

ORDINANCE 646

AN ORDINANCE AMENDING CHAPTER IV OF STAYTON'S CITY CODE
REGARDING STANDARD SPECIFICATIONS FOR PUBLIC IMPROVEMENTS AND
STREET, CURB AND SIDEWALK IMPROVEMENT REQUIREMENTS.

WHEREAS, City Code Sections 4.005 to 4.995 govern the standard specifications for all public improvements in the City and also govern installation requirements for street, curb and sidewalk improvements in the City of Stayton; and

WHEREAS, the construction of street, curb and sidewalk improvements is required to provide safe thoroughfares for vehicles and pedestrians and to enhance the appearance of the community; and

WHEREAS, property owners may request that the City Council grant a waiver or deferral of the street, sidewalk and/or curb improvements at the time a person applies for a building permit; and,

WHEREAS, there are instances where deferrals may be logically granted to property owners to postpone or waive the construction of street, curbs and/or sidewalks; and

WHEREAS, the Council wishes to clarify city policies related to street, curb and sidewalk improvements by setting criteria when exemptions and waivers from these requirements are appropriate;

THE CITY OF STAYTON ORDAINS AS FOLLOWS:

SECTION 1.

Stayton City Code Sections 4.005 to 4.995 are hereby amended to read:

PUBLIC IMPROVEMENTS

GENERAL PROVISIONS

4.005 Standard Specifications - Adopted, Where on File.

1. A certain set of documents entitled "Standard Specifications for Public Works Construction in the City of Stayton, Oregon," consisting of four (4) sections, prepared by the consulting Engineer for the City, is adopted as the standard specifications for public works construction in the City. A copy of the specifications is available for inspection or purchase at reasonable times in the office of the City Administrator.
2. All work done and materials used for public improvements shall conform to such standard specifications unless otherwise provided for in the particular specifications for work authorized by the Council.
3. Any changes in the "Standard Specifications" shall be recommended by the Superintendent of Public Works and approved by the Council, by ordinance or resolution (446).

STREETS, SIDEWALKS, and CURBS

4.305 Purpose

The purpose of Sections 4.305 to 4.380 shall be to provide for uniform improved streets, sidewalks, and curbs within the City, and said sections shall be construed to best apply this intent (384).

4.315 Compliance Required.

1. Except as provided in Sections 4.316 and 4.321, no person shall receive a building permit for any construction within the City, and no parcel of land shall be partitioned within the City, unless the streets, sidewalks, and curbs bordering such lot or area to be built upon comply with the requirements of Sections 4.305 to 4.380 (384).

2. No street, sidewalk, or curb shall be constructed, relaid, or repaired unless such work complies in all manner with the provisions of Sections 4.305 to 4.380 (300).

4.316 Exemptions

1. A person shall be exempt from all street, sidewalk, and curb improvements requirements of Stayton Code Sections 4.305 to 4.380 for the purpose of obtaining a residential building permit to perform any of the following activities:
 - a. Demolish of an existing structure;
 - b. Construct a free standing garage;
 - c. Construct an accessory building which will not be used for human occupancy;
 - d. Maintain, remodel or repair an existing structure; or
 - e. Construct an addition not to exceed 200 sq. ft. in size
2. In any case, where an improvement is made in accordance with the City's Subdivision Code, the requirements of Sections 4.305 to 4.380 are deemed to be satisfied, but compliance with Sections 4.305 to 4.380 shall not be deemed to satisfy the Subdivision Code requirements where they might apply (384).

4.318 Issuance of Building Permits

1. The Superintendent of Public Works shall inspect any site for which an application for a building permit has been filed to determine if the adjacent street, curb, and sidewalk comply with the provisions of Sections 4.305 to 4.380.
2. If the street, curb, and sidewalk improvements do not comply and are required, no building permit shall be issued unless:
 - a. an exemption has been granted under Stayton Code Section 4.316.
 - b. the City and applicant have executed an agreement stating that the improvements will be installed

within four (4) months, in accordance with Stayton Code Section 4.321.

- c. the City and applicant have executed an agreement stating that the improvements are deferred for a period of time exceeding four (4) months, in accordance with Stayton Code 4.321.
- d. a waiver has been granted by the City Council, in accordance with Stayton Code Section 4.322

4.321 Agreements to Install Required Street, Curb, and Sidewalk Improvements Within Four (4) Months

- 1. If the required street, sidewalk, and curb improvements have not been completed when the building permit is requested, the owner may sign an agreement with the City that such improvements will be completed within four (4) months and upon making such an agreement, the owner may be issued a building permit.
- 2. The agreement shall provide that, if the work is not completed within the four (4) months, the City may complete all required improvements and may recover the full cost and expense together with court costs and attorney fees necessary to collect said amounts from the owner.
- 3. The City may require the owner to file with the agreement, to assure his full and faithful performance thereof, one of the following:
 - a. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.
 - b. A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.
 - c. Cash.

4. Extensions of the original four (4) month time period may be allowed for good cause with the approval of the Council (384).

4.322 Waiver or Deferral of Required Street, Curb and Sidewalk Improvements.

1. Any applicant for a building permit may apply to the City requesting that the City Council grant either a waiver exempting the applicant's property from street, curb, and/or sidewalk improvement requirements or defer the construction of required improvements for a period of time exceeding four months.
2. The Council finds that the following items do not normally constitute unusual circumstances which warrant granting of a deferral or waiver of street, curb or sidewalk improvement requirements:
 - a. Financial hardship of the applicant.
 - b. Lack of sidewalks, curbs or streets on adjacent properties.
 - c. Cost.
3. Upon review of a written request the Council may either deny the request or grant a waiver or deferral of any or all of the required improvements if it finds that:
 - a. Street widening is planned within five (5) years and the exact width of the future street has not yet been determined.
 - b. Physical obstructions including steep banks or drainage channels exist on the site which would require extensive public or private improvements in addition to the street, curb or sidewalk construction.
 - c. Public improvement projects are planned in the next five (5) years which would require the City to remove the street, curb or sidewalk improvements.
 - d. The Council determines the improvements are not needed.

- e. Unusual circumstances or peculiarities of the site exist which, in the opinion of the Council, warrant a deferral of required street, curb and/or sidewalk improvements.
4. If the Council grants a deferral of the street, curb or sidewalk improvement, the applicant shall execute and file an agreement between himself and the City which includes the following:
 - a. specifying the improvements that have been deferred;
 - b. specifying the period of time within which the required improvements will be installed; and,
 - c. Stating the agreement is terminated upon installation of all required curb, gutter, sidewalk, and street improvements.

Upon execution of the agreement by both parties, the owner may be issued a building permit.

5. Extensions of any deferment agreement may be allowed for good cause with the approval of the Council.

4.325 Street Specifications.

1. Before any street improvement is made under the provisions of Sections 4.305 to 4.380, the abutting owner or his representative shall notify the City Engineer or Superintendent of Public Works who shall supply, at City expense, the grade lines and specifications for the clearing and grading of the street, and all work on any street, sidewalk, or curb shall conform to those specifications (408, 300).
2. All new streets within the City shall include the following, to be provided at the expense of the abutting property owners:
 - a. Clearing and grading to proper grade to full right-of-way limits.
 - b. Base materials for roadways, in place and compacted, and leveling course in place.

c. Concrete sidewalks and concrete curbs (384).

3. Unless directed otherwise under Subsection 1. above, the person responsible for constructing any street in accordance with this section shall conform to the "Standard Specifications" as adopted in Section 4.005 of this Code, and all work shall be performed under the supervision of and with the approval of the Superintendent of Public Works.

4.330 Extent of Duty of Improve Streets.

1. If a single improvement is to be constructed on a new street, and the owner of said improvement also owns the property on the opposite side of the street, the owner shall improve the street for its entire width and extending at least the total frontage of the lot to be improved.
2. If the opposite side of the street of a lot to be improved is in different ownership, the street improvement shall extend not less than 10 feet beyond the centerline of the street from the lot to be improved (384).

4.333 Creation of Local Improvement District.

1. If the improvement of the street, sidewalk, or curb along any one lot or area would be impractical in the Council's or in the City Engineer's judgment and additional street area should be included in the improvement, the Council may order the additional work done and assess the affected property owners for the work done in accordance with Sections 4.350 to 4.355, local improvement districting, or other method of assessment (384, 535).

4.335 Sidewalk and Curbs - Permits Required.

1. Any person desiring to repair sidewalks or construct new sidewalks, except where so ordered by the Council, shall apply to the Superintendent of Public Works for a permit to do any such work.
2. The application shall describe the location of the proposed improvements and contain a statement that the person constructing any sidewalks or curbs will comply

with the requirements of Sections 4.305 to 4.380, and with any applicable provisions of the "Standard Specifications," as adopted by Section 4.005 of this Code.

3. If the Superintendent of Public Works is satisfied that all applicable requirements will be met, he shall issue a permit to build, improve, or repair the sidewalk or curb (300).

4.340 Sidewalks and Curbs - Direction from Council.

1. Whenever the Council determines that any new sidewalk shall be constructed within the City, it shall pass a resolution to that effect, describing in the said resolution the location of the proposed sidewalks, and the time within which such work shall be completed.
2. The Council shall allow a minimum of ten (10) days for resident property owners and twenty (20) days for non-resident property owners to complete the construction of any such sidewalk or curb.
3. Such resolution shall state whether the sidewalks are to be constructed at the expense of the adjacent or abutting property owners, or at the general expense of City residents (300).

4.345 Sidewalks and Curbs - Construction by Property Owners.

1. If any sidewalk or curb is to be constructed at the expense of the abutting and adjacent property, a notice containing the substance of the resolution required in Section 4.340 shall be posted in a conspicuous place upon the affected property, or at some point adjacent to and within plain view of the site of the proposed sidewalk or curb, for at least ten (10) days.
2. In addition to the posting provided in Subsection 1 above, a copy of such notice shall be sent by certified mail to the owner of record of any affected parcel of property. Such posting and mailing is deemed equivalent to personal service (300).

4.350 Streets, Sidewalks, and Curbs - Construction by City.

1. If any property owner fails to construct any street, sidewalk, or curb in accordance with all applicable provisions of Sections 4.305 to 4.380, the Council may advertise for bids from any other person for the construction of such street, sidewalk, or curb, and may enter into a contract with the lowest responsible bidder for such work.
2. The advertisement for bids shall be published at least once in a newspaper of general circulation within the City.
3. In lieu of Subsection 1 above, the Council may direct the work to be done by City employees under the supervision of the Superintendent of Public Works (300).

4.352 Streets, Sidewalks, and Curbs - Assessments.

Upon completion of any work in accordance with Section 4.350, the Council shall by ordinance assess upon each lot or parcel of land adjacent to or abutting the construction, its proportionate share of such cost (300).

4.355 Streets, Sidewalks, and Curbs - Lien Against Property.

1. Where the City has constructed or repaired any street, sidewalk, or curb in accordance with Section 4.350, each parcel of land adjacent to or abutting said construction shall be liable for the full amount assessed against said property.
2. If such assessment is not paid (within 30 days) after notice thereof by mail to the property owner, the Council shall proceed to enter a lien against the property, in the amount of the assessment, to be collected and enforced as other City liens (300).

4.360 Maintenance of Streets.

No new street shall be accepted by the City for maintenance until such street is brought up to the standards required by Sections 4.305 to 4.380. "New Streets" include all property deeded to the City and

intended for street use, and all dedicated or existing streets within the City which have not been brought to the standards of Sections 4.305 to 4.380 (384).

4.362 Maintenance of Sidewalks and Curbs by Property Owner.

1. Each property owner shall keep any sidewalk or curb adjacent to or abutting his property clean and in good repair.
2. If any sidewalk becomes unsafe or out of repair, the City Administrator shall serve notice immediately upon the affected property owner to repair or clean said sidewalk or curb as conditions may require.
3. Each property owner shall be liable for the full cost of the repair or cleaning of any sidewalk or curb adjacent to or abutting his property (300).

4.363 Maintenance of Sidewalks and Curbs by City.

1. Upon the refusal or neglect of any property owner to undertake necessary cleaning or repair within ten (10) days after notice by the City to resident property owners, or within twenty (20) days after such notice to non-resident property owners, the City shall repair or clean such sidewalk or curb.
2. Any expenses incurred by the City in accordance with Subsection 1 above shall be billed to the property owner affected.
3. If such bill is not paid within 30 days of its sending, the Administrator shall enter a lien in the amount owing against the affected property, enforceable as any other City lien (300).

4.365 Liability of Property Owners.

The owners of property adjacent to or abutting any sidewalk or curb shall be liable for all personal or property damages which result from their fault or negligence in failing to keep any such sidewalk clean and in good repair (362).

4.370 Existing Streets, Sidewalks, and Curbs.

1. Nothing in Sections 4.305 to 4.380 shall be construed to require that curb lines be altered on streets where such lines have been permanently improved at the expense of the adjacent or abutting property, unless by special order from the Council.
2. On any side of any street on which concrete sidewalks already exist, the pattern established by the location of existing sidewalks in relation to the curb and the owner's property line shall determine the location for all sidewalks on that side of the street, notwithstanding the provisions of Section 4.305 to 4.380 or the "Standard Specifications."
3. No deviation from an established sidewalk pattern shall be made without approval of the Council (300).

4.380 Acceptance of Streets, Sidewalks, and Curbs by the City.

Upon completion of any street, or any portion thereof, to the standards of Section 4.325, the Council may accept such street by resolution, duly passed and entered in the minutes (384).

PENALTIES

4.995 General Penalties.

Violation of any regulation promulgated by authority of this chapter is punishable by a fine not to exceed \$500.00 (446).

Read for a first time by Title Only this 6th day of
September, 1988, no Council person present
having requested that it be read in full.

Read for a second time by Title Only and for final enactment
this 19th day of September, 1988, no Council person
present having requested that it be read in full.

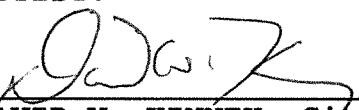
APPROVED BY THE COMMON COUNCIL THIS 19th DAY OF September,
1988.

Signed by the Mayor this 26th day of September, 1988.



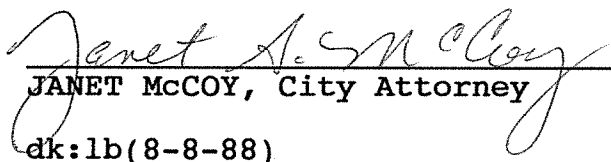
WAYNE L. LIERMAN, Mayor

ATTEST:



DAVID W. KINNEY, City Administrator

APPROVED AS TO FORM:



JANET McCOY, City Attorney
dk:lb(8-8-88)