



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us

### NOTICE OF ADOPTED AMENDMENT

February 28, 2007



TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of West Linn Plan Amendment  
DLCD File Number 002-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 13, 2007**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Stacy Humphrey, DLCD Regional Representative  
Gordon Howard, City of West Linn

<paa> ya/

# Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person  electronic  mailed

DATE  
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DEPT OF

FEB 27 2007

LAND CONSERVATION  
AND DEVELOPMENT  
For DLCD Use Only

Jurisdiction: **West Linn**

Local file number: **MIS 05-46**

Date of Adoption: **1/22/2007**

Date Mailed: **2/20/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 3/21/2006

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amendments to the West Linn Community Development Code to require adequate public facilities as a criteria for approval of development review projects. Amendments that will require street frontage improvements for all new development proposals, including building permits without additional discretionary review required.

Does the Adoption differ from proposal? Yes, Please explain below:

Language was revised in minor ways during the public hearings process. The biggest changes were 1) the addition of language suggested by ODOT regarding major transportation facilities, and 2) the addition of language requiring street frontage improvements for all projects unless expressly prohibited by the West Linn Transportation System Plan.

Plan Map Changed from: **n/a**

to:

Zone Map Changed from: **n/a**

to:

Location: **city-wide**

Acres Involved: **0**

Specify Density: Previous: **n/a**

New:

Applicable statewide planning goals:

- |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                                     |                                     |                          |                          |                          |                          |                          |                          |                          |
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| <b>1</b>                 | <b>2</b>                 | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                           | <b>12</b>                           | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

DLCD # 002-06 (15104)

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

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**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

DLCD File No. 002-06. Affected agencies: Metro, ODOT, Clackamas County

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Local Contact: **Gordon Howard**

Phone: (503) 697-7967 Extension:

Address: **22500 Salamo Road**

Fax Number: **503-656-4106**

City: **West Linn**

Zip: **97068-**

E-mail Address: **ghoward@ci.west-linn.or.us**

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## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**

per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

**ORDINANCE NO. 1544  
WEST LINN, OREGON**

AN ORDINANCE AMENDING THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTERS 2, 55, 60, 85, 92, and 96 RELATED TO THE ISSUE OF ADEQUATE PUBLIC FACILITIES

**WHEREAS**, the West Linn Planning Director, pursuant to his authority under West Linn Community Development Code (CDC,) Section 98.030(A)(1)(c), initiated a legislative Community Development Code amendment regarding the issue of adequate public facilities for new development; and,

**WHEREAS**, the City provided legislative notice pursuant to CDC Section 98.070, and also provided notice to the Oregon Department of Land Conservation and Development pursuant to State Administrative Rules; and,

**WHEREAS**, the West Linn Planning Commission conducted public hearings on the staff recommended code amendments and reviewed the staff-prepared findings of fact on September 28 and December 14, 2005; and,

**WHEREAS**, the West Linn Planning Commission recommended that the staff proposed amendments as amended by the Commission be adopted by the City Council and incorporated into the West Linn Community Development Code; and

**WHEREAS**, the West Linn City Council reviewed the staff report and Planning Commission recommendation at a public hearing on January 22, 2007, and found the facts and recommendations contained therein to be true and correct; and

**WHEREAS**, the City Council determined that the amendments will require that new development projects ensure that adequate public facilities are available prior to approval of any such projects, pursuant to the specifics of the adopted language' and

**WHEREAS**, the proposed amendments will also ensure that as "infill" development and redevelopment on existing city lots occurs, such development will provide adequate street improvements to current city standards, or will provide an adequate alternative for the impact of such development on the overall street system;

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

Section One: The Community Development Code is hereby amended as follows (deletions bold and struck-out, additions bold and underlined):

**02.000        DEFINITIONS**

**02.030        SPECIFIC WORDS AND TERMS**

**Adequate Public Facilities: Public facilities that must be adequate for an application for new construction, remodeling, or replacement of an existing structure, to be approved are transportation, water, sewer, and storm sewer facilities. To be adequate, on-site and adjacent facilities must meet City standards, and off-site facilities must have sufficient capacity to 1) meet all existing demands, 2) satisfy the projected demands from projects with existing land use approvals, plus the additional demand created by the application, and 3) remain compliant with all applicable standards.**

**For purposes of evaluating discretionary permits in situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard, and an improvement project is not programmed, the approval criteria shall be that the development avoids further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard at least to existing conditions at the time of occupancy.**

**Remodeling: The alteration of the physical condition of more than 50% of the floor area of an existing structure. Remodeling does not include normal maintenance or repair.**

**Replacement: The removal of an existing structure and placement of a new structure on the site of the removed structure or elsewhere on the same lot. For purposes of this definition, diminution of an existing structure by more than 50% of its floor area shall constitute its removal. The replacement of a home destroyed by fire or any other natural forces is exempt from this definition.**

**55.000        DESIGN REVIEW**

**55.090        APPROVAL STANDARDS - CLASS I DESIGN REVIEW**

**B. An application may be approved only if adequate public facilities will be available to provide service to the property at the time of occupancy.**

**BC.** The Planning Director shall determine the applicability of the approval criteria in 55.090(A), above.

**55.100        APPROVAL STANDARDS - CLASS II DESIGN REVIEW**

I. Public facilities.

**An application may be approved only if adequate public facilities will be available to provide service to the property prior to occupancy.**

1. Streets

**Based upon the City Manager or the Manager's designee's determination, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 55.125 that are required to mitigate impacts from the proposed development. Proportionate share of the costs shall be determined by the City Manager or the Manager's designee who shall assume that the proposed development provides improvements in rough proportion to identified impacts of the development.**

**60.000**

**CONDITIONAL USES**

**60.070**

**APPROVAL STANDARDS AND CONDITIONS**

A. The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, except for a manufactured home subdivision in which case the approval standards and conditions shall be those specified in Section 36.030, or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:

4. **All required Adequate public facilities have adequate capacity to serve the proposal will be available to provide service to the property at the time of occupancy.**
7. The use will comply with the applicable policies of the Comprehensive Plan **including the Transportation System Plan.**

C. The Planning Commission may impose conditions on its approval of a conditional use which it finds are necessary to assure the use is compatible with other uses in the vicinity. These conditions may include, but are not limited to, the following:

6. Requiring street right-of-way to be dedicated and the street to be improved **including all steps necessary to address future street improvements identified in the adopted Transportation System Plan.**
7. **Requiring participation in making the intersection improvement or improvements identified in the Transportation System Plan when a traffic analysis (compiled as an element of a conditional use application for the property) indicates the application should contribute toward.**
78. Requiring landscaping, screening, drainage, and surfacing of parking and loading areas.
89. Limiting the number, size, location, height, and lighting of signs.
910. Limiting or setting standards for the location and intensity of outdoor lighting.

- ~~10~~11. Requiring berming, screening, or landscaping and the establishment of standards for their installation and maintenance.
- ~~11~~12. Requiring and designating the size, height, location, and materials for fences.

~~12~~13. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, and drainage areas.

**LAND DIVISION**

**85.000 GENERAL PROVISIONS**

**85.140 PRE-APPLICATION CONFERENCE REQUIRED**

**C.** **The City Engineering staff shall explain the public improvement requirements which may be applicable to the site and type of proposed land division, including potential for the applicant to apply for a waiver of street improvements.**

**85.160 SUBMITTAL REQUIREMENTS FOR THE TENTATIVE PLAN**

**F.** The following proposed improvements shall be shown on the tentative plan or supplemental drawings:

**3.** **Any proposed infrastructure improvements that address those identified in the City Transportation System Plan.**

**34.** Any proposed bicycle or pedestrian paths. The location of proposed transit stops.

**45.** Any easement(s) - location, width, and purpose of the easement(s).

**56.** The lot configuration including location and approximate dimensions and lot area of each parcel, and in the case of a subdivision, the proposed lot and block number.

**67.** A street tree planting plan and schedule approved by the Parks Department.

**78.** Any land area to be dedicated to the City or put in common ownership.

**89.** Phase boundaries shall be shown.

**85.200 APPROVAL CRITERIA**

No tentative subdivision or partition plan shall be approved unless **adequate public facilities will be available to provide service to the partition or subdivision area prior to final plat approval and** the Planning Commission or Planning Director, as applicable, find that the following standards have been satisfied, or can be satisfied by condition of approval.

**A. Streets**

**1.** **General.** The location, width and grade of streets shall be considered in their relation to existing and planned streets, to the generalized or reasonable layout of streets on adjacent

undeveloped parcels, to topographical conditions, to public convenience and safety, to accommodate various types of transportation (automobile, bus, pedestrian, bicycle), and to the proposed use of land to be served by the streets.

The street system shall assure an adequate traffic or circulation system with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried. Streets should provide for the continuation, or the appropriate projection, of existing principal streets in surrounding areas and should not impede or adversely affect development of adjoining lands or access thereto.

To accomplish this, the emphasis should be upon a connected continuous pattern of local, collector, and arterial streets rather than discontinuous curvilinear streets and cul-de-sacs. Deviation from this pattern of connected streets should only be permitted in cases of extreme topographical challenges including excessive slopes (35 percent plus), hazard areas, steep drainageways, wetlands, etc. In such cases, deviations may be allowed but the connected continuous pattern must be reestablished once the topographic challenge is passed.

Streets should be oriented with consideration of the sun, as site conditions allow, so that over 50 percent of the front building lines of homes are oriented within 30 degrees of an east-west axis.

(ORD. 1382)

Internal streets are the responsibility of the developer. All streets bordering the development site are to be developed by the developer with, typically, half-street improvements or to City standards prescribed by the City Engineer. Additional travel lanes may be required to be consistent with adjacent road widths or to be consistent with the adopted Transportation ~~Master~~ System Plan and any adopted updated plans.

**An applicant may submit a written request for a waiver of abutting street improvements if the Transportation System Plan prohibits the street improvement for which the waiver is requested. ~~Waivers of abutting street improvements may be provided in those cases where the development is limited in size (e.g., 3-lot partition) with limited street frontage, and where the surrounding area is substantially built out and characterized by a lack of street improvements (i.e., curb, gutter, street overlay, etc.).~~ Those areas with numerous (particularly contiguous) under-developed or undeveloped tracts will be required to install street improvements. When an applicant requests a waiver of street improvements and the waiver is granted, a waiver of street improvements is granted, the applicant shall propose a fee amount that will be reviewed by the City Manager or the Manager's designee. The City Manager or the Manager's designee will revise the proposed**



**fee as necessary and establish the amount to be paid on a case by case basis.** ~~€~~The applicant shall pay an in-lieu fee for improvements to the nearest street identified by the City **Manager or the Manager's designee** ~~Engineer~~ as necessary and appropriate. The amount of the in-lieu fee shall be roughly proportional to the impact of the development on the street system **as determined in CDC 85.200(A)(22) below.**

...

22. Based upon the ~~City Engineer's~~ determination **of the City Manager or the Manager's designee,** the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis **commissioned to address CDC 85.170.B.2,** that are required to mitigate impacts from the proposed subdivision. **Proportionate share of the costs shall be determined by the City Manager or the Manager's designee who shall assume that the proposed subdivision provides improvements in rough proportion to identified impacts of the subdivision.**

**92.000      REQUIRED IMPROVEMENTS**

**92.020      IMPROVEMENTS IN PARTITIONS**

The same improvements shall be installed to serve each lot of a partition as is required of a subdivision. However, if the approval authority finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, **at the written request of the applicant** those improvements may be waived. If the street improvement requirements are waived, the applicant shall pay an in-lieu fee for off-site street improvements, pursuant to the provisions of CDC 85.200(A)(1).

**96.000      STREET IMPROVEMENT CONSTRUCTION**

**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 **Engineer** ~~Manager~~ **or the Manager's designee.**
2. If the building permit did not require a prior land use decision, the

applicant shall construction 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, ~~unless the Planning Director, under advisement from the City Engineer, determines that the surrounding area is substantially built out and characterized by a lack of street improvements (i.e., curb, gutter, street overlay, etc.), and that a waiver of street improvements is, therefore, appropriate.~~

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 that the Transportation System Plan prohibits the street improvement for which the waiver is requested.
4. When an applicant applies for and is granted a waiver of street improvements under CDC 96.010(A)(3) is granted, the applicant shall pay an in-lieu fee for improvements to be applied to the nearest street identified by the ~~Planning Director, upon advisement from the City Manager or the Manager's designee~~ Engineer, as necessary and appropriate. The amount of the in-lieu fee shall be determined by the City Manager or the Manager's designee and shall be roughly proportional to the impact of the development on the street system.
5. The ~~City's Planning Director's~~ determination of the appropriate in-lieu fee shall constitute an interpretation of the code, as authorized by CDC 99.060(A)(3), and may be appealed subject to the provisions of CDC Chapter 99.

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 ~~Engineer~~ Manager or the Manager's designee. ~~The City Engineer shall make his~~ This determination shall be based upon finding that the increase in building size or change of use results in either:
  - a1. An increase in floor area which creates the need for additional on-site parking in accordance with the Community Development

Code, or

- b2.** A change in use that results in a need for additional on-site parking, or
- c3.** An increase in the dwelling unit density on the site, or
- d4.** A change in the type, number, or location of accessways where off-site traffic will be affected. (ORD. 1314)


- 3.** **An applicant for a remodeling of an existing building or structure or change of use may apply for a waiver of street improvements and the option to make a payment in lieu of construction utilizing the process described in CDC 96.010.A.3.**

**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 that the replacement structure is sufficiently increased in size to cause construction of street improvements.**

- ED.** Notwithstanding any other provisions of this ordinance, 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.


PASSED AND APPROVED THIS 22<sup>nd</sup> DAY OF JANUARY 2007.

  
\_\_\_\_\_  
NORMAN B. KING, MAYOR

ATTEST:

  
\_\_\_\_\_  
Witness

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney