

# CHAPTER ONE

## INTRODUCTION

### DOCUMENT ORGANIZATION

This document includes six chapters. Chapter One, *Introduction*, lays out an overview of the Veneta Natural Resource Study (NR Study) and highlights significant findings, and recommendations of the study. Chapter Two, *Analysis of Goal 5 Requirements*, provides an overview of the Goal; recent revisions; a comparison of the safe harbor and standard approach; and specific requirements under the Goal for riparian corridors, wildlife habitat, and wetlands. Chapter Three, *Inventory and Assessment of Riparian Corridors, Wildlife Habitat, and Wetland Resources*, describes the process and results of the inventory and significance determination for riparian areas, wildlife habitat, and wetlands within the Veneta urban growth boundary (UGB). Chapter Four, *Existing Natural Resource Protection Policies*, details Veneta's existing policies and ordinances that relate to natural resource protection. Chapter Five, *Potential Natural Resource Protection Measures*, describes common elements of protection mechanisms used by other jurisdictions that Veneta may consider adopting. Chapter Six, *Draft Wetland Protection Policy and Ordinance*, provides draft Comprehensive Plan policy and a draft land use ordinance that have been developed based on Goal 5 requirements, findings from this study, and citizen input.

### STUDY OVERVIEW

Goal 5 (Goal) is a broad statewide planning goal that covers more than a dozen resources, including natural resources, scenic and historic areas, and open spaces. The Goal mandates that local governments “adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations.” Veneta’s NR Study satisfies periodic review work task number 5 and addresses State Goal 5 requirements for riparian areas, wildlife habitat, and wetlands. The study area encompasses all lands within the City of Veneta UGB.

After its original adoption in 1974, Goal 5 was revised in 1996. The amended Goal prioritized the natural resources to be inventoried, analyzed, and protected by local governments. The Veneta NR Study is limited to the top three priority resources – riparian corridors, wildlife habitat, and wetlands. Revisions to Goal 5 also offer local governments a choice of methodologies to achieve Goal requirements - the standard or safe harbor approach. While the standard approach provides an in-depth analysis of potentially conflicting uses and a greater measure of flexibility, the safe harbor procedure is more affordable to apply and reduces litigation potential while still providing some flexibility. The Veneta NR Study uses the safe harbor methodology for riparian corridors, wildlife habitat, and wetlands within the study area.

This study completes Goal 5 requirements for the inventory and significance determination of the three resources by examining existing and available information. To satisfy the Goal 5 mandate to develop a protection program for significant natural resources, this study examines Veneta's existing natural resource protection measures and explores protection mechanisms used by other jurisdictions.

#### **KEY FINDINGS, AND RECOMMENDATIONS:**

- The safe harbor approach offers the most effective method for Veneta to satisfy Goal 5 requirements for riparian corridors, wildlife habitat, and wetlands.
- As defined by Goal 5, no significant riparian corridors are located within the Veneta NR Study area.
- Although not a Goal 5 significant riparian or habitat resource, the small streams in Veneta are afforded some protection with the adoption of the 1998 Parks and Open Space Plan and because most of these areas are also significant wetlands.
- State and federal natural resource management agencies indicate that streams in Veneta are not fish-bearing, but have the potential to provide fish habitat.
- No known Goal 5 defined wildlife habitat areas exist within the Veneta NR Study area.
- Data from the Oregon Natural Heritage Program indicates that a least seven rare, threatened, or endangered plant and animal species inhabit areas within a two-mile radius of the Veneta NR study area.
- Wildlife habitat sites have not yet been documented, but may exist within Veneta's UGB.
- Existing Veneta protection measures, such as a tree cutting ordinance are minimal and only indirectly have the potential to protect wildlife habitat.
- About 203 acres of wetlands are identified in Veneta's Local Wetland Inventory (LWI).
- 89 percent (181 acres) of wetlands identified in the LWI meet the definition of significance under Goal 5.
- Existing Veneta ordinances related to wetlands provide a limited amount of protection by requiring notification and approval from the Division of State Lands (DSL), for development proposals that may impact wetlands.
- This study recommends developing Comprehensive Plan policy and ordinances that protect wildlife habitat sites that are documented in the future.

- This study recommends developing Comprehensive Plan policy and ordinances satisfying Goal 5 safe harbor requirements for wetlands with clear protection standards.



## CHAPTER TWO

### ANALYSIS OF GOAL 5 RULE REQUIREMENTS

#### OVERVIEW OF GOAL 5 REQUIREMENTS

Oregon's Land Conservation and Development Commission (LCDC) adopted Goal 5 in 1974. Goal 5 and related Oregon Administrative Rules (Chapter 660, Divisions 16 and 23) establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to conserve and protect significant Goal 5 resources. The Goal and its rules established a standard five-step planning process for Oregon's cities and counties:

1. Inventory local occurrences of resources listed in Goal 5 and decide which ones are important.
2. Identify potential land uses on or near each resource site and any conflicts that might result.
3. Analyze economic, social, environmental, and energy (ESEE) consequences of such conflicts.
4. Choose one of three policies toward conflicting uses at each site: prohibit the conflicting use, allow the use fully, or put some limits on it.
5. Adopt measures such as zoning or ordinances to put that policy into effect.

Goal 5 underwent major revisions in 1996. LCDC amended Goal 5 and its rules in response to the complaints that:

1. It was too costly and time-consuming for local governments to apply the Goal and rules;
2. Certain resources were not adequately protected by local plans;
3. Litigation and confusion resulted from vague terminology and unclear procedures in the Goal process; and
4. The Goal and rules had not kept up with changes in various state laws and programs.

LCDC's recent revisions do not alter the basic five-step process. Rather, the 1996 revisions provide an alternative to the standard process, and streamline and tailor the requirements to provide better protection for key resources. The amended Goal and Administrative Rules bring some important changes to the Goal 5 process that:

- Differentiates among resources, calling for more emphasis on inventory and conservation of wetlands (primarily within urban areas), riparian corridors, and wildlife habitats.
- Reduces duplication by letting local governments rely on state and federal programs to meet Federal Wild and Scenic Rivers, State Scenic Waterways, wilderness, and recreational trails Goal 5 resource requirements.
- Makes new local inventories for scenic resources, historic places, and open spaces voluntary.

- Completely changed the treatment of mining and aggregate resources, with a process driven by the owner through an amendment rather than a comprehensive planning effort undertaken by the local government (the latter could occur only with full cooperation and disclosure of needed information from the owner).
- Specifies a notification process to include affected land owners.
- Provides “safe harbor” features to reduce local government work and expenditures.

## **SAFE HARBOR AND STANDARD APPROACH COMPARISON**

Safe harbor is an important new element of the amended Goal 5 rules that provides greater certainty and short-cuts over the standard approach, while still providing flexibility. For riparian areas, wetlands, and wildlife habitats, a local government can choose the safe harbor or follow the standard five-step process. A “safe harbor” consists of an optional course of action that satisfies certain requirements under the standard process. For example, a jurisdiction may adopt a wetland ordinance that meets the requirements of the Goal 5 safe harbor wetland protection program, in lieu of following the ESEE decision process. Depending on the resource, the safe harbor provisions may apply to the inventory, significance determination, analysis, and/or protection program. The standard process gives local governments more flexibility, but is more time consuming, costly to apply, and heightens the risk of litigation.

## **RESOURCES TO BE INVENTORIED**

The 1996 amended list of Goal 5 resources to be addressed reflects the shift in emphasis and clarifies the list. The Goal calls for the following resources to undergo the Goal 5 process and identifies local government responsibilities:

- a) Riparian corridors – Local government must undertake the Goal 5 process for this resource.
- b) Wetlands – Local government must undertake the Goal 5 process for this resource.
- c) Wildlife habitat – Local government must undertake the Goal 5 process for this resource.
- d) Federal Wild and Scenic Rivers – Local government is not responsible for developing a protection program, but must designate all Wild and Scenic rivers as significant if it falls within its jurisdictional area.
- e) Groundwater resources – Mandatory for local government if the wellhead service population is over 10,000 or has 3,000 service connections and relies on groundwater as the drinking water supply.
- f) Approved Oregon Recreation Trails - Local government must identify as significant any Oregon Recreation Trail designated by the Oregon Parks and Recreation Commission, that falls within the local jurisdiction area.
- g) Natural areas – Local government must consider all natural areas listed in the Oregon State Register of Natural Heritage Resources that falls within the local jurisdiction area.
- h) Wilderness areas – Local government need not inventory federally designated wilderness areas, but must list wilderness areas in its jurisdiction as significant Goal 5 resources.

- i) Mineral and aggregate resources – Land owner initiated, with the local government inventorying and making a significance determination on all or part of the mineral and aggregate resources within its jurisdiction.
- j) Energy sources – Local governments must deem significant any energy sources applied for or approved by the Oregon Energy Facility Siting Council or the Federal Energy Regulatory Commission if within the local jurisdiction.

Local governments and state agencies are encouraged, but not required to maintain current inventories of:

- a) Historic resources
- b) Open space
- c) Scenic views and sites

### **GOAL 5 REQUIREMENTS FOR RIPARIAN CORRIDORS (OAR 660-23-090)**

Riparian Corridors Administrative Rule deals with riparian corridors which include water areas, riparian areas, and significant wetlands that fall within the riparian corridor boundary. Areas between the banks (water areas) and the transitional areas between aquatic and terrestrial ecosystems (riparian areas) within the riparian area boundary (a certain distance from the top of bank) are included in the definition of a riparian corridor. Riparian corridors also include areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

#### Inventory and Significance Determination

The Administrative Rules require local governments to inventory and determine significant riparian corridors by following either the standard Goal procedure or the safe harbor methodology. In the standard process, all water areas identified on specific maps, extending out to the riparian corridor boundary must be inventoried and assessed, whereas in the safe harbor approach, only fish-bearing water bodies must be inventoried and have a significance determination made.

#### *Standard Goal 5 Process*

The standard inventory process involves collecting information regarding all water areas, fish habitat, riparian areas, and wetlands within riparian corridors. The precise location of riparian areas on farm and forest use designated lands may be postponed until receipt of permit applications for uses that would create conflicts with these resources. Conducting field investigations to verify location, quality, and quantity of resources within the riparian corridor is encouraged, but optional. At a minimum, the following sources, where available, should be consulted during the inventory:

- a) Oregon Department of Forestry stream classification maps;
- b) United States Geological Service 7.5 minute quadrangle maps;

- c) National Wetlands Inventory Maps;
- d) Oregon Department of Fish and Wildlife maps indicating fish habitat;
- e) Federal Emergency Management Agency flood maps; and
- f) Aerial photographs.

For sites where information is adequate, local governments shall make a determination of whether the site is significant. The determination needs to be based on:

- a) The quality, quantity, and location information;
- b) Supplemental or superseding significance criteria set out in the Goal 5 Administrative Rules; and
- c) Any additional criteria adopted by the local government, provided that the criteria do not conflict with Goal 5 Administrative Rule requirements.

### *Safe Harbor Process*

Under the safe harbor provision, significant riparian corridors are those areas including and adjacent to fish-bearing lakes and streams. The area of significance is determined by using a standard setback distance from all fish-bearing lakes and streams that appear on:

- a) Oregon Department of Forestry stream classification maps;
- b) United States Geological Service 7.5 minute quadrangle maps;
- c) National Wetlands Inventory Maps;
- d) Oregon Department of Fish and Wildlife maps indicating fish habitat;
- e) Federal Emergency Management Agency flood maps; and
- f) Aerial photographs.

Boundaries for significant riparian corridors are defined as being:

- a) 75 feet from the top of the bank for streams with an average annual flow greater than 1,000 cubic feet per second (cfs);
- b) 50 feet from the top of the bank for lakes and fish-bearing streams with an average annual stream flow less than 1,000 cfs; and
- c) Goal 5 significant wetlands in the riparian corridor and the riparian area, that extends from the upland edge of the significant wetland.
- d) local governments must apply the standard inventory procedure in instances where the top of the bank is not clearly defined, or where the predominant terrain consists of steep cliffs.

### Program to Achieve Goal 5

The Administrative Rules require local governments to adopt comprehensive plan provisions and land use regulations to achieve Goal 5 protection for all significant riparian corridors. Local governments may meet these riparian corridor Goal 5 requirements by developing a program using the standard process (ESEE analysis) or the safe harbor provision.

### *ESEE Analysis*

The standard process is based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. Compliance under Goal 5 is achieved using the ESEE process when at least the following activities are identified as conflicting uses in riparian corridors:

- 1) Placement of structures or impervious surfaces that permanently alter the riparian corridor except for water-dependent or water-related uses and replacement of existing structures in the same location that do not disturb additional riparian surface area; and
- 2) Vegetation removal except on lands designated for agricultural or forest use outside the UGB, for restoration activities, and for the development of water-related or water-dependent uses.

### *Safe Harbor Provisions*

Local governments may meet riparian corridor Goal requirements by adopting an ordinance that protects significant riparian corridors outside zoned agricultural and forest areas by:

- 1) Preventing permanent alteration to riparian areas from grading or the placement of structures or impervious surfaces. The following uses are permitted, provided they are designed and constructed to minimize intrusion into the riparian area:
  - Streets, roads, and paths;
  - Drainage facilities, utilities, and irrigation pumps;
  - Water-related and water-dependent uses; and
  - Replacement of existing structures in the same location.
- 2) Controlling the removal of riparian vegetation, except for removal of:
  - Non-native vegetation and replacement with native plant-species; and
  - Vegetation necessary for the development of water-related or water-dependent uses.

The ordinance must include a procedure to consider hardship variances, claims of map error, and reduction or removal of restrictions for lots or parcels that have been rendered unbuildable by the application of the riparian protection ordinance. The ordinance may be crafted to permit permanent alteration of significant riparian areas from the placement of structures or impervious surfaces if restoration, enhancement of buffers, or similar measures offset the permanently altered area. In any event, such alteration shall not occupy more than 50 percent of the width of the riparian area measured from the upland edge of the corridor.

### **GOAL 5 REQUIREMENTS FOR WILDLIFE HABITAT (OAR 660-23-110)**

Wildlife habitat under this rule is defined as areas upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction. A documented area is shown on a

map published or issued by a state or federal agency or by a “professional with demonstrated expertise in habitat identification”.

### Inventory and Significance Determination

The Administrative Rule requires local governments to inventory and determine significant wildlife habitat by following either the standard Goal 5 procedure or the safe harbor methodology. Public disclosure of certain threatened and endangered species inventory information may be limited through procedures to allow limited review by property owners and other specified parties [ORS 192.501(13)].

#### *Standard Goal 5 Process*

The standard inventory and significance process involves collecting information regarding wildlife habitat from the Oregon Department of Fish and Wildlife (ODFW) and other state and federal agencies. At a minimum, the inventories should include:

- a) Threatened, endangered, and sensitive wildlife species habitat information;
- b) Sensitive bird site inventories; and
- c) Wildlife species of concern and/or habitats of concern identified and mapped by ODFW.

#### *Safe Harbor*

Under the safe harbor approach, local governments may determine that “wildlife” does not include fish, and that significant wildlife habitat includes only those sites where the:

- a) Habitat has been documented as performing life support function for a federally listed threatened or endangered species or state threatened, endangered, or sensitive specie. (Habitat means documented occurrences of more than incidental uses by a listed species.)
- b) Habitat has been documented as a sensitive bird nesting, roosting, or watering resource site for osprey or great blue herons.
- c) Habitat has been documented as essential to achieving policies or population objectives specified in an ODFW Commission adopted wildlife species management plan.
- d) The area is identified and mapped by ODFW as habitat for a wildlife species of concern and/or as a habitat of concern.

### Program to Achieve Goal 5

The Administrative Rules require local governments to adopt comprehensive plan provisions and land use regulations to achieve Goal 5 protection for all significant wildlife habitat using the standard process (ESEE analysis). Local governments are required to coordinate with appropriate state and federal agencies when adopting programs intended to protect threatened, endangered, or sensitive species habitat areas.

## **GOAL 5 REQUIREMENTS FOR WETLANDS (OAR 660-23-100)**

Wetlands under this rule are defined as areas inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

### Inventory and Significance Determination

Goal 5 requires local governments to conduct and adopt a LWI within UGBs and urban unincorporated communities using LWI standards and procedures (OAR 141-86-110 through 141-86-240). Local governments are required to use LWI criteria (OAR 141-086-300 through 141-86-350) to determine locally significant wetlands.

### Program to Achieve Goal 5

The Administrative Rules require local governments to adopt comprehensive plan provisions and land use regulations to achieve Goal 5 protection for all locally significant wetlands. Local governments may meet these wetland Goal 5 requirements by developing a program using the standard process (ESEE analysis), the safe harbor ordinance, or wetland conservation plan.

#### *ESEE Analysis*

The standard process is based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. Unlike riparian corridors, the Administrative Rules do not identify any specific activities as conflicting uses in wetlands.

#### *Safe Harbor Provisions*

Local governments may meet wetland Goal 5 requirements by adopting an ordinance that protects significant wetlands by placing restriction on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention. The ordinance must include a procedure to consider hardship variances, claims of map error verified by DSL, and reduction or removal of restrictions for lots or parcels that have been rendered unbuildable by the application of the wetland protection ordinance.

#### *Wetland Conservation Plan*

Local governments have the option of achieving wetland Goal 5 compliance through the application of a DSL approved wetland conservation plan. Development of a wetland conservation plan results in a detailed analysis of individual wetlands and designation into protection, conservation, or development categories. Inventory and protection procedures under these requirements are governed by OAR 141-120-000 through 141-120-220.



# CHAPTER THREE

## CITY OF VENETA

### INVENTORY AND ASSESSMENT OF RIPARIAN AREAS, WILDLIFE HABITAT, AND WETLANDS

Collecting existing natural resources inventories and studies information within the Veneta NR study area, is a key element of this study. This research results in locating, analyzing, and integrating all known significant and potentially significant riparian corridor, wildlife habitat, and wetland natural resource sites within the Veneta UGB.

#### **RIPARIAN CORRIDOR INVENTORY AND SIGNIFICANCE DETERMINATION**

Wetlands Specialties, Inc., a Eugene-based consulting firm, completed the City of Veneta LWI in April 1998. Wetland Specialties completed a riparian inventory as part of the LWI effort. Potential riparian areas assessed as part of the LWI include four locations along the Long Tom River located outside the UGB. Three mapped streams flow through the Veneta city limits. The consultant excluded these waterways from the riparian assessment per Goal 5 guidance, on the basis that the channels are not fish bearing streams. The riparian corridor assessment of the LWI concluded that there are no Goal 5 defined riparian corridors within the Veneta UGB. Although DSL approved the Veneta LWI, DSL does not have similar approval authority for riparian inventory efforts.

As part of this natural resource study, additional research of existing information has been conducted to help ensure that potential Goal 5 defined riparian corridors are adequately identified, inventoried, and analyzed. Under the safe harbor approach, identifying any fish-bearing streams is key to determining the presence of any potentially significant riparian corridors. The following sources were used to determine any fish-bearing water areas within the Veneta NR Study area:

- **Oregon Department of Fish and Wildlife (ODFW)** - According to ODFW, the potential for steelhead exists in most streams in the area, however no inventories or studies have been conducted within the study area. ODFW, suggested reviewing Oregon Department of Forestry (ODF) stream classification maps to determine the fish-bearing status of these local waterways.
- **ODF stream classification maps** - ODF maps display three streams classified as small, converging to form one medium size stream. All three waterways are shown as having potential to provide fish habitat, however there are no known and documented fish present.
- **Oregon Department of Environmental Quality (DEQ)** - DEQ provided no additional information regarding fish-bearing streams within the study area.

- **Army Corps of Engineers (ACOE)** - ACOE provided no additional information regarding fish-bearing streams within the study area.

Results of the riparian corridor inventory and assessment associated with the LWI, and additional contacts made with relevant state and federal natural resource agencies revealed that no Goal 5 defined significant riparian corridors exist within the Veneta UGB.

## **WILDLIFE HABITAT INVENTORY AND SIGNIFICANCE DETERMINATION**

As is typical of urban areas, information on wildlife habitat within the Veneta UGB is scarce. For purposes of this study, the Oregon Natural Heritage Program (ONHP) provided information about the documented location of rare, threatened, and endangered species (including plant and animal species) within the study area. ONHP is affiliated with the DSL which provides administrative support, and is managed by The Nature Conservancy for the State under a cooperative agreement with the seven state natural resource agencies. ONHP collects and maps data regarding rare, threatened, and endangered species within Oregon. No ONHP listed species are known to be present within the NR study area. In closest proximity is a site containing a plant species, Bradshaw Lomatium, located just to the north of the Veneta UGB/NR study area.

Through its data service, ONHP makes clear that the lack of species information from a given area does not necessarily mean that there are no significant species present, only that there is no information known to them from that particular area. Based on ONHP data sources, Table 1 lists rare, threatened or endangered species known or suspected to occur within a two-mile radius of Veneta. The list includes four animal and three plant species.

Although the species listed in Table 1 have not been located or inventoried within the Veneta UGB, the list is relevant to the NR Study effort. Natural resource inventories are rarely conducted within “urban areas” and a strong likelihood exists that one or more of these species may inhabit areas within the NR study area. The presence of these species in close proximity to the NR study area suggests that Veneta may want to consider developing a wildlife habitat protection ordinance in the event that relevant species are documented within the UGB in the future.

**Table 1**  
**Oregon Natural Heritage Program (ONHP):**  
**Listing of Rare, Threatened, or Endangered Species**  
**Identified Adjacent to the Veneta UGB \***

Species Name	Federal Listing	State Listing	ONHP
Painted Turtle ( <i>Chrysemys picta</i> )	--	SC	List 2
Northwestern Pond Turtle ( <i>Clemmys marmorata marmorata</i> )	SoC	SC	List 2
Bald Eagle ( <i>Haliaeetus leucocephalus</i> )	LT	LT	List 2
Northern Red Legged Frog ( <i>Rana aurora aurora</i> )	SoC	SU	List 3
White-topped Aster ( <i>Aster curtus</i> )	SoC	LT	List 2
Bradshaw's Lomatium ( <i>Lomatium bradshawii</i> )	LE	LE	List 2
Howell's Montia ( <i>Montia howellii</i> )	SoC	C	List 1

Source: Oregon Natural Heritage Program, 1997-98.

\* Sensitive species known or expected to occur within a two-mile radius of the City of Veneta UGB.

Key for Table 1:

C = Candidate taxa for listing under the Endangered Species Act (ESA) or Oregon ESA.

LE = *Listed Endangered*

LT = *Listed Threatened*

SC = Sensitive Critical

SoC = Species of Concern

SU = Sensitive Undetermined

List 1 = Contains taxa that are threatened with extinction or presumed to be extinct throughout their entire range.

List 2 = Species which are threatened, endangered, or possibly extirpated from Oregon, but are more common or stable elsewhere.

List 3 = Contains species for which more information is needed before status can be determined, but which may be threatened or endangered in Oregon or throughout their range.

In addition to ONHP data, other existing inventories and studies regarding wildlife habitat within the NR Study area have been collected and reviewed for purposes of this study. According to the LWI, areas within the Veneta UGB provide valuable habitat for a variety of wildlife species due to a range of vegetation types, and proximity to Fern Ridge Reservoir and the Long Tom River. Large animals inhabiting the area include coyote and deer. The LWI included a list of 172 common fish and wildlife species thought to inhabit areas within the LWI study area. The

following state and federal agencies were also contacted in an effort to obtain new and additional information regarding wildlife habitat within the NR Study area.

- **Oregon Department of Fish and Wildlife (ODFW):** According to ODFW, no fish or wildlife studies or inventories have been conducted within the Veneta UGB. ODFW did complete the *Long Tom Basin Fish Management Plan* in 1992. However, this report does not address the existence of fish or habitat issues specific to the Veneta NR Study area. Through contacts with the agency, ODFW indicated that streams within the Veneta UGB have potential to be fish-bearing and could provide habitat for hardier species, such as the cutthroat trout. In addition, ODFW maintains there is a strong likelihood that osprey habitat and great blue heron rookeries could be found within the NR Study area. The area also has the potential for western pond turtle and red-legged frog habitat.
- **Oregon Department of Environmental Quality (DEQ):** Oregon DEQ's Eugene field office was not able to provide any wildlife habitat information specific to areas within the Veneta NR Study area.
- **Lane County Land Management Division:** The Lane County Land Management Division was not able to provide any wildlife habitat resources information specific to areas within the Veneta NR Study area.
- **Oregon Department of Forestry (ODF):** On advice of ODFW, ODF stream classification maps were reviewed at the Western Lane District offices in Veneta. These maps indicated three small tributaries running through Veneta and merging to form a medium sized stream within the UGB. All streams within the Veneta NR study area were classified as non-fish bearing, but with the potential to provide fish habitat.
- **Oregon Division of State Lands (DSL):** DSL was not aware of any wildlife habitat inventories since the agency's approval of the LWI that identified potential habitat. DSL stressed that the LWI process is intensively wetland-focused, and is not an ideal method for gauging significance of riparian resources or non-wetland wildlife habitat areas.
- **Army Corps of Engineers (ACOE):** The ACOE, based at the Fern Ridge Reservoir area, was not able to provide any wildlife habitat information specific to areas within the Veneta NR Study area.

Based on the research of required documents, contacts with ONHP, and contacts with state and federal agencies listed above, this study concludes that there are no known and documented Goal 5 significant wildlife habitat sites within the NR Study area. There are documented sites within a two mile extension of the study area that may suggest that there are also wildlife habitat sites within the Veneta UGB that have not yet been documented.

According to ODFW, conducting localized natural resources inventories are expensive, time-consuming, and rare. As a stop-gap measure, ODFW recommends local governments have wildlife protection regulations in place that can be activated immediately if and when new wildlife resources are discovered and/or threatened. Carefully crafted ordinance provisions can

assist with protecting wildlife in areas where resources have not yet been inventoried or previously discovered prior to local development proposals.

## WETLAND INVENTORY AND SIGNIFICANCE DETERMINATION

DSL approved Veneta's LWI in June 1998. The Veneta wetland inventory study area extends beyond the UGB/NR Study area to the northwest, and runs adjacent to the Long Tom River. A total of 52 wetland sites amounting to approximately 203 acres were identified in the inventory area. In general, most of the wetlands lie within the northwest portion of the City and along drainages associated with the North Fork Coyote Creek basin. The areas associated with wetlands in the northwest are zoned for commercial and industrial uses while the areas associated with wetlands in the North Fork Coyote Creek basin are generally zoned for residential use.

For evaluation purposes, the 52 wetland sites were combined into 22 wetland functions and value assessment units, (discrete study areas with a high degree of hydrologic interaction). These 22 assessment units were then assessed using the April 1996 version of the *Oregon Freshwater Wetland Assessment Methodology* (OFWAM).

Adopted criteria for identifying Veneta's locally significant wetlands rely heavily on the results of the OFWAM. OFWAM evaluates inventoried wetlands using nine parameters: four ecological functions, three social functions, and two wetland conditions. The locally significant wetland criteria draw upon the evaluation of OFWAM four ecological functions (wildlife habitat, fish habitat, hydrologic control, and water quality) and one social function (education).

A wetland is locally significant if it meets one or more of the following criteria:

- 1) The wetland performs any of the following functions at the levels indicated below using the *Oregon Freshwater Wetland Assessment Methodology*:
  - "Diverse" wildlife habitat; or
  - "Intact" fish habitat; or
  - "Intact" water quality function; or
  - "Intact" hydrologic control function.
- 2) The wetland lies within less than one-quarter mile from a *water quality limited* water body [303 (d) list], and the wetland's water quality function is described as "intact" or "impacted or degraded" using the OFWAM. A local government may determine that a wetland is not significant under this criteria if it is documented that the wetland does not provide water quality improvements for the specified water quality listed parameter(s).
- 3) The wetland contains one or more rare plant communities.

- 4) The wetland is inhabited by any federal or state listed species, unless the appropriate state or federal agency indicates that the wetland is not important for the maintenance of the species.
- 5) The wetland has a direct surface water connection to an indigenous salmonid bearing stream, and the wetland is determined to have "intact" or "impacted or degraded" fish habitat function using the OFWAM.

Wetlands are not locally significant, regardless if they meet the above criteria, if they fall in one of the following categories:

- 1) They are artificially created entirely from upland that are:
  - Created for the purpose of controlling, storing, or maintaining stormwater; or
  - Active surface mining or active log ponds; or
  - Ditches without a free and open connection to waters of the state and do not contain food or game fish; or
  - Less than one acre and unintentionally created from irrigation leak or construction activity; or
  - Created for the purpose of wastewater treatment, cranberry production, stock watering, settling of sediment, cooling industrial water, or as a golf course hazard.
- 2) They are documented as being contaminated by hazardous substances, materials, or wastes.

Map 1, and Tables 2 and 3 show the results of applying the DSL wetland significance criteria to the wetlands identified in Veneta's LWI. Of the 52 wetlands in Veneta's LWI, 45 meet the definition of significance, representing 89 percent of the total LWI wetland acreage (i.e., 181 acres). The non-significant wetlands are found in assessment units *A*, *D*, *F*, *H*, *I*, *J*, and *Q*. Assessment units *F*, *H*, and *I* lie outside of Veneta's UGB.

**INSERT TABLE #2 of  
Significant wetlands**



**Table 3**

**Veneta Local Wetland Inventory  
Acreage and Significance Determination**

<b>Wetland Code</b>	<b>Assessment Unit</b>	<b>Acreage</b>	<b>Significance Determination</b>
FR-1	K	.45	Significant
FR-2	J	.20	Non-significant
FR-3	E	15.21	Significant
FR-4	E	25.36	Significant
FR-5	E	29.77	Significant
FR-6A	E	9.36	Significant
FR-6B	E	16.79	Significant
L-1A	R	1.24	Significant
L-1B	R	.40	Significant
L-2	Q	1.27	Non-significant
L-3A	P	.41	Significant
L-3B	P	.25	Significant
L-4	P	1.86	Significant
L-5	P	.84	Significant
L-6	P	2.40	Significant
L-7	O	.66	Significant
L-8	O	.99	Significant
L-9	O	.88	Significant
L-10	P	.91	Significant
L-11	P	.78	Significant
LT-1W	C	3.94	Significant
LT-1E	D	.56	Non-significant
LT-2	B	14.44	Significant
LT-3	B	13.17	Significant
LT-4	A	16.31	Non-significant
LT-5	F	3.46	Non-significant

<b>Wetland Code</b>	<b>Assessment Unit</b>	<b>Acreage</b>	<b>Significance Determination</b>
LT-6	G	8.08	Significant
LT-7	H	.58	Non-significant
LT-8	I	.09	Non-significant
M-1A	S	2.54	Significant
M-1B	S	1.31	Significant
M-2	T	1.09	Significant
M-3	T	.62	Significant
M-4	T	.62	Significant
M-5	T	.43	Significant
M-6	T	2.13	Significant
M-7*	U	--	Significant
P-1	N	12.18	Significant
P-2	M	.82	Significant
P-3	M	.66	Significant
P-4	M	.19	Significant
P-5	M	.55	Significant
P-6	N	.49	Significant
U-1A	V	.59	Significant
U-1B	V	.48	Significant
U-2A	L	.67	Significant
U-2B	M	1.70	Significant
U-3	M	2.41	Significant
U-4	M	1.50	Significant
U-5	M	.22	Significant
U-6	M	.56	Significant
U-7	M	.73	Significant
<b>TOTAL</b>	<b>-</b>	<b>203.15</b>	<b>-</b>

\*No acreage total has been established for wetland M-7.



**INSERT Wetland Map**



**INSERT WETLAND MAP #2**



**CHAPTER FOUR**  
**CITY OF VENETA**  
**EXISTING NATURAL RESOURCE PROTECTION MEASURES**

Veneta has few existing ordinances and Comprehensive Plan policies that provide limited protection of natural resources. These policies and ordinances tend to only indirectly address the resource limiting effectiveness in regards to resource protection. This chapter provides an overview of existing Veneta ordinances and Comprehensive Plan policies that may protect natural resources.

**COMPREHENSIVE PLAN**

Section III (B)( 8): Open Space

The open space designations are those major areas which should remain undeveloped. These areas are not designated for any conversion to eventual urban uses as are rural residential and agricultural areas. They function as either parkways, open space or buffer areas. The parks and open space plan will delineate these areas in more detail.

Section III(I): Areas Subject to Development Constraints

Policy 3. Low-Wet Areas and Storm Drainage Facilities

- a) *All new developments shall protect existing natural drainage channels or provide storm drainage facilities to alleviate the storm drainage needs of the area.*
- c) *All new developments shall protect the natural drainage channels designated as linear greenways and open space areas in the Parks and Open Space Plan, Section III-F.*

**LAND DEVELOPMENT ORDINANCE**

Section 2.090 Wetland Development

- 1) *Notification. The City shall provide notice to the Division of State Lands (DSL), the applicant, and the owner of record, within five working days of the acceptance of any complete application for subdivisions; building permits for new structures; other development permits and approvals that allow physical alteration of land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways, conditional use permits and variances that involve physical alteration of land or construction of new structures, and planned unit development approvals that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory. This provision does not apply if a permit from DSL has been issued for the proposed activity.*

- 2) *Approval. Approval of any activity described above shall include one of the following:*
- a) *Issuance of a permit by DSL required for the project before any physical alteration takes place within the wetlands;*
  - b) *notice from DSL that no permit is required;*
  - c) *or notice from DSL that no permit is required until specific proposals to remove fill or alter the wetlands are submitted.*

*If DSL fails to respond within 30 days of notice, the City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits. The City may issue local approval for parcels identified as or including wetlands on the Statewide Wetlands Inventory upon providing to the applicant and owner of record a written notice of possible presence of wetlands and the potential need for state and federal permits and providing DSL with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.*

#### Section 5.120 Landscaping

All yards and parking areas shall be landscaped in accordance with the following requirements:

- 3) *Existing trees, plant material, and special site features shall be preserved within a project site to the fullest extent possible. Open space areas designed in the Comprehensive Plan shall be developed as landscaped linear greenways, parkways, or buffers.*

### **TREE CUTTING ORDINANCE NO. 366**

#### Section 3 Tree Removal Prohibited

Except as provided in Section 6, no person may remove more than three (3) trees per parcel within a single calendar year without filing a tree removal plan and obtaining a tree removal permit.

#### Section 4 Exemptions from Provisions of Ordinance

The provisions of this ordinance do not apply to the exemptions listed within this section nor is any fee required for their implementation.

- 4.1 *The action of any City official or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service or to reopen a public street to traffic.*
- 4.2. *Any removal of trees necessary to install or maintain improvements such as streets and sewers within publicly owned and accepted rights-of-way or utility easements.*

- 4.3. *Removal of trees that are nuisances or hazardous trees under the City nuisance ordinance.*

#### Section 8 Tree Removal Standards

The City's consideration of the permit shall be based on the following standards:

- 8.2 *The impact the trees' removal has on the environmental quality of the area, including but not limited to, the protection of nearby trees and windbreaks; wildlife, erosion, soil retention and stability; volume of surface runoff and water quality of streams; scenic quality; and geological sites.*
- 8.4 *In the event that no Plot Plan has been approved by the City, removal of trees shall be permitted on a limited basis consistent with the following criteria:*
- a) *Wooded areas associated with natural drainage ways and water areas shall be retained to preserve riparian habitat and to minimize erosion.*
  - c) *Wooded areas along ridgelines and hilltops shall be retained for their scenic and wildlife value.*
- 8.7 *The removal must be consistent with the guidelines set forth in the Forest Practices Field Guide Practices Rules published by the State of Oregon, Department of Forestry, as they apply to the northwest Oregon region.*



## CHAPTER FIVE

### CITY OF VENETA POTENTIAL NATURAL RESOURCE PROTECTION MEASURES

Local governments are in a position to install preventive, rather than reactive land use controls, to protect significant natural resources. Through deliberate planning efforts, Veneta can effectively protect significant resource sites while accommodating new development proposals - balancing the needs of development with natural resource protection.

#### POTENTIAL WETLAND PROTECTION MEASURES

Local wetland protection ordinances can be crafted to help steer growth away from significant wetlands to more appropriate areas while preserving the rights of landowners to develop their properties. In many cases, the protection of wetlands can become a community asset by providing valuable flood protection for properties hydrologically linked to wetlands, and through increased recreation and education opportunities. As is stated in the 1998 *City of Veneta Parks and Open Space Master Plan*, “Unique natural features add interest and diversity to a community’s park system while protecting ecological values. The greenway overlay shown on the existing comprehensive plan map corresponds closely with many of the significant wetlands identified in the newly mapped wetlands (those of the LWI) demonstrating the potential for simultaneous recreation and resource protection.”

Through application of the safe harbor provisions, Veneta will satisfy Goal 5 wetland planning requirements by adopting an ordinance that meets Goal 5 criteria. To protect significant wetlands and ensure private property rights, proposed ordinances under the safe harbor provisions must:

- Place restrictions on grading, excavation, placement of fill, and most forms of vegetation removal;
- Include a procedure to consider hardship variances;
- Include a procedure to consider claims of map error verified by the DSL; and
- Reduce or remove restrictions for lots or parcels that have been rendered unbuildable by the adoption of the wetland protection ordinance.

Veneta has a range of options for crafting wetland protection measures based on Goal 5 requirements, community needs, priorities, and other local circumstances. Table 4 displays a matrix of a range of wetland protection measures used by other Oregon cities. Applying a clear set of performance standards and guidelines is the most common approach used by cities to reduce development impacts on wetlands. Performance standards employ a combination of criteria aimed at the impacts of particular land uses.

Performance standards can vary widely in their degree and effectiveness, and are advantageous due to their flexibility.

While local wetland regulations vary greatly in their details, they share some basic common elements, including:

- A statement of wetland protection goals.
- Definition of a wetland.
- Criteria for identifying wetlands of significance.
- Lists of permitted and restricted uses.
- Sets of performance standards to guide development proposals.
- Variance provisions to minimize hardships on landowners.
- Penalties for violating the ordinance.

### **Goal Statement**

Local wetland ordinances typically list goals and objectives for control of development in or near wetlands related to both the natural values and development hazards. A strong goal statement establishes public intent and forges the necessary link to public health, safety and welfare. The goal statement should either:

- 1) Carry out a state mandate for resource protection; or
- 2) Cite the specific functions and values of the (wetland) resource and address the hazards associated with building in a wetland (e.g. flooding or erosion).

A goal statement addresses relevant Goal 5, Administrative Rules pertaining to the Goal , and periodic review work program requirements for natural resources inventories and applicable protection measures. A goal statement can also convey the importance of wetland protection and their contribution towards maintaining wildlife habitat, water quality, flood control, recreation opportunities, regional aesthetics, and other values.

### **Definitions and Criteria**

Goal 5 rules (OAR 660-23-100) define wetlands according to the accepted Federal wetland definition. Veneta's local wetland ordinance will state the criteria used to assess local wetlands based on the methodologies described in the city's LWI. Local ordinances often include stringent parameters that reflect local wetland characteristics such as specific native plants and soil type - information obtained through the assessment process and determination of significance. Local ordinances protect locally significant wetlands, which are identified through specific ecological criteria applied to wetlands statewide.

While the ordinance includes general wetland definitions, monitoring and enforcement rely on maps to specifically identify the wetlands subject to the ordinance. The ordinance specifies what maps and data sources have been used and are available to locate and classify local wetlands. Veneta's local ordinance will describe the LWI and associated maps that locate and identify significant wetlands within the community.

Insert Table 4

## Protection Measures matrix



## **Permitted and Restricted Uses**

Table 4 shows permitted and restricted uses in wetlands in five other cities in Oregon. Local ordinances typically list all uses that are permitted as of right, with no restrictions. Permitted uses might include; recreation, education and conservation activities, and certain agricultural and forestry related uses. A wetland ordinance usually lists uses or activities that are expressly prohibited in the wetland. Examples of prohibited uses might include; dumping of fill, excavation, construction of buildings or structures, and damming, drainage or relocation of any watercourse. Qualifications can be attached to prohibited uses, allowing the use only if certain criteria are met. Special uses in wetlands are those activities not permitted as of right and must be reviewed by a board of adjustment, planning commission, or other local body on a case-by-case basis. Special or conditional uses generally are those that may or may not have a serious wetland impact, such as the temporary storage of materials or equipment, and boat landings. Both wetlands determined to be locally significant and determined to be not significant, remain under state and federal program jurisdiction.

## **Variance Provisions**

Goal 5 clearly mandates that variance provisions are part of any ordinance placing restrictions on the development of private property. To protect private property rights, local ordinances must provide a well defined procedure for considering hardship variances. Where a hardship is shown through a successful variance application, the property owner may be allowed some modification to development on the property.

## **Penalties**

Many city zoning ordinances provide a combination of fines or other penalties for those found in violation of ordinance provisions. An effective penalty used by jurisdictions is to require the violator to mitigate the impact of the development on the subject wetland and restore it if possible. Fines for violations of the ordinance can range anywhere from several hundred to over one-thousand dollars, and can accrue daily. In addition to a detailed list of penalties, the code can include language to institute a stop-work order, allowing a locality to take immediate action if necessary. Code enforcement and penalty provisions are usually located in an administrative section of the code, and apply to a wide range of violations of city zoning requirements.

## **WILDLIFE HABITAT PROTECTION MEASURES**

No wildlife habitat inventories have been conducted within the Veneta UGB. However, four rare, threatened or endangered wildlife species have been documented as existing within a two-mile radius of the UGB. ODFW recommends that local jurisdictions have wildlife habitat protection measures in place that can be used in the event that wildlife resources are discovered.

In September, the Veneta City Council adopted a comprehensive plan policy addressing the protection of natural and cultural resources within the community. The proposed policy language pertains to newly identified natural and cultural resources or sites, and recommends they be addressed in the following manner:

- 1) Resource sites shall be inventoried, and conducted in a timely manner;
- 2) The city shall determine the significance of the resource sites and adopt supportive findings;
- 3) If significance is determined, the city shall apply interim protection measures;
- 4) Within one year, resource sites determined significant shall undergo a Goal 5 ESEE conflict resolution analysis initiated by the city;
- 5) A draft working paper with recommendations shall be reviewed by the City Council and Planning Commission; and
- 6) The city shall coordinate with affected property owners and the public throughout the process.

The adoption of this policy by the City of Veneta provides an opportunity and important framework for developing a clear and enforceable wildlife habitat protection ordinance. The ordinance will define, detail, and clarify the language in the policy to enforceable standards.

## CHAPTER SIX

### DRAFT PROTECTION POLICIES AND ORDINANCES

Key products of the Veneta NR Study are the protection policies and ordinances that provide a framework for future natural resource protection efforts. This chapter provides draft Comprehensive Plan policies and land use ordinance based on Goal 5 requirements, research results of this study, and citizen input from the Comprehensive Land Use Evaluation Steering Committee. The policy revisions and ordinances presented below are in draft stage. Potential amendments to these provisions will occur through an implementation phase at a later date, and will involve a broad-based public involvement process, legal counsel review, and eventual adoption by the Veneta Planning Commission and City Council.

#### DRAFT LAND DEVELOPMENT ORDINANCE REVISIONS

Veneta's Land Development Ordinance needs revisions to implement the goals and policies described in the Comprehensive Plan and to implement a wetland protection ordinance. Notice of proposed amendments will be given to all affected agencies and the Department of Land Conservation and Development during the adoption process. This section contains wording that can be inserted into the Land Development Ordinance. (Changes in ordinance language noted in italics.) This ordinance revision will be necessary once the Veneta City Council adopts a comprehensive wetland protection ordinance fulfilling Statewide Planning Goal 5 requirements.

#### **Section 6.010 Purpose of Site Plan Review**

The Planning Commission and Building and Planning Official may request either a full or partial Site Review for any development proposal not specifically required by this ordinance if the specific site or proposed use possesses any one of the following characteristics:

- (7) *Site includes significant wetland resources, or is located within 50 feet of wetland resources identified as locally significant in the Veneta Local Wetlands Inventory.*

#### **Section 2.090 Wetland Development**

- (1) **Notification.** The City shall provide notice to the Division of State Lands (DSL), the applicant, and the owner of record within five working days of the acceptance of any complete application for subdivisions; building permits for new structures; other development permits and approvals that allow physical alteration of land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways; conditional use permits and variances that involve physical alteration of land or construction of new structures; and planned unit development approvals that are wholly or partially within areas

identified as wetlands on the ~~Statewide~~ *Local Wetlands Inventory*. This provision does not apply if a permit from DSL has been issued for the proposed activity.

## **DRAFT COMPREHENSIVE PLAN POLICY**

The Veneta Comprehensive Plan is currently being revised and updated through the periodic review process. The following Comprehensive Plan policy represents draft goals and policies related to natural resources, primarily wetlands and wildlife habitat. Future revisions may be required for these provisions to conform with the overall structure of the new Comprehensive Plan.

### **Narrative:**

The City of Veneta recognizes natural resources as community assets providing environmental, educational, recreational and aesthetic values, while contributing to the City's long-term sustainable development. The policies of this element emphasize the protection of potential wildlife habitat sites and for minimizing the degradation and destruction of significant wetlands within the City of Veneta.

Statewide Planning Goal 5 covers more than a dozen resources and instructs local governments to adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. Veneta's Natural Resources Study (1998) addressed Goal 5 requirements for wetlands, riparian corridors, and wildlife habitat based on existing inventories.

Until recently, inventory information for Veneta's natural resources has been limited. In April 1998, the Oregon Division of State Lands approved an inventory documenting the location, quality, and quantity of wetlands and riparian areas within Veneta's urban growth boundary (UGB). The City has adopted the City of Veneta Local Wetlands Inventory and Riparian Inventory, which identifies and qualifies the city's significant wetland resources.

Veneta's wetlands inventory study area extended beyond Veneta's urban growth boundary to the northwest, and cataloged 52 wetland sites totaling approximately 203 acres. The largest of these wetlands are associated with the Fern Ridge Reservoir. Fifteen of the 22 wetland assessment units inventoried were determined to be locally significant (totaling 181 acres), warranting protection under Statewide Planning Goal 5.

### **Findings:**

1. Natural diversity within Veneta can be significantly preserved and enhanced through protection of wetland resources and the restoration and enhancement of a variety of wetland types. Wetland protection benefits a range of terrestrial and aquatic plant and animal habitats. Protection of wetland resources along Veneta's existing streams creates an interconnected system of important natural wildlife corridors.

2. Protection and enhancement of wetland resources provides a biological filtering system to remove sediments, certain nutrients, and water pollutants from the many drainage ways running through Veneta. Water quality improvements provided by wetlands will have a direct impact on the long term viability of Veneta's ground source drinking water supply.
3. Wetland protection significantly increases a community's ability to manage storm water runoff and water quality while providing enhanced flood storage and control. Wetland resources help reduce the downstream impacts of storm water originating in more urbanized areas.
4. Protected wetland areas can provide a wide range of community benefits, including valuable open spaces, and educational, recreational and research needs. The planning of trails, bikeways, nature centers, and wildlife observation points are available means to establish public accessibility. Accessible wetland environments in Veneta will become important places to socialize, recreate, and learn.
5. State and federal natural resource management agencies indicate that streams in Veneta are not fish-bearing, but have the potential to provide fish habitat. Although not a Goal 5 significant resource, a majority of Veneta's stream locations also contain areas containing significant wetland resources. Protection of these stream corridors enhances opportunities for fish and wildlife habitat.
6. Data from the Oregon Natural Heritage Program indicates that a least seven rare, threatened, or endangered plant and animal species inhabit areas adjacent the Veneta UGB. Wildlife habitat sites that have not yet been documented, may exist within Veneta's UGB.
7. Existing Veneta natural resource protection measures, such as a tree cutting ordinance, only indirectly have the potential to protect wildlife habitat.
8. Approximately 203 acres of wetlands are identified in Veneta's Local Wetland Inventory (LWI), and approximately 89 percent (181 acres) of wetlands identified in the LWI meet the definition of significance under Statewide Planning Goal 5.

**Goals:**

- 1. Conserve open space and protect natural and scenic resources, including wildlife corridors.**
- 2. Conserve and protect Veneta's significant wetland resources.**

**Policies:**

***Identified Wetland Resources***

Conservation and protection of significant wetland resources shall be achieved through the following measures:

- a) Meet state and federal requirements related to wetland resource protection.
- b) Protect and enhance water quality, wildlife habitat, flood storage, sediment and toxicant removal, and other wetland functions and values.
- c) Protect significant wetlands through restrictions on grading, excavation, placement of fill, and most forms of vegetation removal.
- d) Minimize economic hardship on private property owners due to protection of significant wetland resources by adopting procedures to consider hardship variances and claims of map error verified by the Division of State Lands, and reducing or removing restrictions for lots or parcels that have been rendered unbuildable from the adoption of new development requirements.
- e) Allow for multiple uses of wetlands to meet community, environmental, and human needs, while ensuring that functions and values of significant wetland resources are maintained.

***Unidentified Natural Resources***

Newly-identified natural resources, including wildlife and wildlife habitat sites, shall be addressed in the following manner:

- a) The site shall be inventoried, incorporating the use of experts, for specific location, quantity and quality. This inventory shall be done in a timely manner. Constraints on access to private lands, availability of qualified experts, and the difficulty of identifying the suspected natural resource at certain times of the year may require an extended time period for the study.
- b) Upon completion of the preliminary inventory, the city shall determine whether the identified resource is significant and adopt supporting findings. Significance will be determined on a case-by-case basis, according to whether the resource is on a federal, state, or local listing, and based on the uniqueness or scarcity of the resource locally. If necessary to protect the site, the city shall apply interim protection measures. The city shall then notify any interested parties of the decision and any interim protection measures to be undertaken.
- c) If a resource is determined significant, within one year, the city shall initiate a Goal 5 Environmental, Social, Economic, and Energy conflict resolution analysis. The city

will then release a draft working paper with recommendations which will be reviewed by the Planning Commission and City Council.

- d) Staff will coordinate with affected property owners and interested parties throughout the process.

**DRAFT WETLAND PROTECTION ORDINANCE**

The following draft ordinance has been developed based on Goal 5 requirements, research results of this study, and citizen input from the Comprehensive Land Use Evaluation Steering Committee. Potential amendments to these provisions may occur later through the implementation process, involving public hearings, legal counsel review, and eventual adoption by the Veneta Planning Commission and City Council.

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF VENETA, IMPLEMENTING THE CITY OF VENETA LOCAL WETLAND INVENTORY AND REGULATING THE DESTRUCTION OF SIGNIFICANT WETLANDS**

Whereas, local governments are required to use Oregon Division of State Lands (DSL) criteria (Oregon Administrative Rules 141-086-300 et seq.) for identifying significant wetlands within local planning areas; and

Whereas, the Land Conservation and Development Commission (LCDC) has amended statewide Planning Goal 5 and LCDC’s administrative rules pertaining to Goal 5 resources, including wetlands; and

Whereas, Veneta has adopted the City of Veneta Local Wetlands Inventory and Riparian Inventory as approved by DSL (June 1998), which identifies and qualifies the city’s wetland resources; and

Whereas, the City of Veneta periodic review work program instructs the city to develop regulations, policy and plan amendments, and changes to the Veneta Comprehensive Plan and Land Development Ordinance to protect significant wetland areas and so to be in compliance with state rules pertaining to Goal 5 wetland resources.

Whereas the City of Veneta recognizes significant wetlands as a community asset providing educational, recreational and aesthetic values, while contributing to the City’s long-term goals of sustainable community development.

**FINDINGS OF FACT**

- A. The adoption of this ordinance is consistent with the applicable Statewide Planning Goals.

1. Compliance with Statewide Planning Goal 5. This ordinance complies with Goal 5, which is intended to conserve open space and protect natural and scenic resources.

The wetland protection standards within this ordinance establish uses which are prohibited within, and adjacent to, locally significant wetlands. These protection standards place restrictions on new development, road building, and general filling, grading, and excavating within wetland sites. These restrictions are intended to conserve community open space, scenic resources, and a wide range of natural resource functions and values.

B. The adoption of this ordinance is consistent with the goals and policies of the Veneta Comprehensive Plan.

1. Veneta Comprehensive Plan: Open Space Plan Designation Areas. This ordinance is in conformance with Comprehensive Plan policies emphasizing that open space, green belts, and buffer zones shall be maintained in particular areas within the city.

Significant wetland sites subject to this ordinance will be areas primarily maintained as open spaces through development restrictions. Numerous wetland sites identified in the local wetland inventory are located on lands subject to the Open Space Overlay Designation of the Veneta Comprehensive Plan Map. Therefore, this wetland protection ordinance will ensure the maintenance of open spaces and buffer zones within the City and is in compliance with Land Use Plan goals and policies as identified in the Veneta Comprehensive Plan.

2. Veneta Comprehensive Plan: Parks and Open Space Element. The Parks and Open Space Element (Goal F), establishes the intent to develop a variety of neighborhood parks, open space areas, and recreational facilities for use by the residents of Veneta.

As described above, wetland protection standards within this ordinance will be applied to many sites already designated for open space, and will contribute to the overall protection and maintenance of existing open space in Veneta. Many of these significant wetland sites have also been recommended for incorporation into the City's park system in the *Veneta Parks and Open Space Plan (1998)*. For these reasons this ordinance furthers Veneta's long-term open space and park planning goals, and is in compliance with the Parks and Open Space Element of the Veneta Comprehensive Plan.

3. Veneta Comprehensive Plan: Air, Water and Land Resource Quality Element. The intent of the Air, Water and Land Resource Quality Element (Goal H) is to preserve and maintain the quality of Veneta's air, water and land resources. The policies articulated under this goal address the preservation of local water quality.

The wetland protection standards within this ordinance will contribute to the overall protection of Veneta's land and water resources. The development restrictions applied to wetland sites will contribute to effective and enhanced management of stormwater runoff, groundwater recharge, and flood control, and will contribute to the maintenance of water quality for Veneta residents. This ordinance helps ensure the long-term preservation of the City's land and water resources and furthers the intent of the Air, Water and Land Resource Quality Element of Veneta's Comprehensive Plan.

C. Based upon the foregoing criteria and findings:

1. This ordinance is in conformance with the Veneta Comprehensive Plan and the Statewide Planning Goals.
2. This ordinance should be adopted by the City Council to further the City Comprehensive Plan and Statewide Planning Goals.

THE CITY OF VENETA ORDAINS AS FOLLOWS:

**SECTION 1. Purpose.**

The purpose of this ordinance is to establish a process and standards which will minimize the degradation and destruction of significant wetlands within the City of Veneta and conserve wetland resources and their functions and values. This ordinance is intended to protect and enhance local water quality; to preserve fish and wildlife habitat; to provide flood storage capacity, nutrient attenuation, and sediment trapping; and to preserve open spaces within the City of Veneta.

The City of Veneta finds that significant wetlands are a community asset providing environmental, educational, recreational and aesthetic values, while contributing to long-term sustainable community development. Therefore, pursuant to ORS 660-023-0100(b), the City has chosen to restrict the filling, grading and excavation of wetlands for their protection.

**SECTION 2. Definitions.**

As used in this ordinance or in the conditions imposed by the City pursuant to Section 3, the following words and phrases, unless the context otherwise requires, shall mean:

Enhancement: An activity which improves one or more specific functions or values of an existing wetland.

Functions and Values: Functions refers to the environmental roles served by wetlands and buffer areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, flood storage, nutrient attenuation, and sediment trapping. Values refers to the qualities ascribed to a wetland such as educational and recreational opportunities, open space, and visual aesthetic qualities.

Restoration: To improve a disturbed wetland by returning wetland parameters which may be missing; adding soils, water, or plants. The restoration may return a missing or damaged wetland function to achieve a desired outcome.

### **SECTION 3: Procedures for Identifying Significant Wetlands.**

The wetland regulations contained in this ordinance apply to those areas identified as significant wetlands on the Comprehensive Plan Wetlands Map exhibit, and wetland sites meeting Division of State Lands criteria. Precise wetland boundaries may vary from that shown on the Comprehensive Plan Wetlands Map exhibit if an on-site delineation or other City approved documentation indicate more accurate boundaries. For any proposed development impacting significant wetlands or within 50 feet of identified significant wetlands, the applicant shall be required to conduct a wetland delineation to determine the precise wetland boundary for application of the Removal-Fill Law, and if applicable, the nature and extent of development impacts on adjacent wetlands. The more precise boundaries obtained through a wetland delineation can be identified, mapped, and used for review and development without a change in the Comprehensive Plan Wetlands Map exhibit. All developments proposed within or adjacent to a designated wetland area shall be subject to the provisions of this ordinance and Site Plan Review pursuant to Veneta's Land Development Ordinance.

### **SECTION 4: Land Use and Permit Requirements.**

**4.1 Permitted Uses.** The following uses are permitted within wetlands identified as locally significant.

1. Removal of fill and any refuse that is in violation of local, state or federal regulations. Removal of fill must be consistent with State of Oregon Removal-Fill regulations.
2. Removal of non-native vegetation or invasive plant species.
3. Planting or replanting with native plants.
4. Channel maintenance to maintain storm water conveyance and flood control capacity, as required by local policies, state and federal regulations, or intergovernmental agreements.
5. Site management and maintenance practices, whose purpose is to maintain or improve natural functions and values or protect public health and safety, and which are consistent with adopted plans and policies, including but not limited to perimeter mowing and other cutting necessary for hazard prevention;
6. Wetland and natural area restoration and enhancement of natural functions and values which involve displacement, excavation or relocation of less than 50 cubic yards of earth, and which carry out the objectives of this ordinance and are consistent with adopted policies and plans.
7. Preservation and maintenance activities associated with historic structures.

**4.3 Uses Subject to Site Review Approval.** Within locally significant wetlands the following uses are subject to site review approval in accordance with Veneta's Land Development Ordinance:

1. Nature interpretive centers and wetland research facilities, when specified in or consistent with adopted plans or policies.
2. Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resources.
3. Construction of trails, boardwalks, viewing platforms, information kiosks, and trail signs.
4. Realignments and reconfigurations of channels and pond banks, including the restoration and enhancement of natural functions and values which involve displacement, excavation or relocation of more than 50 cubic yards of earth and which carry out the objectives of this ordinance.
5. Construction of access roads for maintenance of channels, wetlands and other natural resource areas.
6. Construction of bikeways and other paved pathways.
7. Construction of stormwater quality treatment facilities that use biofiltration methods.

**4.4 Prohibited Uses.** Within locally significant wetlands, practices that are specifically not allowed and would adversely affect wetland functions and values include, but are not limited to the following:

1. New development or expansion of existing development.
2. Storage or use of chemical pesticides, fertilizers, or other hazardous or toxic materials.
3. Construction of new septic drainfields.
4. Channelizing or straightening natural drainageways.
5. Removal or destruction of rare, threatened or endangered plant species or valuable native plant species as found on a list determined by the Oregon Natural Heritage Program and kept on file at Veneta City Hall.
6. Filling, grading, and/or excavating wetland areas.

**4.5 DSL Notification and Approval Required.** In addition to the restrictions and requirements of this Section, all proposed development activities wholly or partially within areas identified as wetland are also subject to DSL standards and approval. Where there is a difference, the more restrictive regulation shall apply. The City shall be responsible for notifying DSL whenever any portion of any wetland is proposed for development, in accordance with ORS 227.350. No action can be taken on a proposed development until such notification is provided.

**SECTION 5. Appeals.**

Any decision by the City on a land use application concerning the wetland protection requirements herein may be appealed to the Planning Commission and City Council pursuant to Veneta's Land Development Ordinance.

**SECTION 6. Variances.**

- A. For parcels that have no usable building site through application of the requirements of this ordinance, a variance may be granted to allow development on the parcel, provided that the design of the development minimizes impact to the wetland.
- B. A variance may be granted in those instances where claims of map error are verified by the Division of State Lands.
- C. A variance may be granted in those instances where the Planning Commission and City Council jointly determine that the public need outweighs the potential adverse impacts of development in or near a locally significant wetland resource site.

**SECTION 6. Penalties.**

Any person found to have filled, excavated or otherwise destroyed a wetland site in violation of this ordinance, or fails to comply with any condition of a wetland permit shall, upon conviction, incur a civil penalty of not less than \$500.00 nor more than \$1,000.00 for each violation. A violation of this ordinance shall be considered a separate offense for each day the violation continues. Violators shall be subject to the enforcement procedures pursuant to Veneta's Land Development Ordinance.

**SECTION 7. Conflicts.**

To best protect important values of wetlands in the event that the requirements of this section conflict with other ordinance requirements, the City shall apply the requirements that best provide for the protection of the resource.

**SECTION 8. Findings of Fact.**

The City Council adopts the above findings of fact as a basis for adoption of this land use ordinance.

**SECTION 9. Amendments.**

All amendments made to this ordinance shall be in accordance with the amendment procedures set forth in Veneta's Land Development Ordinance.

**SECTION 10. Severability.**

The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections, or permit approvals and prosecutions brought pursuant to this section.

**SECTION 11. Adoption**

Adopted by the City Council of the City of Veneta, Oregon this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

PASSED AND ADOPTED by a \_\_\_\_\_ vote of the City of Veneta Council.

\_\_\_\_\_ Ayes    \_\_\_\_\_ Nays    \_\_\_\_\_ Abstain    \_\_\_\_\_ Absent

\_\_\_\_\_  
Tim Brooker, Mayor

Executed on \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Sheryl Hackett, City Recorder  
Executed on \_\_\_\_\_