740 & 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0010

Definitions and Acronyms

For the purposes of Division 25 rules, the following definitions apply:

(1) "Action Plan" means the plan developed to fulfill the requirements of ORS 195.115 and OAR 737-025-0050(3) and that meets the requirements of 737-025-0060.

(2) "Applicant" means an entity that qualifies under OAR 737-025-0030.

(3) "Application" means the form, prescribed by the Transportation Safety Division (TSD), and all supplemental attachments, exhibits or other supporting papers required by OAR 737-025-0050 when applying for a Safe Routes to School Fund grant.

(4) "Education" means public-awareness and encouragement campaigns, outreach to press and community leaders, bicycle and pedestrian safety programs and activities, traffic education, training, and the evaluation of such activities.

(5) "Endorsement" means support and approval as required in OAR 737-025-0030.

(6) "Enforcement" means law enforcement operations and equipment relating to school zones, crosswalks, speed; crossing guard activities and supplies; and evaluation of such activities.

(7) "Engineering" means planning, design, construction, and evaluation of infrastructure-related projects.

(8) "Letter of commitment" means a letter from the governing body (or bodies) or the school or school district, stating their willingness to participate in the project, as well as their endorsement of the project.

(9) "Letter of Interest" means the preliminary letter, in a format prescribed by TSD as referenced in OAR 737-025-0050.

(10) "Non-Profit" means an organization or group of organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code; or is organized not for profit, pursuant to ORS Chapter 65, or any predecessor of ORS Chapter 65; or is otherwise organized and operated under section 501(c) of the Internal Revenue Code.

(11) "OTSC" means the Oregon Transportation Safety Committee, the Governor-appointed committee that advises ODOT as defined in ORS 802.300.

(12) "Qualifying School" means a public, private, parochial, charter or alternative educational program offering instruction at levels kindergarten through eighth grade, or any part thereof

(13) "School district" means:

(a) A school district as defined in ORS 330.003.

(b) The Oregon State School for the Blind.

(c) The Oregon State School for the Deaf.

(d) An educational program under the Youth Corrections Education Program.

(e) A public charter school as defined in ORS 338.005.

(f) An education service district.

(14) "SRTS" means Safe Routes to School.

(15) "SRTS Fund" means the Safe Routes to School Fund established under ORS 184.740.

(16) "Safe Routes to School Advisory Committee" means the volunteer advisory group that gives advice and direction to the Safe Routes to School Program.

(17) "TSD" means the Transportation Safety Division, a division of the Oregon Department of Transportation.

NOTE

(18) "Traffic safety committee" means a local government advisory body charged with traffic safety. Alternately, a local non-profit, such as a coalition or neighborhood association, which specifically includes traffic safety in their charter or charge from one or more government bodies can fulfill this role in the absence of a committee.

(19) "Walking or bicycling" means use of human-powered forms of transportation, including, but not limited to, walking, or use of bicycles, bike trailers, skateboards, scooters, rollerblades, skates and wheelchairs.

Stat. Auth: ORS 184.616, 184.619, 184.740 & 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06; TSD 2-2014, f. & cert. ef. 2-26-14

737-025-0020

Application Procedure

(1) TSD will announce periods for submitting applications for grants from the Safe Routes to School Fund. Applications will not be accepted at times outside an announced application period.

(2) Applicants for projects that are not funded during an application period may reapply during a subsequent application period announced by TSD.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0030

Who May Apply

Eligible applicants for SRTS Fund grants include:

(1) A school district, or a qualifying school not represented by a school district, in cooperation with the governing body (or bodies) with jurisdiction over the affected roadways or properties. The school district, or qualifying school not represented by a school district, must submit letters of commitment from such governing bodies stating their participation and endorsement as applicable to the project;

(2) A city, county, state, regional government body, transit district or other unit of local government as defined by ORS 190.003, in cooperation with a school district or a qualifying school. The governing body must submit a letter of commitment from the qualifying school or affected school district stating its participation or endorsement as applicable to the project;

(3) A non-profit organization in partnership with a school district, qualifying school, or one of the governmental bodies identified in section (1) or (2) of this rule. The application must include appropriate letters of commitment from the affected governing bodies. Additionally, if the organization is not a school, the application must include a letter of commitment from the affected school district, if applicable, stating its participation or endorsement. The school district, if applicable, or one of the governing bodies with jurisdiction over the affected roadways or properties, must confirm their willingness to take legal and financial responsibility for the infrastructure portion of the project.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0040

Eligible Projects and Activities

(1) Grants awarded through the Safe Routes to School Program may be used for projects or activities in:

(a) Education

(b) Engineering;

(c) Enforcement; or

(d) Any combination of the above.

(2) All projects and activities must directly benefit a qualifying school.

(3) All projects and activities must meet the eligibility criteria applicable to the specific funds being dispensed through the SRTS Fund.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0050

Grant Application Requirements

An applicant applying for a grant from the SRTS Fund must submit the following documents to TSD:

- (1) A Letter of Interest, if the application announcement indicates it is required for that specific funding cycle.
- (2) A completed application in a format prescribed by TSD and containing or accompanied by such information as TSD may require.
- (3) An Action Plan which meets TSD requirements, or a commitment to independently complete an Action Plan within a specified time, or a request for assistance to complete an Action Plan (as allowed by ORS 184.741).

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0060

Action Plan

Action Plans submitted to fulfill the requirements of OAR 737-025-0050 for each school identified for a SRTS project or activity must:

- (1) Outline existing conditions and attitudes that have been identified as barriers and hazards to children walking or bicycling to and from school, as required by ORS 195.115.

- (2) List the most critical actions needed to reach the Action Plan's stated goals in the areas of education, engineering, and enforcement.

- (3) Be a product of a coalition of local interested parties that must include representation of the following groups (a single person may fulfill multiple representations):

- (a) School Principal or designated school staff representative endorsed by the school district, if one exists;

- (b) A parent who is a representative of or has the endorsement of a recognized school/parent organization, if one exists;

- (c) City or county staff or representative endorsed by the local road authority;

- (d) Local traffic safety committee, if one exists.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0070

Project Selection Criteria

The following criteria will be used to select projects to receive SRTS Fund grants:

- (1) Technical Merit:

- (a) Conformance to the local transportation plan, state land use laws and appropriate federal, state and local planning and programming requirements.

- (b) Adherence to appropriate design standards or methodology.

- (c) Appropriate scope of work in relation to identified needs.

- (d) Emphasis on best practices learned from successful SRTS programs.

- (e) Efficient and cost-effective use of funds.

- (2) Benefit:

- (a) Potential to improve the ability of students to walk and bicycle to school.

- (b) Potential to reduce or avoid child injuries and fatalities.

- (c) Potential to create a more livable community by reducing the barriers and hazards to children walking or bicycling to school.

- (d) Potential to create a safer walking and bicycling built environment within approximately two miles of a school. Highest priority will be given for projects within one-half mile of a qualifying school.

- (3) Support and readiness:

- (a) Support of the school district, if applicable, and governing body for the project as demonstrated by a letter of commitment and endorsement.

- (b) Readiness to proceed with the project as demonstrated by a proposed start date, identification of other available funding, or other indicators as provided by the applicant.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0080

Project Selection and Awarding Grants

- (1) TSD will review the applications to determine if:

- (a) The Applicant and the project are eligible for a SRTS Fund grant; and

- (b) The project proposal complies with the appropriate standards or practices for the work described.

- (2) The Safe Routes to School Advisory Committee will evaluate eligible applications and submit funding recommendations to the TSD Administrator.

- (3) The TSD Administrator will select projects and award grants based on the criteria established in OAR 737-025-0070.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

(a) A bicycle is a vehicle for purposes of the vehicle code; and

(b) When the term "vehicle" is used the term shall be deemed to be applicable to bicycles.

(3) The provisions of the vehicle code relating to the operation of bicycles do not relieve a bicyclist or motorist from the duty to exercise due care. [1983 c.338 §697; 1985 c.16 §335]

814.405 Status of electric assisted bicycle. An electric assisted bicycle shall be considered a bicycle, rather than a motor vehicle, for purposes of the Oregon Vehicle Code, except when otherwise specifically provided by statute. [1997 c.400 §4]

814.410 Unsafe operation of bicycle on sidewalk; penalty. (1) A person commits the offense of unsafe operation of a bicycle on a sidewalk if the person does any of the following:

(a) Operates the bicycle so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

(b) Operates a bicycle upon a sidewalk and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right of way to all pedestrians on the sidewalk.

(c) Operates a bicycle on a sidewalk in a careless manner that endangers or would be likely to endanger any person or property.

(d) Operates the bicycle at a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp. This paragraph does not require reduced speeds for bicycles at places on sidewalks or other pedestrian ways other than places where the path for pedestrians or bicycle traffic approaches or crosses that for motor vehicle traffic.

(e) Operates an electric assisted bicycle on a sidewalk.

(2) Except as otherwise specifically provided by law, a bicyclist on a sidewalk or in a crosswalk has the same rights and duties as a pedestrian on a sidewalk or in a crosswalk.

(3) The offense described in this section, unsafe operation of a bicycle on a sidewalk, is a Class D traffic violation. [1983 c.338 §699; 1985 c.16 §337; 1997 c.400 §7; 2005 c.316 §2]

BICYCLES

814.400 Application of vehicle laws to bicycles. (1) Every person riding a bicycle upon a public way is subject to the provisions applicable to and has the same rights and duties as the driver of any other vehicle concerning operating on highways, vehicle equipment and abandoned vehicles, except:

(a) Those provisions which by their very nature can have no application.

(b) When otherwise specifically provided under the vehicle code.

(2) Subject to the provisions of subsection (1) of this section:

814.414 Improper entry into intersection controlled by stop sign; penalty.

(1) A person operating a bicycle who is approaching an intersection where traffic is

controlled by a stop sign may, without violating ORS 811.265, do any of the following without stopping if the person slows the bicycle to a safe speed:

- (a) Proceed through the intersection.
- (b) Make a right or left turn into a two-way street.
- (c) Make a right or left turn into a one-way street in the direction of traffic upon the one-way street.

(2) A person commits the offense of improper entry into an intersection where traffic is controlled by a stop sign if the person does any of the following while proceeding as described in subsection (1) of this section:

- (a) Fails to yield the right of way to traffic lawfully within the intersection or approaching so close as to constitute an immediate hazard;
- (b) Disobeys the directions of a police officer or flagger, as defined in ORS 811.230;
- (c) Fails to exercise care to avoid an accident; or
- (d) Fails to yield the right of way to a pedestrian in an intersection or crosswalk under ORS 811.028.

(3) The offense described in this section, improper entry into an intersection where traffic is controlled by a stop sign, is a Class D traffic violation. [2019 c.683 §2]

814.416 Improper entry into intersection controlled by flashing red signal; penalty. (1) A person operating a bicycle who is approaching an intersection where traffic is controlled by a flashing red signal may, without violating ORS 811.265, do any of the following without stopping if the person slows the bicycle to a safe speed:

- (a) Proceed through the intersection.
- (b) Make a right or left turn into a two-way street.
- (c) Make a right or left turn into a one-way street in the direction of traffic upon the one-way street.

(2) A person commits the offense of improper entry into an intersection where traffic is controlled by a flashing red signal if the person does any of the following while proceeding as described in subsection (1) of this section:

- (a) Fails to yield the right of way to traffic lawfully within the intersection or approaching so close as to constitute an immediate hazard;
- (b) Disobeys the directions of a police officer;
- (c) Fails to exercise care to avoid an accident; or

(d) Fails to yield the right of way to a pedestrian in an intersection or crosswalk under ORS 811.028.

(3) The offense described in this section, improper entry into an intersection where traffic is controlled by a flashing red signal, is a Class D traffic violation. [2019 c.683 §3]

814.420 Failure to use bicycle lane or path; exceptions; penalty. (1) Except as provided in subsections (2) and (3) of this section, a person commits the offense of failure to use a bicycle lane or path if the person operates a bicycle on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle path is adjacent to or near the roadway.

(2) A person is not required to comply with this section unless the state or local authority with jurisdiction over the roadway finds, after public hearing, that the bicycle lane or bicycle path is suitable for safe bicycle use at reasonable rates of speed.

(3) A person is not in violation of the offense under this section if the person is able to safely move out of the bicycle lane or path for the purpose of:

(a) Overtaking and passing another bicycle, a vehicle or a pedestrian that is in the bicycle lane or path and passage cannot safely be made in the lane or path.

(b) Preparing to execute a left turn at an intersection or into a private road or driveway.

(c) Avoiding debris or other hazardous conditions.

(d) Preparing to execute a right turn where a right turn is authorized.

(e) Continuing straight at an intersection where the bicycle lane or path is to the right of a lane from which a motor vehicle must turn right.

(4) The offense described in this section, failure to use a bicycle lane or path, is a Class D traffic violation. [1983 c.338 §700; 1985 c.16 §338; 2005 c.316 §3]

814.430 Improper use of lanes; exceptions; penalty. (1) A person commits the offense of improper use of lanes by a bicycle if the person is operating a bicycle on a roadway at less than the normal speed of traffic using the roadway at that time and place under the existing conditions and the person does not ride as close as practicable to the right curb or edge of the roadway.

(2) A person is not in violation of the offense under this section if the person is not operating a bicycle as close as practicable to the right curb or edge of the roadway under any of the following circumstances:

(a) When overtaking and passing another bicycle or vehicle that is proceeding in the same direction.

(b) When preparing to execute a left turn.

(c) When reasonably necessary to avoid hazardous conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or other conditions that make continued operation along the right curb or edge unsafe or to avoid unsafe operation in a lane on the roadway that is too narrow for a bicycle and vehicle to travel safely side by side. Nothing in this paragraph excuses the operator of a bicycle from the requirements under ORS 811.425 or from the penalties for failure to comply with those requirements.

(d) When operating within a city as near as practicable to the left curb or edge of a roadway that is designated to allow traffic to move in only one direction along the roadway. A bicycle that is operated under this paragraph is subject to the same requirements and exceptions when operating along the left curb or edge as are applicable when a bicycle is operating along the right curb or edge of the roadway.

(e) When operating a bicycle alongside not more than one other bicycle as long as the bicycles are both being operated within a single lane and in a manner that does not impede the normal and reasonable movement of traffic.

(f) When operating on a bicycle lane or bicycle path.

(3) The offense described in this section, improper use of lanes by a bicycle, is a Class D traffic violation. [1983 c.338 §701; 1985 c.16 §339]

814.440 Failure to signal turn; exceptions; penalty. (1) A person commits the offense of failure to signal for a bicycle turn if the person does any of the following:

(a) Stops a bicycle the person is operating without giving the appropriate hand and arm signal continuously for at least 100 feet before executing the stop.

(b) Executes a turn on a bicycle the person is operating without giving the appropriate hand and arm signal for the turn for at least 100 feet before executing the turn.

(c) Executes a turn on a bicycle the person is operating after having been stopped without giving, while stopped, the appropriate hand and arm signal for the turn.

(2) A person is not in violation of the offense under this section if the person is operating a bicycle and does not give the appropriate signal continuously for a stop or turn because circumstances require that both

hands be used to safely control or operate the bicycle.

(3) The appropriate hand and arm signals for indicating turns and stops under this section are those provided for other vehicles under ORS 811.395 and 811.400.

(4) The offense described under this section, failure to signal for a bicycle turn, is a Class D traffic violation. [1983 c.338 §703; 1985 c.16 §341]

814.450 Unlawful load on bicycle; penalty. (1) A person commits the offense of having an unlawful load on a bicycle if the person is operating a bicycle and the person carries a package, bundle or article which prevents the person from keeping at least one hand upon the handlebar and having full control at all times.

(2) The offense described in this section, unlawful load on a bicycle, is a Class D traffic violation. [1983 c.338 §704]

814.460 Unlawful passengers on bicycle; penalty. (1) A person commits the offense of unlawful passengers on a bicycle if the person operates a bicycle and carries more persons on the bicycle than the number for which it is designed or safely equipped.

(2) The offense described in this section, unlawful passengers on a bicycle, is a Class D traffic violation. [1983 c.338 §705]

814.470 Failure to use bicycle seat; penalty. (1) A person commits the offense of failure to use a bicycle seat if the person is operating a bicycle and the person rides other than upon or astride a permanent and regular seat attached to the bicycle.

(2) The offense described in this section, failure to use a bicycle seat, is a Class D traffic violation. [1983 c.338 §706; 2003 c.341 §13; 2015 c.138 §26]

814.480 Nonmotorized vehicle clinging to another vehicle; penalty. (1) A person commits the offense of nonmotorized vehicle clinging to another vehicle if the person is riding upon or operating a bicycle, coaster, roller skates, sled or toy vehicle and the person clings to another vehicle upon a roadway or attaches that which the person is riding or operating to any other vehicle upon a roadway.

(2) The offense described in this section, nonmotorized vehicle clinging to another vehicle, is a Class D traffic violation. [1983 c.338 §707]

814.484 Meaning of "bicycle" and "operating or riding on a highway." (1) For purposes of ORS 814.485, 814.486, 815.052 and 815.281, "bicycle" has the meaning given in ORS 801.150 except that:

(a) It also includes vehicles that meet the criteria specified in ORS 801.150 (1) to (4) but

that have wheels that are 14 inches or less in diameter.

(b) It does not include tricycles designed to be ridden by children.

(2) For purposes of the offenses defined in ORS 814.485, 814.486 and 815.281 (2), a person shall not be considered to be operating or riding on a bicycle on a highway or on premises open to the public if the person is operating or riding on a three-wheeled nonmotorized vehicle on a beach while it is closed to motor vehicle traffic. [1993 c.408 §§3a,3b; 2015 c.138 §28]

814.485 Failure to wear protective headgear; penalty. (1) A person commits the offense of failure of a bicycle operator or rider to wear protective headgear if the person is under 16 years of age, operates or rides on a bicycle on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) Exemptions from this section are as provided in ORS 814.487.

(3) The offense described in this section, failure of a bicycle operator or rider to wear protective headgear, is a specific fine traffic violation. The presumptive fine for failure of a bicycle operator or rider to wear protective headgear is \$25. [1993 c.408 §2; 1995 c.581 §1; 2011 c.597 §103]

814.486 Endangering bicycle operator or passenger; penalty. (1) A person commits the offense of endangering a bicycle operator or passenger if:

(a) The person is operating a bicycle on a highway or on premises open to the public and the person carries another person on the bicycle who is under 16 years of age and is not wearing protective headgear of a type approved under ORS 815.052; or

(b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and the child operates or rides on a bicycle on a highway or on premises open to the public without wearing protective headgear of a type approved under ORS 815.052.

(2) Exemptions from this section are as provided in ORS 814.487.

(3) The offense described in this section, endangering a bicycle operator or passenger, is a specific fine traffic violation. The presumptive fine for endangering a bicycle operator or passenger is \$25. [1993 c.408 §3; 1995 c.581 §2; 2011 c.597 §104]

814.487 Exemptions from protective headgear requirements. A person is exempt from the requirements under ORS 814.485 and 814.486 to wear protective headgear, if

wearing the headgear would violate a religious belief or practice of the person. [1995 c.581 §4]

814.488 Citations; exemption from requirement to pay fine. (1) If a child in violation of ORS 814.485 is 11 years of age or younger, any citation issued shall be issued to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 814.486, rather than to the child for violation of ORS 814.485.

(2) If a child in violation of ORS 814.485 is at least 12 years of age and is under 16 years of age, a citation may be issued to the child for violation of ORS 814.485 or to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 814.486, but not to both.

(3) The first time a person is convicted of an offense described in ORS 814.485 or 814.486, the person shall not be required to pay a fine if the person proves to the satisfaction of the court that the person has protective headgear of a type approved under ORS 815.052. [1993 c.408 §§3c,7]

814.489 Use of evidence of lack of protective headgear on bicyclist. Evidence of violation of ORS 814.485 or 814.486 and evidence of lack of protective headgear shall not be admissible, applicable or effective to reduce the amount of damages or to constitute a defense to an action for damages brought by or on behalf of an injured bicyclist or bicycle passenger or the survivors of a deceased bicyclist or passenger if the bicyclist or passenger was injured or killed as a result in whole or in part of the fault of another. [1993 c.408 §8]

MOTORIZED WHEELCHAIRS

814.500 Rights and duties of person riding motorized wheelchair on bicycle lane or path. Every person riding a motorized wheelchair on a bicycle lane or path is subject to the provisions applicable to and has the same rights and duties as the driver of a bicycle when operating on a bicycle lane or path, except:

(1) When those provisions which by their very nature can have no application.

(2) When otherwise specifically provided under the vehicle code. [1991 c.417 §3]

MOTOR ASSISTED SCOOTERS

814.510 Application of vehicle laws to motor assisted scooters. An operator of a motor assisted scooter upon a public way is subject to the provisions applicable to, and has the same rights and duties as the opera-