

## ORDINANCE NO. 1739

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

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~lined through~~ and additions are **bold underlined**.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides: Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the City Council, in response to policy questions regarding when and where street improvements were required, prioritized a project on the West Linn Planning Docket to develop a package of text amendments with the goal of increasing clarity and consistency within Chapter 96 of the Community Development Code regarding development standards and process requirements applicable to the construction of street improvements for single-lot development; and

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

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

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

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

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

**WHEREAS**, the City Council continued the October 10, 2022 public hearing to a date certain of December 12, 2022; and

**WHEREAS**, the City Council held a public hearing, which was noticed in accordance with City standards, on December 12, 2022, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

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

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

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

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

**SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 4. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 5. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-4) need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

**SECTION 6. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

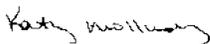
The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the 12th day of December 2022, and duly PASSED and ADOPTED this 12th day of December 2022.



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RORY BIALOSTOSKY, COUNCIL PRESIDENT

ATTEST:



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KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:



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CITY ATTORNEY

Chapter 02  
DEFINITIONS

Sections:

02.010 INTERPRETATION

02.030 SPECIFIC TERMS AND WORDS

2.010 INTERPRETATION

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

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

02.030 SPECIFIC WORDS AND TERMS

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

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

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

**Renovate. To restore to a former better state by cleaning and repairing in-kind.**

Chapter 96  
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Fee-in-Lieu

96.030 Standards

96.010 CONSTRUCTION REQUIRED

- A. Street improvements for residential construction are required when:
1. Construction of a new single-family attached or detached structure (Replacement of an existing structure is exempt); or
  2. Replacement of a single-family home increases the square feet by 50 percent or greater; or
  3. Construction of a new multi-family structure; or
  4. Increase in dwelling unit density on-site (Accessory Dwelling Units are exempt).
- B. Street improvements for commercial construction are required when:
1. Construction of a new commercial structure; or
  2. Remodel of an existing commercial structure with an increase in floor area that requires additional parking; or
  3. Change in use that requires additional parking; or
  4. Construction that increases the dwelling unit density on-site; or
  5. Construction which requires a change in type, number, or location of accessways; or
  6. Replacement of an existing structure that requires additional parking.

96.020 FEE-IN-LIEU

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

**96.030 STANDARDS**

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

Chapter 96  
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Standards

96.010 CONSTRUCTION REQUIRED

A. ~~New construction.~~

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

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

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

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

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

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

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

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

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

~~a. An increase in floor area which creates the need for additional on-site parking in accordance with the Community Development Code; or~~

~~b. A change in use that results in a need for additional on-site parking; or~~

~~c. An increase in the dwelling unit density on the site; or~~

~~d. A change in the type, number, or location of accessways where off-site traffic will be affected.~~

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

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

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

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

~~b. The City Manager or the Manager's designee determines the the replacement is sufficiently increased in size to cause construction of street improvements.~~

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

#### 96.020 STANDARDS

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