AGENDA
Veneta Planning Commission Meeting
TUESDAY – May 5, 2020– 6:30 p.m.
Veneta City Hall 88184 8th Street

PURSUANT TO GOVERNOR BROWN'S EXECUTIVE ORDER NO. 20-07, ALL CITY OF VENETA PUBLIC MEETINGS WILL BE LIMITED TO NO MORE THAN 10 PEOPLE ATTENDING, INCLUDING STAFF AND ELECTED/APPOINTED OFFICIALS.

PURSUANT TO GOVERNOR BROWN'S EXECUTIVE ORDER NO. 20-16, CITY OF VENETA PUBLIC MEETINGS CAN BE ACCESSED VIA TELECONFERENCE. TO LISTEN TO THIS MEETING, CALL 1-978-990-5248, ENTER ACCESS CODE 8848223

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1. **REVIEW AGENDA**

2. **PUBLIC COMMENT**
   If you wish to address the Planning Commission; state your name, address, and limit your comments to 3 minutes. Maximum time 20 minutes. The Planning Commission will not engage in any discussion or make any decisions based on public comment at this time; however, they may take comments under advisement for discussion and action at a future Planning Commission meeting.

3. **APPROVAL OF MINUTES**
   a. April 7, 2020 (pgs. 3-5)

4. **LEGISLATIVE PUBLIC HEARING ON VENETA LAND DEVELOPMENT CODE TYPE I-IV PROCEDURES (#A-1-20)**
   a. Open Hearing
   b. Staff Report – Evan MacKenzie (pgs. 7-51)
   c. Public Comments
   d. Questions from Planning Commission
   e. Close of Public Hearing
   f. Planning Commission Deliberation and Decision

5. **ADMINISTRATIVE LAND USE DECISIONS (JANUARY THROUGH MARCH, 2020)** (pg. 53)

6. **OTHER**

7. **ADJOURN**

Times are approximate. This meeting will be digitally recorded. Location is wheelchair accessible (WCA). Individuals needing special accommodations, such as sign language or foreign language interpreters, should make such requests by contacting the City Recorder at 541-935-2191(voice) or by e-mail at: dhenneman@ci.veneta.or.us. Requests made after 10:00 a.m. two working days prior to a meeting may not be accommodated.

Los tiempos son aproximados. Esta reunión se grabará digitalmente. La ubicación es accesible para sillas de ruedas (WCA). Las personas que necesiten un alojamiento especial, tales como lenguaje de señas o intérpretes de idiomas extranjeros, deben hacer tales peticiones poniéndose en contacto con el registrador de la ciudad en 541-935-2191 (voz) o por correo electrónico a: dhenneman@ci.veneta.or.us. Las solicitudes hechas después de las 10:00 a.m. dos días hábiles antes de una reunión no pueden ser acomodadas.

To access Planning Commission meeting material please go to http://www.venetaoregon.gov/meetings

The Planning Commission considers all public comments, staff reports, and City ordinances in arriving at a final decision. **Staff reports are available for review at Veneta City Hall - 88184 8th Street - Veneta, Oregon.**

LAND USE DECISIONS - Veneta Municipal Code Chapter 18.05
Whenever this chapter is in effect, the following procedures or procedure similar thereto shall be followed by the city staff and applicable decision-making body: (1) Preparation of brief statement setting forth the criteria and standards considered relevant to the decision of the city staff. Such shall utilize criteria and standards found in the applicable ordinance, the comprehensive plan, and other ordinances and rules and regulations now in effect as from time to time adopted by the city council and appropriate decision-making body.

PUBLIC HEARINGS - Please observe the following rules.

WRITTEN TESTIMONY:
Written comments received seven (7) days prior to the meeting have been incorporated in the staff report. All comments, including those received up until the meeting, are presented to the Planning Commission members to be considered in their decision.

ORAL TESTIMONY:
If you wish to testify with regard to a matter which has been set for ***Public Hearing*** please observe the following rules:

1. **State your name and address.**
2. **Indicate if you are in favor of or opposed to the proposal.**
3. **Limit your testimony to three (3) minutes. Testimony must be specific to the issue at hand. Keep your comments brief and to the point.**

The Planning Commission considers all public comments, staff reports, and City ordinances in arriving at a final decision. **Staff reports are available for review at Veneta City Hall - 88184 8th Street - Veneta, Oregon.**

Minutes of the Veneta Planning Commission
April 7, 2020

Present: Craig Soderberg, Lily Rees (via telephone), David Voltz

Absent: Len Goodwin

Others: Lisa Garbett, Associate Planner; Evan MacKenzie, Community Development Director

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I. REVIEW AGENDA

Vice Chair Lily Rees called the Veneta Planning Commisssion to order at 6:40 p.m. and reviewed the agenda.

II. PUBLIC COMMENT

None

III. APPROVAL OF MINUTES

MOTION: **Craig Soderberg made a motion to approve the January 7, 2020 minutes and the March 3, 2020 minutes. David Voltz seconded the motion which passed with a vote of 3-0.**

IV. QUASI-JUDICIAL PUBLIC HEARING – CITY OF VENETA, TAX LOT 600 - VARIANCE (V-1-20)

a. Vice Chair Lily Rees opened the Public Hearing at 6:43 p.m.

b. Staff Report – Evan MacKenzie
MacKenzie said the City of Veneta is the applicant and property owner of Tax Lot 600. He said the City constructed a public utility with certain minimum land requirements and would like to dispose of the rest of the parcel for private development. The City is proposing to retain the minimum amount of land necessary to support the lift station and associated infrastructure which leaves an odd shaped lot that is fairly narrow and deep. It does not meet the City's subdivision ordinance which requires lots have a minimum and maximum of 230 ft. in depth. The proposed parcel we would retain does not meet this standard, and therefore we're asking for a variance. He said parcels 50 ft. wide cannot be less than 80 ft. or more than 125 ft. deep and proposed parcel 1 is 230 ft. and does not meet this standard. The City is requesting to increase the maximum lot depth from 125 ft. to 230 ft.

c. Applicant Report
None

d. Proponents
None

e. Opponents
None

f. Neutral
None

g. Questions from the Veneta Planning Commission
In response to a question from Craig Soderberg, MacKenzie said the petition will not affect wetlands. He said wetlands were filled in and mitigated. However, if any are there, the developer of the remaining land would be responsible for mitigation or other appropriate action.

In response to a question from David Voltz, MacKenzie said Garbett did the partition and he did the variance. He said the subdivision ordinance does require a shadow plat and technically no development associated with the request. He said we are not partitioning off a traditionally developed parcel. He said we are maximizing potential development. He said all of the exhibits are exactly the same for the variance and the partition, and are included with the partition staff report. He said it's a very narrow 50 ft. wide lot. He said we could have kept less but we wanted to reserve the ability to excavate in case anything needs future maintenance, without disturbing future development.

Craig Soderberg said this makes a lot of sense.

h. Vice Chair Lily Rees closed the Public Hearing at 6:52 p.m.

i. Deliberation and Decisions

MOTION: **Craig Soderberg made a motion to approve the tentative plan with the specified conditions of approval based on the findings in the Proposed Final Order. David Voltz seconded the motion which passed with a vote of 3-0.**

V. LIMITED LAND USE DECISION – CITY OF VENETA, TAX LOT 600 - PARTITION (M-1-20)

Garbett said this decision is actually a limited land use decision so a public hearing is not needed. She said this is for the same property as the variance is, at the corner of 8th St. and Jack Kelley Dr. The City is the applicant and staff consulted with the City Engineer to prepare the application. Referral requests were sent out and the approval criteria is in the Veneta Land Division Ordinance, Section 5.04. Several comments were received and most agencies indicated they reviewed the proposal and didn't have issues. The Dept. of State Lands commented that they don't see the partition triggering any permits. However, when and if Parcel 2 is developed, a state permit may be required. The City's Public Works Director worked with an engineering and wetland consultant to have a wetland delineation performed and that was approved by the Dept. of State Lands. She said if Parcel 2 is developed more than five years from now, another wetland delineation will be required because they're only good for five years. She outlined a few issues in the staff report and said whomever purchases Parcel 2 will be responsible for confirming with City ordinances in terms of greenway and wetlands and also state requirements. Staff recommends approval but because the City is the applicant, the Planning Commission can adopt the findings or create their own. She asked for any questions.

Craig Soderberg said his only concern is the wetland issues and that's the only thing we're going to have to deal with. We need to make sure its addressed.

Garbett said the final order does include that the new owner will be required to follow those regulations. She said the City was stuck with the parcel as explained in MacKenzie's previous staff report and it does have some limited development options but because of the location, it does have potential development possibilities. She said the City will be forthright with the new owner and what the lot contains.

In response to a question from Lily Rees, MacKenzie said wetland review is triggered with all new development and it will likely be subject to site plan review.

MOTION: **David Voltz made a motion to accept the staff's Findings as the Findings of the Planning Commission, Craig Soderberg seconded the motion which passed by a vote of 3-0.**

MOTION: **Craig Soderberg made a motion to approve the Findings in the Proposed Final Order. David Voltz seconded the motion which passed with a vote of 3-0.**

VI. REVIEW LAND DEVELOPMENT CODE TYPE I-IV PROCEDURES

MacKenzie said the last item was intended to be a hearing but he received a significant amount of comments from legal counsel, rather than having a public hearing tonight, he wanted to provide the Planning Commission with his draft language, which does not include the numerous comments from legal counsel. There will be quite a few changes prior to adoption next month, which should give him enough time to include all of legal counsel's comments. He said this matter will be a legislative public hearing, so Planning Commissioners are allowed to contact staff directly with questions, just make sure you mention that ex parte contact during the public hearing.

In response to a question from David Voltz, MacKenzie said what he provided tonight does not include legal counsel's comments. He said he just wanted to provide his draft to the Planning Commission. He said this will familiarize the Planning Commission with this process prior to the public hearing and the final language.

MacKenzie said we're also working on the quality of our distance meetings.

VII. OTHER

None

VIII. ADJOURN

Vice Chair Lily Rees adjourned the Veneta Planning Commission at 7:20 p.m.

_____
Len Goodwin, Chair

ATTEST:

_____
Darci Henneman, City Recorder
(Minutes prepared by DHenneman)

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VENETA PLANNING COMMISSION
AGENDA ITEM SUMMARY

Title/Topic: **Procedural Updates to Land Development (No. 493) and Land Division (No. 494) Ordinances**

Meeting Date: May 5, 2020
Department: Community Development

Staff Contact: Evan MacKenzie
Email: emackenzie@ci.veneta.or.us
Telephone Number: 541-935-2191

ISSUE STATEMENT

Staff proposes to amend the City of Veneta Land Development Ordinance (No. 493) and Land Division Ordinance (No. 494) to incorporate a single source of standardized language for all land use application procedures, similar to that used by many other jurisdictions in Oregon. The current language is inconsistent and vague, making procedural standards unclear and difficult to administer.

This issue was discussed before the Planning Commission at its January 7, 2020 meeting, and then the City Council at its January 27 meeting. Both bodies recommended staff move the issue forward for consideration and adoption. The City Attorney is also supportive of the change and has reviewed the proposed amendments.

BACKGROUND

Staff has maintained a list of potential code updates for many years. The previous Community Development Director included a recommendation to transition the City to a standardized "Type" application procedure on that list. Many other jurisdictions use this procedure for processing land use actions that classify all applications depending on who issues the final decision and how. The proposed amendments would carry out that recommendation by classifying all land use applications under one of the five following procedural Types:

A. **Type I Procedure (Ministerial).** Type I decisions are made by staff, without public notice and without a public hearing. The Type I Procedure is uses clear and objective approval criteria that allows for the application of city standards and criteria without the exercise of discretion. Most Type I decisions require only an application form and can be approved by staff upon or shortly after receipt. Type I decisions are not land use decisions, thus are not appealable to Land Use Board of Appeals (LUBA).

B. **Type II Procedure (Administrative).** Type II decisions are made by staff with public notice, submittal of written comments only (not a hearing), findings addressing all approval criteria, which generally require the exercise of limited discretion, and a decision to approve or deny the application. Interested parties may appeal a Type II decision locally and request a hearing if they believe a decision was made in error. Appeal of a Type II decision is heard by the Planning Commission. The Community Development Director may also refer a Type II application to the Planning Commission

for the initial decision. In that event, the City Council will hear appeals of the Planning Commission's decision.

C. **Type III Procedure (Quasi-Judicial).** Type III decisions are made by the Planning Commission after public notice, opportunity for written and oral public comment at a public hearing. Type III decisions generally apply approval criteria requiring the exercise of discretion, allowing the Planning Commission to weigh evidence presented and make its own findings and decision. Appeals are heard by the City Council.

D. **Type IV Procedure (Quasi-Judicial).** Certain zoning map amendments are discretionary in nature, and require the exercise of judgment in applying the policies of the Comprehensive Plan and its implementing ordinances. These actions require a quasi-judicial review by the Planning Commission similar to a Type III action, but also require review and approval by the City Council and adoption by ordinance. Appeals of Type IV decisions go to the Oregon Land Use Board of Appeals (LUBA).

E. **Type V Procedure (Legislative).** Type V procedures apply to legislative matters. Legislative matters include the adoption and amendment of land use regulations, and the City's Comprehensive Plan. While Type I-IV decisions require consistency with adopted standards, Type V decisions generally change the standards and procedures that apply to land use applications. While Type II-IV applications require some level of quasi-judicial protection to discrete applicants, legislative decisions apply Citywide, and thus require a lower level of procedural protections. Type V matters are considered initially by the Planning Commission, which forwards a recommendation (not a decision) to the City Council. As Type V decisions involve policy choices about how the City should develop, the City enacts legislative decisions by ordinance. Appeals go to LUBA.

Staff has historically presented certain applications to the Planning Commission even if applicable approval criteria offered no discretion. Staff proposes to amend Ordinances 493 and 494 to clearly direct staff review of such actions unless an associated application, such as a Variance, requires review by the Planning Commission in order to approve it. In that event, the Planning Commission would review both applications, weigh any public testimony, and make findings, which may require discretion to determine if the evidence supports a decision to approve or deny or approve with conditions. Although the approval criteria for various land use applications may be different, the process that the City uses to arrive at a decision is often in line with one of the five procedural types identified above. Therefore, staff recommends deleting all procedural standards form Ord. 494 (Land Division) and assigning all applications in both ordinances with similar procedural requirements to the appropriate classification in the new Article 11 in Ord. 493 (Land Development).

The advantage of using the system outlined above is that all applications can be processed in a uniform way that City staff, members of the public, and applicants can easily understand. Moreover, many developers and contractors are familiar with these terms from other jurisdictions. In addition, removing and replacing the procedures currently scattered throughout the Land Development and Land Division Ordinances and consolidating them into one location will avoid confusion about the standards and process that apply to each individual land use application.

Public Notices
We currently provide notice to property owners within 500 feet of the subject property for ALL applications that require public notice. The State minimum is 100 feet. Most jurisdictions tend to fall within 200-300 feet.

The notice radius is a balancing act that is open to local community discretion. What is "just right" for one community may not be for another. Staff questions whether or not a 500 foot radius is excessive, and recommends instead a graduated approach, with the notice radius increasing as we progress through the Type II-IV procedural ladder. One hundred feet may in fact be adequate for most Type II decisions, since the City has no real authority to exercise discretion over approval or denial. For Type III and IV applications, perhaps 300 feet would be appropriate. If our elected and appointed officials believe that 500 feet is what is appropriate for all decisions in our community, then that's what we'll continue do and all notification radii in the draft Article 11 will be changed accordingly.

Definitions
The amendments will remove all definitions from the Land Division Ordinance, move them into the Land Development Ordinance, and incorporate those definitions by reference back into the Land Division Ordinance. The current language of the Land Division Ordinance repeats verbatim many of the same definitions from the Land Development Ordinance, even though many of the defined words do not actually appear in the Land Division Ordinance(!). <u>The proposed amendments will ensure that both ordinances rely on a single set of procedures and definitions in the amended Land Development Ordinance.</u>

Note - Text Formatting
There may exist inconsistencies in formatting in the three amendment files, in relation to each other as well as in relation to the two original ordinances proposed for amendment. Staff will work to remedy these inconsistencies after the final version of each document is approved, when they are integrated into the respective ordinances through codification. It is also possible that some references to other sections may be incorrect once all of the proposed amendments are incorporated. Staff will address these as scrivener errors during codification.

PUBLIC NOTICE
Any proposed amendments to the Comprehensive Plan or implementing ordinances require notice of a "Post Adoption Plan Amendment" to the Department of Land Conservation and Development (DLCD) a minimum of 35 days before the first evidentiary hearing. Notice was provided through the online PAPA submittal portal on January 31, 2020. Because the proposed amendments will not change any allowed or conditionally permitted uses on property in the City, no notices were mailed to property owners.

RELATED CITY POLICIES
Veneta Land Development Ordinance (No. 493)
Veneta Land Division Ordinance (No. 494)
Both ordinances are available online here: https://www.codepublishing.com/OR/Veneta/

The following Articles and Sections of the Land Division and Development Ordinances will be amended *(See attachments - list may not be complete; staff will confirm prior to adoption):*

LAND DEVELOPMENT ORDINANCE (NO. 493)

Article 1 – Introductory Provisions
Add new section 1.03 Severability
Add new section 1.04 Policy of Nondiscrimination
Add new section 1.05 Duty of Enforcement

Article 2 – Administrative Provisions
New Section 2.01B. Penalties for Noncompliance
2.03 Administration. *Remove all procedural language in B, C and D.*
2.06 Form of Petitions…
2.07 Appeals.
2.11 Notice of Public Hearing.
2.12 Continuance.
2.13 Notice of Limited Land Use Actions.

Article 5 – Supplementary Provisions
All references to "Track 2 Site Plan Review" changed to Type III Site Plan Review
New Section 5.31, section title omitted from original document
Existing Section 5.31 will now be 5.32

Article 6 – Site Plan Review
6.06 Procedure.
6.07 Amendments.

Article 7 – Temporary Use Permit Regulations
7.05 Procedure for Approving…

Article 8 – Conditional Uses
8.03 Taking Action…
8.05 Time Limit

Article 10 – Variances
10.04 Procedure for Taking Action

Article 11 – Amendments
Delete all language in current Article 11; rename **Procedural Standards**
Add all new Article 11 with Type I-V Procedural Standards

Article 12 – Home Occupations
12.03 Minor Home Occupations.

Article 13 – Definitions
13.02 Definitions *Incorporate definitions from Land Division Ordinance*

LAND DIVISION ORDINANCE (NO. 494)

Repeal all procedural language and direct to Article 11 in the Land Development Code (Ord. 493)

Article 2 – Application and Variance Procedures
2.03 Submission Procedure
2.05 Variance Petition
2.06 Notice of Limited Land Use Actions
2.07 Wetland Development

Article 3 – Property Line Adjustments and Replats
3.01 Submission Requirements

Article 4 – Subdivisions
4.02 Tentative Plan Review and Action Procedures
4.03 Categories for Review…
4.06 (Final Plat) Review and Action Procedures

Article 5 - Partitions
5.03 Tentative Plan Review and Action Procedures
5.07 (Final Plat) Review and Action Procedures

Article 8 – General Provisions
8.06 Definitions. *Delete all definitions and reference Development Code Article 13*

COMMISSION OPTIONS

1) Recommend the City Council adopt the proposed amendments as written.
2) Recommend the City Council adopt the proposed amendments with changes.
3) Recommend the City Council not adopt the proposed amendments.

Note: The City Attorney may recommend some additional changes prior to adoption. Staff has accounted for this in the recommended motion.

CITY ADMINISTRATOR'S RECOMMENDATION

That the Planning Commission recommend City Council adoption of the proposed amendments, as written, unless specific changes are requested by the City Attorney prior to adoption.

SUGGESTED MOTION

I make a motion that the Planning Commission recommend Council adoption of the proposed amendments, as written, unless specific changes are requested by the City Attorney prior to adoption.

ATTACHMENTS

1. Amendments to Ordinance No. 493 – Land Development Ordinance
2. Amendments to Ordinance No. 493 – New Article 11, Procedural Standards
3. Amendments to Ordinance No. 494 – Land Division Ordinance

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Amendments to the

VENETA LAND DEVELOPMENT ORDINANCE
No. 493

Only those sections with proposed amendments are shown.
New language in **highlight**

AMENDMENTS OVERVIEW

Article 1 – Introductory Provisions
New section 1.03 Severability
Article 2 – Administrative Provisions
New Section 2.01B. Penalties for Noncompliance
2.03 Administration. *Remove all procedural language in B, C and D.*
2.06 Form of Petitions…*Delete and replace with new procedural language.*
2.07 Appeals. *Delete and replace with new procedural language.*
2.11 Notice of Public Hearing. *Delete and replace with new procedural language.*
2.12 Continuance. *Delete and replace with new procedural language.*
2.13 Notice of Limited Land Use Actions. *Delete and replace with new procedural language.*
Article 5 – Supplementary Provisions
All references to "Track 2 Site Plan Review" changed to Type III Site Plan Review
New Section 5.31, section title omitted from original document
Existing Section 5.31 will now be 5.32
Article 6 – Site Plan Review
6.06 Procedure. *Delete and replace with new procedural language.*
6.07 Amendments. *Delete and replace with new procedural language.*
Article 7 – Temporary Use Permit Regulations
7.05 Procedure for Approving… *Delete and replace with new procedural language.*
Article 8 – Conditional Uses
8.03 Taking Action… *Delete and replace with new procedural language.*
8.05 Time Limit… *Delete and replace with new procedural language.*
Article 10 – Variances
10.04 Procedure for Taking Action… *Delete and replace with new procedural language.*
Article 11 – Amendments
Delete all language in current Article 11; rename **Procedural Standards** (See separate attachment)
Add all new Type I-IV Procedural Standards, including appeals, time limits and extensions
Article 12 – Home Occupations
12.03 Minor Home Occupations. *Direct approval procedure to a Type I permit.*
Article 13 – Definitions
13.02 Definitions *Incorporate definitions from Land Division Ordinance*

ARTICLE 1 - INTRODUCTORY PROVISIONS

1.01 TITLE

This ordinance shall be known as the VENETA LAND DEVELOPMENT ORDINANCE of 2010.

1.02 PURPOSE

The purpose of this ordinance is to establish standards and procedures for the orderly development of land within the City of Veneta; to assist in implementing the Veneta Comprehensive Plan and to promote the public health, safety and general welfare.

The provisions of this Ordinance shall be deemed minimum requirements necessary to implement the Veneta Comprehensive Plan in accordance with Oregon Revised Statutes Chapter 197 and to preserve the public safety, health, convenience, comfort, prosperity and general welfare of the people of the City of Veneta.

1.03 SEVERABILITY

The provisions of this ordinance are severable. If a section, sentence, clause or phrase of this ordinance is held invalid by a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.

1.04 POLICY OF NONDISCRIMINATION

Age, gender/race or physical disability shall not be a consideration in making any decision under this ordinance.

1.05 DUTY OF ENFORCEMENT

It shall be the duty of the City Administrator to enforce this ordinance. No permit for the construction or alteration of any building or part thereof shall be issued unless the plans, specifications and intended use of such building conform in all respects with the provisions of this ordinance.

ARTICLE 2 - ADMINISTRATIVE PROVISIONS

2.01 COMPLIANCE WITH ORDINANCE PROVISIONS

A. Development Consistent with Ordinance.
   1. Land may be used and a structure or part of a structure may be constructed, altered, occupied or used only as this ordinance permits.
   2. No lot area, yard, off-street parking area, off-street loading area or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance.
   3. No lot area, yard, off-street parking area, off-street loading area or other open space shall be used as the required lot area, yard, off-street parking area, off-street loading area or other open space of another use, except as provided for in this ordinance.
   4. Development shall not commence until the applicant has received all approvals required under this ordinance or Land Division Ordinance 494.

2.03 -UNLAWFUL CONSTRUCTION OR USE

A. -Violations.

If a structure is located, constructed, maintained, repaired, altered or used in violation of this ordinance, or land

is used in violation of this ordinance, the City may utilize the procedures in this ordinance, or any other lawful means, to correct the violation.

1. Within a reasonable time after discovering a violation of this ordinance, the Building and Planning Official shall notify the property owner that such a violation exists.
2. If the violation does not involve a structure, action to correct the violation shall be made within 30 days. If the violation involves a structure, action to correct the violation shall be made within 60 days.
3. If no action has been taken to correct the violation within the specified time, the Building and Planning Official shall refer the violation to the City Administrator for enforcement.

B. Penalties for noncompliance.

1. Violation of any provision of this ordinance or any amendment thereto is punishable, upon conviction, by a fine of not less than $50 nor more than $500 dollars.
2. A violation of this ordinance shall be considered a separate offense for each day the violation continues.

ARTICLE 3 - ESTABLISHMENT OF ZONES

3.01 CLASSIFICATION OF BASIC ZONES

For the purposes of this ordinance the following basic zones are hereby established:

ABBREVIATED BASIC ZONES	DESIGNATION
Rural Residential	RR
Single-Family Residential	SFR-
General Residential	GR
Residential-Commercial	RC
Broadway Commercial	BC
Community Commercial	CC
Highway Commercial	HC
Industrial-Commercial	IC
Light Industrial	LI
Medium Industrial	MI Public Facilities and Parks PFP

4.02 SINGLE-FAMILY RESIDENTIAL ZONE (SFR)

1. Purpose. To provide areas suitable and desirable for primarily single-family and public service uses, with options and flexibility to provide a variety of housing through clustering and planned developments, including the provision of limited multi-family use subject to lot size and density standards. The net density shall not exceed eight (8) dwelling units per acre. Lots are subject to the minimum lot area and dimensional standards of the zone.
2. Uses Permitted Outright. **T**he following uses and their accessory uses are permitted outright:
   A. One detached single-family dwelling per buildable legal lot.
   B. One duplex on a corner lot, provided driveway access is taken from an alley or from two local streets; i.e., one for each dwelling unit. Access from a collector street may be approved where the driveway access is setback at least 50 feet from the street intersection and the City Engineer finds that applicable sight distance requirements are met.
   C. A maximum of one Accessory Dwelling Unit per legal single-family detached dwelling subject to standards in Section 5.31.
   D. Domestic horticulture.
   E. Adult Foster Home.
   F. Registered or certified family daycare.
   G. The keeping of backyard chickens on lots less than one acre in size, in compliance with Section 5.30.
   H. Uses similar to the above permitted uses as provided by Section 2.05.
3. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject

to site plan review, as described in Section 6.01:

A. Public and semi-public uses, including transit facilities and transportation improvements conforming to the City of Veneta Transportation System.
B. Accessory structures not exceeding 2500 square feet in size.
C. Residential facilities.
D. Non-commercial animal husbandry on properties one acre in size or larger. See Section 4.01 (2) (c) for requirements.
E. The garage of a single-family dwelling within a subdivision may be used as a temporary sales office before permanent occupancy. The sales office must be converted to a garage before permanent occupancy.
F. Uses similar to the above permitted uses as provided by Section 2.05.

4. Conditional Uses. The following uses and their accessory uses may be permitted subject to the provisions of Article 8, Conditional Uses. Conditional Uses may also be subject to the provisions of Article 6, Site Plan Review.
   A. Major home occupation. See Article 12 for Home Occupation Requirements.
   B. Neighborhood commercial centers.
   C. Multi-family housing or Residential facilities. Approval must be based upon a development plan, subject to Site Review procedures per Article 6 and Conditional Use standards of Article 8.
   D. Public structures or uses of land for public utility facilities such as:
      i. Electric substation or transformer.
      ii. Public or community sewage disposal plant or pumping station.
      iii. Radio or television tower or cell tower transmitter.
      iv. Telephone exchange.
      v. Transportation improvements not identified by the City of Veneta Transportation System Plan.
   E. Day care facilities.
   F. Accessory structure larger than 2,500 square feet.
   G. Uses similar to the above conditional uses as provided by Section 2.05.
   H.
5. Lot Size and Width. Except as provided in Articles 5, 6 and 8, the minimum lot size and width in an SFR zone shall be as follows:
   A. The minimum lot area is 6,000 square feet, except 7,500 square feet is required for duplex lots and 18,000 square feet is required for multifamily lots; an additional 2,000 square feet is required for all proposed lots with an average pre-development slope of 15% or greater (See Section 5.25). Smaller lots may be approved through a Specific Development Plan or Planned Unit Development.
   B. The minimum lot width is sixty (60) feet. Lot widths may be reduced to thirty (30) feet for single-family attached homes, provided that not more than four (4) dwellings are consecutively attached.
   C. The Planning Commission may require larger lot areas, at the time a land division is granted, when it determines that it is necessary to do one of the following:
      i. Protect natural drainage-ways.
      ii. Provide drainage or utility easements.
      iii. Protect future right-of-way.
      iv. Protect un-buildable steep slope areas above the 450-foot elevation level.
      v. Protect flood plain hazard areas.
   D. Smaller lots may be allowed if public space in addition to that required by section 5.26 Parkland Dedication Requirements, is dedicated or otherwise permanently preserved to protect natural resources or provide recreational opportunities. When the provisions of this section are utilized to develop smaller lots than would otherwise be allowed by the base zone, the following standards shall apply and shall supersede the standards for the base zone.
      i. In no case shall the gross density of the development exceed the maximum gross density of the site if it were developed with standard minimum lot sizes for the base zone, irrespective of wetland or Greenway areas.
      ii. In no case will the minimum lot size be less than 70% of the minimum lot size for the base zone.
      iii. Developments seeking to qualify for such a density bonus may be required to relocate structures currently within the Greenway subzone to less sensitive areas.

iv. Side yards shall be no less than 5 feet on a side.
v. Front yard setbacks shall be no less than ten (10) feet, except garage and carport openings shall be setback at least twenty (20) feet.
vi. Exceptions to these setback requirements may be allowed when necessary to provide a larger buffer between waterways or other natural resources and development.

E. When residential development is proposed for a lot that is twice the minimum lot size which also has potential for future division, the applicant must submit a shadow plat to show how the lot could be further developed to urban densities.

6. Yards. Except as provided in Articles 5, 6 and 8, or as otherwise allowed under Section 4.02 (5) (c), in an SFR zone, yards shall be as follows:
   A. Front yards shall be a minimum of twenty (20) feet.
   B. Back and side yards shall be a minimum of 5 feet when the building elevation closest to the property line is 22 feet or less in building height, and a minimum of 10 feet when the building elevation closest to the property line is greater than 22 feet in building height.
   C. Yards shall be landscaped as provided in Section 5.12.
   D. See Section 5.09 for additional setbacks on designated street, or construction of new streets. Yard requirements are in addition to any planned road right-of-way widths in order to permit the eventual widening of streets, or construction of new streets.
   E. See Veneta Tree Preservation and Protection Ordinance for possible setback exemptions for the preservation of heritage trees.
7. Lot Coverage. In an - zone, all buildings shall not occupy more than forty percent (40%) percent of the lot area. In the case that any portion of the primary dwelling is taller than twenty-two (22) feet, the maximum allowable lot coverage is thirty percent (30%). When lots smaller than 6,000 square feet are approved under subsection 4.02(5)(d), an additional ten percent (10%) of each such lot may be covered by buildings.
8. Building Height. Except as provided in Articles 5, 6 and 8, or as otherwise required by Section 4.02, in a SFR zone, no building shall exceed 35 feet in height.
9. Residential Design Standards. All residential developments, including land divisions, individual dwelling units, and residential care homes, as applicable, and projects that are subject to Site Plan Review or Planned Unit Development review, shall conform to the design standards in Section 5.29.
10. For additional requirements, see Article 5 - Supplementary Provisions.

4.03 GENERAL RESIDENTIAL ZONE (GR)

1. -Purpose. To provide areas suitable and desirable for a variety of housing types and densities with provisions for associated public service uses and open space, and allowing flexibility through planned developments and other options under controlled conditions. The net density in the GR zone shall not exceed fifteen (15) dwelling units per net acre and twenty (20) units in planned developments, and are subject to the minimum lot area and dimensional standards of the zone.
2. Uses Permitted Outright. The following uses and their accessory uses are permitted outright:
   A. One detached single-family dwelling per buildable legal lot.
   B. One duplex per legal buildable lot.
   C. A maximum of one Accessory Dwelling Unit per legal single-family detached dwelling subject to standards in Section 5.31.
   D. Domestic horticulture.
   E. Registered or certified family daycare.
   F. Adult Foster Home.
   G. The keeping of backyard chickens on lots less than one acre in size, in compliance with Section 5.30.
   H. Uses similar to the above permitted uses as provided by Section 2.05.
3. Uses Permitted Subject to Site Plan Review. The following uses and their accessory uses are permitted subject to site plan review, as described in Section 6.01:
   A. Public and semi-public uses, including transit facilities and transportation improvements conforming to the

City of Veneta Transportation System.

B. Multi-family dwellings.
C. Residential facilities.
D. Accessory structures not exceeding 2,500 square feet in size.
E. Non-commercial animal husbandry on properties one acre in size or larger. See Section 4.01 (2) (c) for requirements.
F. The garage of a single-family dwelling within a subdivision may be used as a temporary sales office before permanent occupancy. The sales office must be converted to a garage before permanent occupancy.
G. Attached single-family dwellings (townhouse or rowhouse).
H. Uses similar to the above permitted uses as provided by Section 2.05.

4. Conditional Uses. The following uses and their accessory uses may be permitted subject to the provisions of Article 8, Conditional Uses. Some Conditional Uses are also subject to the provisions of Article 6, Site Plan Review.
   A. Major home occupation. See Article 12 for Home Occupation Requirements.
   B. Neighborhood commercial centers.
   C. Day care facilities.
   D. Manufactured dwelling parks, subject to Site Plan Review provisions of Article 6. Manufactured dwelling parks are also subject to state regulations under Oregon Revised Statutes Chapter 446.
   E. Public structures or uses of land for public utility facilities such as:
      1. Electric substation or transformer.
      2. Public or Community sewage disposal plant or pumping station.
      3. Radio or television tower or cell tower transmitter.
      4. Telephone exchange.
      5. Transportation improvements not identified by the City of Veneta Transportation System Plan.
   F. Accessory structures larger than 2,500 square feet.
   G. Uses similar to the above conditional uses as provided by Section 2.05.
5. Lot size and Width. Except as provided in Articles 5, 6 and 8, the minimum lot size and width in a GR zone shall be as follows:
   A. For any housing type, the maximum density allowed per legal lot is one dwelling per 6,000 square feet (5,400 in the downtown area on the Comprehensive Plan map), two (2) dwellings per 7,500 square feet, plus 2,000 square feet for each additional dwelling unit.
   B. Lot sizes smaller than 6,000 square feet are allowed for single-family attached homes that do not exceed the overall net density allowed for multi-family housing. Lots for single-family attached homes do not need to meet the minimum lot width.
   C. The minimum lot width is sixty (60) feet. Lot widths may be reduced to thirty (30) feet for single-family attached homes, provided that not more than four (4) dwellings are consecutively attached.
   D. The Planning Commission may require larger lot areas, at the time a land division is granted, when it determines that it is necessary to do one of the following:
      1. Protect natural drainage-ways
      2. Provide drainage or utility easements.
      3. Protect future right-of-way.
      4. Protect unbuildable steep slope areas above the 450-foot elevation level.
      5. Protect flood plain hazard areas. (Why not put in common space instead?)
   E. Smaller lots may be allowed if public space in addition to that required by section 5.26 Parkland Dedication Requirements, is dedicated or otherwise permanently preserved to protect natural resources or provide recreational opportunities. When the provisions of this section are utilized to develop smaller lots than would otherwise be allowed by the base zone, the following standards shall apply and shall supersede the standards for the base zone.
      1. In no case shall the gross density of the development exceed the maximum gross density of the site if it were developed with standard minimum lot sizes for the base zone, irrespective of wetland or Greenway areas.
      2. In no case will the minimum lot size be less than 70% of the minimum lot size for the base zone.

3. Developments seeking to qualify for such a density bonus may be required to relocate structures currently within the Greenway subzone to less sensitive areas.
4. Side yards shall be no less than 5 feet on a side.
5. Front yard setbacks shall be no less than ten (10) feet, except garage and carport openings shall be setback at least twenty (20) feet.
6. Exceptions to these setback requirements may be allowed when necessary to provide a larger buffer between waterways or other natural resources and development.

F. When residential development is proposed for a lot that is twice the minimum lot size which also has potential for future division, the applicant must submit a shadow plat to show how the lot could be further developed to urban densities.

6. Yards. Except as provided in Articles 5 and 6, or as otherwise allowed under Section 4.03(5)(e) yards shall be as follows:
   A. Front yards shall be a minimum of twenty (20) feet except that an unenclosed front porch may extend eight (8) feet into a required front or street side yard.
   B. Back and side yards shall be a minimum of 5 feet when the building elevation closest to the property line is 22 feet or less in building height, and a minimum of 10 feet when the building elevation closest to the property line is greater than 22 feet in building height.
   C. Yards shall be landscaped as provided in Section 5.12.
   D. See Section 5.09 for additional setbacks on designated streets. Yard requirements are in addition to any planned road right-of-way widths in order to permit the eventual widening of streets, or construction of new streets.
7. Lot Coverage. Where the primary dwelling is twenty two (22) feet or less in height, the total area covered by all buildings shall not occupy more than fifty percent (50%) percent of the lot area; where the primary dwelling is taller than twenty-two (22) feet, the maximum allowable lot coverage is forty percent (40%). Where lots smaller than 6,000 square feet are approved under subsection 4.03(5)(e) an additional ten percent (10%) of each such lot may be covered by buildings.
8. Building Height. Except as provided in Articles 5, 6 and 8, or as otherwise required by Section 4.03, in a GR zone, no building shall exceed 35 feet in height.
9. Residential Design Standards. All residential developments, including land divisions, individual dwelling units, residential care homes and care facilities, and projects that are subject to Site Plan Review or Planned Unit Development review, as applicable, shall conform to the design standards in Section 5.29.
10. For additional requirements, see Article 5 - Supplementary Provisions.

ARTICLE 5 - SUPPLEMENTARY PROVISIONS

5.01 GENERAL PROVISIONS REGARDING ACCESSORY USES

An accessory use shall comply with all requirements for a principal use, except where specifically modified by this section. Accessory uses shall not be used for human habitation. Accessory uses shall comply with the following standards.

1. Fences, hedges and walls may be located within required yards but shall not exceed 48" (four (4) feet) in height in any required front yard which abuts a street other than an alley nor 2-1/2 feet in height in a vision clearance area. Elsewhere, fences, hedges and walls shall not exceed six (6) feet in height in residential and commercial zones and eight (8) feet in height in industrial zones. Swimming pools, tennis courts, and other accessory recreational structures may have fences that exceed six (6) feet, provided they are not located within the front yard, but may be allowed within the side and rear yards.
2. No sales shall be made from a greenhouse or hothouse maintained as an accessory to a dwelling in a residential zone unless the sales have been approved as a home occupation.
3. The highest point of the roof of an accessory or structure shall not exceed a building height of 24 feet in a residential zone.

4. A garage shall be located a minimum of twenty (20) feet from front lot line in a residential zone except in an RC zone and as specified in Section 5.09(1). Parking requirements as specified in Section 5.20 continue to apply to lots with reduced setbacks. Garages must also meet the requirements of Article 13, Section 13.02 Dwelling, Single-Family (8).
5. Except for garages and carports, accessory structures in the SFR, GR, and RC zones, including those not requiring a building permit, shall not be located between any front or side street and a principal building and must comply with the minimum yard setbacks for the zone in which they are located.
6. Boats, trailers, detached campers, motorized dwellings and similar recreation equipment may be stored, but not used for human habitation, on a lot as an accessory use to a dwelling provided that storage shall not be permitted in a front yard.
7. All buildings that are accessory structures shall have a minimum roof pitch of 2:12, except for Accessory Dwelling Units (ADUs).

ARTICLE 6 - SITE PLAN REVIEW

6.01 SITE PLAN REVIEW PURPOSE AND APPLICABILITY

1. Purpose. The purpose of the site plan review procedures is to correlate the general ordinance requirements with the specific site conditions and proposed uses and changes of use through a comprehensive review process to assure that developments are in conformance with the applicable land use regulations of the Land Development Ordinance.
2. Applicability. Site Plan Review is required for all new construction or expansion of existing uses or structures exceeding 10% or 1,000 square feet, whichever is greater, of the original structure(s) on the site. Site Plan Review is not required for detached single-family dwellings on individual lots. Site Plan Review may be required where site or development characteristics, as determined by the Building and Planning Official, warrant a site plan review, including but are not limited to:
   A. Site is traversed by a natural drainageway or has demonstrated drainage limitations as shown on the utility plans required in Section 6.03(1)(b)(4) of this ordinance. Demonstrated drainage limitations are site or development conditions that prevent the unrestricted flow from areas draining through the site or that do not allow the extension of the system to serve such area as per the City's Drainage Master Plan, or that prevent stormwater from being directed to storm sewers or to natural drainageways in accordance with the Land Division and Land Development Ordinances.
   B. Site includes or is adjacent to Open Space and/or Greenway Areas designated on the Veneta Zoning Map as a Greenway subzone.
   C. Site is located in a Flood Hazard subzone.
   D. Site includes significant wetland resources, or is located within 50 feet of a wetland resource identified as locally significant in the Veneta Local Wetlands Inventory.
   E. Site has slopes of (15) fifteen percent (or greater) (see Section 5.25 of this Ordinance).
   F. Site is an undersized lot.
   G. Expansion of parking lots, relocation of parking spaces on a site, or other changes which affect circulation, landscaping or drainage.

   The Building and Planning Official or Planning Commission may waive any component of the Site Plan Review for a development if it finds the required information does not apply to the development, the information is already available to the City or the change of use does not increase traffic volume, water or sewer use or drainage.
3. Types of Review. Site Plan Review applications shall be submitted and processed pursuant to the Type II procedure set forth in Article 11 of this ordinance. If the applicant requests an adjustment to any Site Plan Review standards contained in this Article, the application shall be processed by the Planning Commission pursuant to the Type III procedures set forth in Article 11 of this ordinance.

6.03 REQUIRED INFORMATION ON SITE PLAN

All Site Plan Review applications shall include the following information based on the size, scale and complexity of the development. The Building and Planning Official, at his or her discretion, may waive certain application submittal items where such items are not relevant to the review or the information is already available.

6.05 APPROVAL CRITERIA

After an examination of the site and prior to approval of plans, the Planning Commission or Building and Planning Official must make the following findings:

(g) Where the applicant has requested an adjustment to Site Plan Review criteria – pursuant to Veneta Land Development Ordinance, the applicant shall identify all applicable criteria in this ordinance and specifically address each adjustment.

6.06 PROCEDURE FOR - SITE PLANS

1. Prior to taking action on a site plan the City must provide notice of a Type II procedure in compliance with Article 11 of this ordinance. -
2. Approval of any Site Plan will be subject to compliance with the standards set forth in this ordinance and standards established elsewhere by City ordinance. Type III Site Plan Review applications and major site plan amendments may be reviewed against approval criteria that involve the use of discretion and may be approved, approved with conditions or denied. Type II Site Plan Review applications and Minor site plan amendments may be reviewed by the Building and Planning Official, and if approved, may include conditions as necessary to ensure compliance with applicable requirements if not shown on submitted plans.
3. As a result of an approved site plan, a final map shall be prepared and filed with the Community Development Department, including all required modifications and conditions. Once approved, the site plan submitted shall become the official plan. The applicant may be required to sign and record a Development Agreement in a form approved by the City Attorney against the property to assure compliance with ongoing conditions of approval. Building permits shall be issued only for plans which substantially conform to the official plan and all construction shall substantially conform to the official plan or a Certificate of Occupancy may be withheld until compliance.

6.07 AMENDMENTS

Amendments are only permitted for developments for which the City has record of an approved Site Plan. A change to an existing development for which a previous site plan has never been approved requires a full site plan review. If the proposed use is more intensive than the existing use, additional Systems Development Charges shall be assessed at the time a building permit is issued.

Major amendments to an approved site plan shall follow the same procedure as for an approval of a site plan review. A new application and filing fee is required and the proposal must be approved by the Planning Commission. Major site plan amendments involve a change that does not meet the criteria listed under minor site plan amendments. Minor site plan amendments that may be approved through a Type II procedure shall meet the following criteria:

1. The site plan amendment does not involve any interpretation of submission requirements or required findings that would set a precedent for other site plans or site plan amendments.
2. The site plan amendment will not change the impacts (such as traffic generation, emissions or drainage) on surrounding properties.
3. The site plan amendment fully complies with City ordinances and does not require a variance.
4. There are no unusual circumstances relative to the site plan amendment.
5. There are no questions of adequacy of services raised by The Public Works Superintendent, City Engineer, or any affected public or private agency.

Any amendment that involves commercial or industrial development adjacent to Hwy 126 and involves a change in use that is more intensive than the current or previous use as determined by the Building and Planning Official shall require a Type III procedure.

The Planning Commission shall be advised of all administrative decisions regarding applications for site plan amendments at the following regular Planning Commission meeting.

ARTICLE 7 - TEMPORARY USE PERMIT REGULATIONS

7.05 PROCEDURE FOR REVIEWING TEMPORARY USE PERMITS

1. Prior to taking action on a temporary use permit, the City must provide notice of a Type II procedure, except for Mobile Vending Units which will be processed as follows:

A. A mobile Vending Unit application shall be submitted and processed pursuant to the Type I procedure set forth in Article 11 of this ordinance.
B. A mobile Vending Site application shall be submitted and processed pursuant to the Type II procedure set forth Article 11 of this ordinance.

2. The Building and Planning Official may approve, disapprove, or conditionally approve the Temporary Use Permit. If the application is for a highly visible location or potentially controversial use, the Building and Planning Official may forward the application to the Planning Commission for decision. Approval of the Temporary Use Permit will be subject to compliance with the standards as set forth in this ordinance and standards established elsewhere by City ordinance or resolution.
3. The Building and Planning Official or the Planning Commission may attach appropriate and reasonable conditions to the permit that are necessary to secure the public health, safety, and welfare and to maintain compliance with city codes and ordinances. Such clear and objective standards may include but are not limited to:
   A. Setback requirements
   B. Screening
   C. Control of points of ingress and egress
   D. Special provisions for signs
   E. Landscaping and maintenance of landscaping
   F. Maintenance of grounds
   G. Control of noise, vibration, and odors
   H. Limitation of hours for certain activities
   I. Limitation of duration of temporary use
   J. Once approved, the site plan for the temporary use as modified with conditions shall become the official plan.
   K. If written Notice of Appeal is not filed within fifteen (15) days of the date the Final Order is signed and mailed, the decision becomes final.
   L. Compliance with conditions imposed in the temporary use permit and adherence to the approved plans is required. The Building and Planning Official may revoke the temporary use permit with any departure from the approved plans or conditions or approval.
   M. All temporary uses involving a business must comply with Veneta Municipal Code Chapter 5.05, Business Registration.

7.06 RENEWING TEMPORARY USE PERMITS

1. Temporary Use Permit shall be subject to review and approval by the Building and Planning Official on an annual basis.
2. Public Notice requirements may be waived for renewal of Temporary Use Permits at the discretion of the Building and Planning Official provided that:
   A. No formal complaints have been filed regarding the temporary use.
   B. There have been no changes made to the site plan or activities from the time of initial approval as verified by the Building and Planning Official.

ARTICLE 8 - CONDITIONAL USES

8.03 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION

- **Conditional Use applications shall be submitted and processed pursuant to the Type III procedure set forth in Article 11.**

1. -Lane County shall be notified of any conditional use permits that will have a potential impact or effect on lands, services or facilities outside the city limits.

-ARTICLE 10 – VARIANCES

10.04 PROCEDURE FOR TAKING ACTION ON A VARIANCE APPLICATION

- **Variance applications shall be submitted and processed pursuant to the Type III procedure set forth in Article 11.**

(1) The Planning Commission may prescribe the terms and conditions upon which a variance may be granted and set a time limit for the duration of such variance and may require guarantees in such form as deemed proper under the circumstances to ensure that the purpose for which said variance is granted will be fulfilled and that the conditions of the variance will be met.

ARTICLE 12 - HOME OCCUPATIONS

12.03 MINOR HOME OCCUPATIONS

Home occupations in compliance with the standards for all home occupations and the standards listed below are permitted as accessory uses. An annual business registration is required as well as a signed agreement acknowledging compliance with the relevant home occupations standards.

1. All aspects of the home occupation, including storage of materials and equipment, shall be contained and conducted within a completely enclosed, lawfully-built structure and be conducted in such a manner as not to give an outward appearance of a business.
2. The home occupation shall use no more than 25 percent of the floor area used for human occupancy, or no more than 500 square feet in an accessory structure or attached garage.
3. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible, or flammable) is prohibited.
4. The use shall involve no more than an average of five customers/clients per week.
5. No one from outside the resident household shall work at the home occupation site. The home occupation site shall not be used as a gathering or meeting place for people employed by or associated with the home occupation. A "home occupation site" means the property on which the home occupation is conducted.
6. There shall be no more than an average of one commercial delivery or pickup per week to or from the home occupation site.
7. No additional on-site parking will be needed. Residential off-street parking requirements as specified in 417 5.20(11) still apply.
8. No written complaints have been received regarding the home occupation. If a written complaint is submitted to city staff, the city shall not renew the business license until the Planning Commission has approved the home occupation as a conditional use.

ARTICLE 13 - DEFINITIONS

13.02 DEFINITIONS

As used in this ordinance and Ordinance No. 494 the following words and phrases shall mean:

Abut. Contiguous to or immediately join. For example, two (2) lots with a common property line are considered to be abutting.
Access. The way or means by which pedestrians and vehicles enter and leave property.
Accessory Structure or Use. A structure or use incidental, appropriate and subordinate to the main use of property and located on the same lot as the main use. Accessory structures are not permitted on vacant parcels of land. Accessory structures (including those originally designed for human habitation such as mobile homes) shall not be used for human habitation.
Activity Center. Property or buildings that are open to the public and attract visitors for civic, community, commercial, or recreational purposes. Uses include, but are not limited to, public parks, public buildings (e.g., post office, library, city offices, schools), elder care facilities, and shopping centers.
Alley. A street that is more than ten (10) feet and less than sixteen (16) feet in width which affords primarily a secondary means of access to property.
Alter. Any change, addition or modification in construction or occupancy.
Applicant. The person making application to the City for any action as the owner or representative of the owner of the property that is subject of the action. The applicant shall provide proof of permission for the requested action from all owners or other

persons having an interest in the property subject to the action.

Barn. A farm building for housing livestock or animals**.**

Basement. A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average level of the adjoining ground.

Block. An area bounded on 4 sides by streets not including cul-de sacs. In residential zones, block lengths do not exceed 600 feet and block perimeters do not exceed 1800 feet except where topography, natural features, or existing development creates conditions requiring longer blocks.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building Height. The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof. The average maximum vertical height of a building or structure measured at a minimum of three points from finished grade along each building elevation. Architectural elements that do not add floor area to a building or structure, such as chimneys, vents, antennae and towers are not considered part of the height of a building or structure.

Building Inspector. The Division Director of the Lane County Department of Environmental Management, Construction Permits Division, his authorized representative or any other authorized building inspector appointed by the Veneta City Council.

Building Line. A line on a plat or map indicating the limit beyond which buildings or structures may not be erected. Buildings shall not overhang over an easement or dedicated right-of-way.

Building & Planning Official. An employee of the City appointed by the City Council with duties and authority as designated by the Council, including the duties and authority as designated by the Council, including the enforcement of the provisions.

Chicken Run. An enclosed area in which chickens are allowed to walk and run about and that is attached to a chicken coop.

City. The City of Veneta, Oregon.

City Council. The Council of the City of Veneta, Oregon, which is the governing body of said City.

Comprehensive Plan. The City's formally adopted plan to guide growth and development in the City,, including amendments which may be made from time to time.

Congregate. A structure containing two or more dwelling units or rooming units limited in occupancy to persons 55 years or older, or handicapped persons and their spouses, except for rooms or units occupied by resident staff that provide caretaking services to the residents.

Day Care Facility. Any facility that provides child care to children, including a day nursery, nursery school, child care center, certified or registered family child care home or similar unit operating under any name serving sixteen (16) or more children.

Day Care - Family, Registered or Certified. A day care that is a certified under ORS 657A.280, serving sixteen (16) or fewer children or registered under ORS 657A.330 serving ten (10) or fewer children.

Declarant. A person who files a declaration under ORS 92.075.

Declaration. The instrument described in ORS 92.075 by which the subdivision or partition plat was created.

Density, Gross. The number of dwelling units per acre of land, including areas devoted to dedicated streets, sidewalks, other public rights-of-way, parks, and non-residential uses allowed in residential areas.

Density, Net. The number of dwelling units per acre of land in planned or actual use -- excluding from the acreage dedicated streets, sidewalks, other public rights-of-way, parks, and non-residential uses allowed in residential areas.

Designated Arterials and Connectors. Streets identified in the Veneta Comprehensive Plan Functional Class map as Principal or Minor Arterials or Major or Minor Collectors.

Development. A building or mining operation, making a material change in the use or appearance of a structure or land, dividing land into two or more parcels, including partitions and subdivisions as provided in ORS 92.010 to 92.285, and creating or terminating a right of access.

Director. The City of Veneta Community Development Director or the City Administrator's designee.

Dog Kennel. A place of business for the care of dogs, including but not limited to the boarding, grooming, breeding, training, or selling of dogs, but not including an animal hospital.

Driveway. An area on private property where automobiles and other vehicles are operated or allowed to stand.

Driveway Approach. An area within the Right-of-Way, between the roadway of a public street and private property line, intended to provide access for vehicles from the roadway to a definite area of the private property, such as a driveway or parking area intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or curb return, and the sidewalk section.

Dwelling, Accessory. Accessory Dwelling Unit means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single family dwelling.

Dwelling, Multi-family. Attached housing where each dwelling unit is not located on a separate lot.

Dwelling, Single-family. A building (detached or attached) used exclusively as a dwelling unit and built to the specifications of the Oregon Residential Specialty Code, **or** a manufactured home as defined within the statutes of the State of Oregon, on a permanent foundation.

1. Shall meet current energy standards as adopted by the State of Oregon.
2. Shall be occupied only for residential purposes.
3. Shall conform to all residential use development standards for one-family dwellings.
4. Shall be constructed or installed in accordance with the Oregon Residential Specialty Code as adopted by the City or as defined within the statutes of the State of Oregon.
5. Foundations:
   a. Stick-built homes shall have foundation systems in accordance with the State Building Code (CABO);
   b. Manufactured dwellings shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with no more than sixteen (16) inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than sixteen (16) inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the sixteen (16) inch limitation will not apply.
6. Shall have a minimum width of eighteen (18) feet as measured by the narrowest elevation.
7. Shall have an exterior finish and roof materials commonly found on residential structures in the area and City of Veneta.
8. Shall have a roof with eaves and gable overhangs of not less than six (6) inches measured from the vertical side of the structure and shall include gutters.
9. Shall have an enclosed garage or carport whichever is commonly found in the surrounding area and its exterior covering and roof materials shall be the same as the main structure. The maximum size of the garage shall be three stalls, with a maximum floor area of 900 square feet. Garage may be attached to house or detached.
10. Shall have electrical meter base attached either to the garage or dwelling unit.
11. Shall have a roof with a nominal pitch of 3 feet in height for each twelve feet in width.

Dwelling, single family attached. Common-wall dwellings (townhomes and rowhouses) where each dwelling unit occupies a separate lot.

1. Shall be occupied only for residential purposes
2. Shall have an enclosed garage or carport, whichever is commonly found in the surrounding area and its exterior covering and roof materials shall be the same as the main structure.

Dwelling, single family detached. A housing unit that is free standing and separate from other housing units.

Dwelling Unit. A single unit providing complete independent living facilities, designed for occupancy by one (1) family and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Facilities. For the purposes of this Code, facilities are water, sewer, stormwater, telephone, cable, natural gas, electric, telecommunication facilities and broadband fiber conduit.

Family. An individual or two (2) or more persons related by blood, marriage, legal adoption or legal guardianship living together in one dwelling unit using one kitchen and providing meals or lodging to not more than two (2) additional persons excluding servants; or a group of not more than five (5) unrelated persons living together in one dwelling unit using one kitchen.

Fence, sight-obscuring. A continuous fence, wall, evergreen planting or combination thereof, constructed and/or planted so as to provide a specified percentage of view-obscuring screens.

Final Action / Decision / Approval. Any legislative, administrative, or quasi-judicial action that establishes the final determination of the City on any land use action by reducing said decision in writing.

Floor Area. The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the vertical projection of the roof or floor above.

Grade (Ground) Level. The average elevation of the finished ground level at the exterior of all walls of a building, except that if a wall is parallel to and within five (5) feet of a sidewalk, the sidewalk elevation nearest the wall shall constitute ground level.

Hardscape. Permanent improvements to a site other than a building, including but not limited to, plazas, concrete planters, decks, sitting areas and other similar architectural features that include small unit pavers or concrete.

High Impact Recreation Facilities. Facilities which have the potential for creating significant impacts through traffic generation, noise, dust, chemical use, lighting, or other nuisance characteristics. High impact recreation facilities include, but are not limited to, sport complexes, stadiums, equestrian arenas, golf course and driving ranges, and swimming pools.

Home Occupation. A lawful business carried on by a resident of a dwelling where the business is secondary to the residential use of the property. See Veneta Municipal Code 5.05 for definitions and licensing requirements for businesses.

Horticulture. The cultivation of crops, orchards, or gardens. Domestic horticulture involves plants grown for the people living on the property. Commercial horticulture involves plants that will be sold; either on-site or delivered to a buyer off-site. Farm stands and u-pick sales are temporary uses that may require a permit.

Junkyard. Any property used by a business that deals in buying, selling, trading, and storing, old motor vehicles, old motor vehicle parts, abandoned autos, or machinery or parts thereof, or appliances or parts thereof.

Kennel. Any lot or premises on which three (3) or more adult dogs are kept, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation. An adult dog is one that has reached the age of six (6) months.

Legal Lot. A lot or parcel created pursuant to ORS 92.010 to 92.190, a unit of land created in compliance with all applicable

city land division regulations, or a unit of land created by deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinance or regulations in effect at the time of the deed or land sales contract.

Loading Space. An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

Lot. A single unit of land that is created by a subdivision of land.

Lot Area. The total land area, commonly measured in square feet, within the boundaries of a legal lot, exclusive of any street or alley rights-of-way.

Lot, Corner. A lot at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.

Lot, Through. A lot having frontage on two parallel or approximately parallel streets other than alleys.

Line, Property. The division line between two units of land.

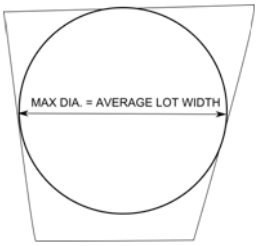
Lot Line, Front. The lot line separating the lot from a street other than an alley and, in the case of a corner lot, the shortest lot line along a street other than an alley. For flag lots, the lot line abutting the pole portion of the lot. See also YARD, Front

Lot Line, Rear. The lot line which is opposite and most distant from the front lot line.

Lot Line, Side. Any lot line not a front or rear lot line. See also YARD, Side

Lot, Flag. A lot or parcel that has the bulk of its area set back some distance from a road or street and that is connected to the road or street via a thin strip of land (i.e., the flagpole).

Lot Width. The horizontal distance between the side lot lines, ordinarily measured parall to the front lot line. For irregular shaped lot, lot width shall be determined by measuring the maximum diameter of a circle that fits entirely within the property lines as shown below:



Manufactured Dwelling. Residential trailers constructed before January 1, 1962; mobile homes constructed between January 1, 1962 and June 15, 1976, which met Oregon construction standards then in effect; and manufactured homes constructed to federal standards. (Refer to definition of "dwelling, single- family" for siting and construction requirements.)

Manufactured Dwelling Park. Any place where two (2) or more manufactured dwellings are parked within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. A manufactured dwelling park has the same definition as a mobile home park. Manufactured dwelling parks within Veneta are required to register as a business each year.

Map. A final diagram, drawing or other writing concerning a partition.

Medical marijuana Facility. A facility registered with the Oregon Health Authority under ORS 475.314 and OAR 333-008-1050 to:

1. Accept the transfer of usable marijuana and immature marijuana plants from a registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or
2. Transfer usable marijuana and immature marijuana plants to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

Mobile Vending Unit. Any vehicle that is self-propelled, or can be pulled or pushed down a sidewalk, street, highway or waterway intended for retail, food, or drink sales.

Mobile Vending Site. One (1) site with multiple (three or more) mobile vendors.

Nonconforming Structure, Lot or Use. A lawful existing structure, lot or use at the time this ordinance or any amendment thereto becomes effective which does not conform to the dimensional or similar standards of the zone in which it is located.

Open Space. Land area to be used for scenic or open recreational purposes within the development. Open space does not include street right-of-way, driveways, parking areas, required setbacks or public service easements unless these areas have some special recreational design or purpose.

Owner. An individual, association, partnership, or corporation having legal or equitable title to land, other than legal title held for purpose of security only. For the purposes of this Ordinance, the owner shall be the owner(s) of record on the most recent Lane County property tax assessment roll.

Parcel. A unit of land that is created by a partitioning of land.

Parking Space. An off-street enclosed or unenclosed surfaced area with minimum dimensions of eighteen (18) feet by nine (9) feet,

exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile and connected with a street by a surfaced driveway which affords ingress and egress for automobiles.

Partition. Either an act of partitioning land or an area or tract of land partitioned as defined in this section.

Partition Land. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; and divisions of land made pursuant to a court order, including but not limited to court orders in proceedings involving testate or intestate succession; and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards of the zoning ordinance.

Person. A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

Planning Commission. The Planning Commission of the City of Veneta, Oregon.

Professional Office. An office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors or persons engaged in similar occupations.

Property Line Adjustment. The Property line adjustment is a relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel. An adjusted property line shall be surveyed and monumented in accordance with ORS 92.065(3); a survey, complying with ORS 209.250, shall be filed with the county surveyor; and the property line adjustment shall be recorded with the Lane County Department of Deeds and Records.

Public and Semi-Public Building or Use. A building or use owned or operated by a religious, charitable or other non-profit organization; a public utility or any social agency such as a church, school, auditorium, meeting hall, hospital, club, nursing or care home, stadium, library, art gallery, museum, fire station, utility substation, cemetery, park, playground, sports field, bicycle or pedestrian way or community center.

Quasi-Judicial. Refers to an action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code. Quasi-judicial land use decisions involve a public hearing.

Recreational Vehicle. A vacation trailer or other unit, with or without motive power, which is designed for human occupancy and to be used temporarily for recreational or emergency purposes. It shall also include a camper placed on a pickup truck.

Reduction. A lessening in value, quantity, size, or the like.

Remodel. The addition to, removal of or from, or physical modification or repair of an exterior part or portion of a building.

Replat. The act of plating the lots, parcels and easements in a recorded subdivision or partition plat to achieve a re-configuration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

Residential Facility. Residential Facility with six (6) or more persons as defined by ORS 197.660.

Residential Home. A residential treatment or training or adult foster home that provides residential care alone or in conjunction with treatment or training or a combination thereof as defined by ORS 197.660 for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

Right-of-Way (ROW). The right of passage or of way, which is a servitude imposed by law or convention, and by virtue of which one has the right to pass over or through the property of another as is set forth by its terms.

Service Station, Automobile. A place or station designed and used primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles but excluding major repair and overhauling.

Shadow Plat. A future subdivision or partition concept plan approved by the city in conjunction with a request for interim development (often a single-family residence or partition). The shadow plat is not binding on either the property owner of the city; that is, the property owner would have to apply for tentative plat approval for future development proposals. Shadow plats are designed to ensure that an urban level of development will be possible when urban services become available.

Sign. Any medium including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes.

Sight-Obscuring. To impede the visibility of an area by more than 75 percent through the use of fences, vegetation or other means.

Site. Site means a property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this code.

Street. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term, "road," "highway," "lane," "avenue," "alley" or similar designations.

(a) Alley A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

(b) Arterial (Principal) Roadways in urbanized areas which serve the major centers of activity, the highest traffic volume corridors, the longest trip desires, and a high proportion of the total urban area travel (even though it may only constitute a relatively small percentage of the total roadway network).

- Provides significant intra-area travel
- Because of the nature of the travel served by the major arterial system, almost all are fully and partially controlled access facilities.
- For major arterials, service to abutting land is subordinate to travel service to major traffic movements.

(c) Arterial (Minor) Interconnects with and augments the principal arterial system.
- Accommodates trips of moderate length at a somewhat lower level of travel mobility than major arterials.
- Distributes travel to geographic areas smaller than the higher system does and offers lower traffic mobility.
- May carry local bus routes and provide intracommunity continuity. Ideally, does not penetrate identifiable neighborhoods.

(d) Collector provides both land access service and traffic circulation within residential neighborhoods and commercial and industrial areas.
- Differs from Arterial system in that facilities on the collector system may penetrate residential neighborhoods, distributing trips from the arterials through the area to their ultimate destination.
- Conversely, they collect traffic from the local streets in neighborhoods and channel it into the arterial system.

(e) Cul-de-Sac (dead end Street) A local street, usually only a few hundred feet in length and closed at one end, designed to serve the interior of a subdivision or large tract of land.

(f) Half Street A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

(g) Limited Access Street A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

(h) Local Street Streets that serve primarily to provide direct access to abutting land and access to the higher order systems. It offers the lowest level of mobility and usually contains no bus routes.

Structural Alteration. Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders or structural change in the roof or in the exterior walls.

Structure Use. That which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner. The purpose for which land or a structure is designed, arranged or intended or for which it is occupied and maintained.

Subdivision. Either an act of subdividing land or an area or tract of land subdivided as defined in this section.

Subdivide Land. To divide land to create four or more lots within a calendar year.

Tentative Plan. A tentative plan is the plan of a subdivision or partition submitted to the City for approval under the provision of ORS 92 and Article 3 and Article 5 of the Land Division Ordinance.

Veterinary Hospital. A building, together with animal runs, in which veterinary services, clipping, bathing, boarding and other services are rendered to dogs, cats and other small animals and domestic pets.

Wetland. Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

Yard, Back (Rear). A yard adjacent to a property line. See also LOT LINE, REAR

Yard, Front. A yard adjacent to a street and to the front entrance of a building. See also LOT LINE, FRONT.

Yard, Side. A yard adjacent to a property line. For a corner lot, the Side Yard (located at the side of a residence or structure) can also be adjacent to a street. See also LOT LINE, SIDE.

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ARTICLE 11 - PROCEDURAL STANDARDS

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11.1 Purpose and Applicability

A. **Purpose.** This Article establishes procedures to initiate and make final decisions on planning actions under the Veneta Land Development Ordinance ("this ordinance"), pursuant to City policy and state law.

B. **Applicability of Review Procedures.** All planning actions shall be subject to processing by one of the following procedures summarized in subsections 1 - 4, below, and as designated in Table 11.1. Building permits and other approvals, including approvals from state or federal agencies, may be required. Failure of the applicant to receive notice of any such requirement does not waive that requirement or invalidate any planning action under this ordinance.

1. Type I Action (Ministerial Decision). The Director makes Type I decisions by applying clear and objective standards and criteria that do not require the use of discretion in their application. A public notice and public hearing are not required for Type I decisions. Type I decisions are not land use decisions subject to appeal to LUBA. Procedures for Type I actions are contained in section 11.5.
2. Type II Procedure (Administrative Decision). Type II decisions are usually made by the Director and require the use of a limited amount of discretion. Type II decisions require public notice and allow for submission of written comment from the public, but a public hearing is not required. Director decisions are appealed to the Planning Commission. Alternatively, the Director may refer a Type II application to the Planning Commission for its review and decision in a public hearing. Planning Commission decisions are appealed to the City Council. Procedures for Type II actions are contained in section 11.6.
3. Type III Procedure (Quasi-Judicial Decision). Type III decisions involve standards and criteria that require the use of discretion. Type III decisions are made by the Planning

Commission after a public hearing, with an opportunity for appeal to the City Council. Quasi-judicial decisions involve discretion and implement policy. Procedures for Type III actions are contained in section 11.7.

4. Type IV Procedure (Legislative Decision). Type IV decisions are legislative decisions, such as the adoption and amendment of land use regulations and the Comprehensive Plan to implement public policy. Type IV matters are initially considered by the Planning Commission, which makes a recommendation to City Council. The Council makes the final decision on a legislative proposal through ordinance enactment. Public notice and hearings in front of the Planning Commission and City Council are required prior to the final decision. The City Council's decision is the final local decision. Procedures for Type IV actions are contained in section 11.8.

Table 11.1. Summary of Applications by Type of Review Procedure

Action	Procedure
Amendments	
Comprehensive Plan text	Type V
Comprehensive Plan map	Type V
Zoning Map (may be quasi-judicial or Legislative)	Type IV / V
Ordinance Text	Type V
Annexation	See ORS 222
Conditional Use Permit	Type III
Extension of Time	Type I or III
Floodplain Development	
Home Occupation (Minor or Major)	Type I or III
Interpretation of Ordinance	Type II or III
Mobile Vending	
Modification to Approval	
Minor Modification	Type I
Major Modification	Per original review
Sign Permit	Type I
Site Plan Review	Type II or III
Temporary Use	Type I
Tree Removal	Type I

11.2 Determination of Review Procedure

Where Table 11.1 designates more than one possible review procedure, the applicable review procedure shall be determined based on the specifics of the application(s) and criteria applied.

11.3 Pre-application Conference and Consolidation of Review

A. **Pre-Application Conference.** All applicants for Type II-V actions must complete a pre-application conference for the proposal within six months prior to filing the application. The Director may waive this requirement if, in the Director's opinion, the information to be gathered

in a pre-application conference already exists in the complete application. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this ordinance, provide for an exchange of information regarding applicable elements of the comprehensive plan and development requirements, and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The Director is authorized to create procedures allowing for electronic or other alternative forms of conferences.

B. **Consolidated Review Procedures.** An applicant may apply at one time for all permits and approvals needed for a project proposal. When applicable, the consolidated procedure shall be subject to the time limitations set out in ORS 227.178. To process consolidated applications, the City shall follow the highest review procedure required for any single application type submitted. For example, a consolidated application that includes a Type II and a Type III procedure would be subject to Type III review procedures.

11.4 Burden of Proof

The burden of producing substantial evidence to support the requisite findings is on the applicant. If no supporting evidence is produced by the applicant, the City many deny the application.

A. The applicant has the burden of proof regarding all requests affecting a subject property, and the applicant recognizes that it bears the sole obligation to substantiate all requests.

B. If an applicant wishes to file a local appeal of any decision made under this ordinance, the applicant shall pay an appeal fee (subject to limitations of ORS 227.175(10) and 227.180(1)(c) for certain actions).

11.5 Type I Procedure (Ministerial Decision)

Type I decisions are made by the Director. A public notice and public hearing are not required for Type I decisions. Type I decisions involve clear and objective standards and criteria that do not require the exercise of discretion.

A. **Application Requirements and Review.**

1. Application Form and Fee. Applications subject to Type I review shall be submitted on forms provided by the Director. All property owners of the subject parcel or their authorized agents, as applicable, must sign the application. The application shall not be considered complete unless it includes all information required by this ordinance and the appropriate application fee.
2. Decision. Within 21 days after accepting a complete application for a Type I review, the Director shall approve, approve with conditions or deny the application based upon applicable criteria, unless such time limitation is extended by applicant. Conditions of approval may specify other required permits and/or approvals.
3. Notice. Within 5 days after the Director renders a decision, the applicant and property owner shall be notified in writing of the decision.

B. **Building Permits.** The City shall not issue a building permit for a project subject to review under this section until the Director has approved the Type I application.

C. **Criteria and Decision.** The Director, in approving a Type I application, may find that other City permits or approvals are required prior to issuance of construction or building permits.

D. **Effective Date.** A Type I decision is final on the date it is signed by the Director, with no right to a local appeal.

11.6 Type II Procedure (Administrative Decision)

Type II decisions are made by the Director with limited discretion, following public notice and a public written comment period. Type II decisions provide an opportunity for appeal to the Planning Commission. Notwithstanding any other provision, and at no additional cost to the applicant, the Director may choose to refer a Type II application to the Planning Commission for a public hearing utilizing the Type III procedure in order to request an interpretation, provide for greater notice and opportunity for public participation than would otherwise be required, or in order to comply with any applicable time requirements.

A. **Application Requirements.**

1. Application Form and Fee. Applications subject to Type II review shall be submitted on forms provided by the Director. All property owners of the subject parcel or their authorized agent, as applicable, must sign the application. The application shall not be considered complete unless it includes all information required by this ordinance and the appropriate application fee.
2. Submittal Information. The application shall include all of the following information.
   a. The information requested on the application form.
   b. Plans and exhibits required for the specific approval(s) sought.
   c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail.
   d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, as applicable.
   e. The required fee.

B. **Notice of Application.**

1. Mailing of Notice of Application. The purpose of the notice of application is to give nearby property owners and other interested people the opportunity to review and submit written comments on the application before the City issues a decision. Within ten days of deeming a Type II application complete, the City shall mail a notice of a pending Type II application to the following:
   a. Applicant.
   b. Owners and occupants of the subject property.
   c. Owners and occupants for properties located within 200 feet of the perimeter of the subject site. *Note: We currently notice to a 500-foot radius. ORS 197.195(3)(b) requires only a one-hundred (100) foot radius for notice of limited land use decisions*
   d. Neighborhood groups or community organizations officially recognized by the City that include the area of the subject property.
   e. Where an application subject to Type II review is preceded by a Type III decision, to parties of record from the prior Type III decision.
   f. For applications to amend an approval, to the same mailing address provided by those who provided testimony for the original application.
2. Content of Notice of Application. The notice of application shall include all of the following:
   a. The street address or other easily understandable reference to the location of the proposed use or development.
   b. A summary of the proposal.
   c. The applicable criteria for the decision, listed by commonly used citation.

d. Date and time that written comments are due, and the physical address where comments must be mailed or delivered.
e. An explanation of the 14-day period for the submission of written comments, starting from the date of mailing.
f. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards are available for review and that copies will be provided at a reasonable cost.
g. A statement that issues that may provide the basis for appeal to the Land Use Board of Appeals must be raised in writing and with sufficient specificity to enable the decision-maker to respond to the issue (See ORS 197.195(3)(c)(B)).
h. The name and telephone number of a City contact person.
i. A brief summary of the Type II review and decision-making process.

3. Posted Notice. The City shall post the notice of application on the project site in clear view from a public right-of-way using a poster format prescribed by the Director. Posting shall occur not later than the date of the mailing of the notice.
4. Certification of Notices. The City shall prepare an affidavit or other certification stating the date(s) the notices were mailed and posted, which shall be made a part of the file.

C. **Decision.**

1. At the conclusion of the comment period, the Director shall review the comments received and prepare a decision approving, approving with conditions, or denying the application based on the applicable ordinance criteria. The Director shall prepare a decision within 60 days of the City's determination that an application is complete, unless the applicant agrees to a longer time period. Alternatively, the Director may transmit written comments received, along with a copy of the application, to the Planning Commission for review and decision at its next regularly scheduled meeting.
2. Where the Director refers a Type II application to the Planning Commission, the Commission shall review the application pursuant to applicable criteria and standards and shall approve, approve with conditions, or deny the application following the Type III procedure set forth in Section 11.7.

D. **Notice of Decision.**

1. Mailing of Notice of Decision. Within five days after the Director renders a decision, the City shall mail notice of the decision to the following:
   b. Applicant.
   c. Owners and occupants of the subject property.
   d. Parties of record; this includes any group or individual who submitted written comments during the comment period.
   e. Those groups or individuals who requested notice of the decision.
   f. For applications to amend an approval, to any parties who received the Notice of Decision from the original application, as their names and addresses appeared in the previous notice.
2. Content of Notice of Decision. The notice shall include all of the following:
   a. A description of the nature of the decision.
   b. An explanation of the nature of the application and the proposed use or uses, which could be authorized.
   c. The street address or other easily understandable reference to the location of the proposed use or development.
   d. The name and telephone number of a City contact person.

e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and applicable criteria and standards are available for review and that copies will be provided at reasonable cost.
f. A statement that any person who is adversely affected or aggrieved or was mailed a written notice of the decision may request appeal as provided in subsection F, below.
g. A statement that the decision becomes final when the period for filing a local appeal has expired.
h. An explanation that a person who is mailed written notice of the decision cannot appeal directly to LUBA.

3. Certification of Notices. The City shall prepare an affidavit or other certification stating the date(s) the notices were mailed and posted, which shall be made a part of the file.

E. **Effective Date of Decision.** Unless the conditions of approval specify otherwise or the decision is appealed, a Type II decision becomes effective 12 days after the City mails the notice of decision.

F. **Appeal of Type II Decision.** A Type II decision made by the Director may be appealed to the Planning Commission and a Type II decision made by the Planning Commission after referral from the Director may be appealed to the City Council, pursuant to the following:

1. Who May Appeal. The following persons have standing to appeal a Type II decision.
   a. The applicant or owner of the subject property.
   b. Any person entitled to written notice, pursuant to subsection 11.6.D.
   c. Any other person who submitted comments into the written record.
   d. A person adversely affected or aggrieved by the decision.
2. Appeal Filing Procedure.
   a. Notice of Appeal. Any person with standing to appeal, as provided in subsection 11.6.F.1, above, may appeal a Type II decision by filing a notice of appeal and paying the required appeal fee. An appeal fee shall not be required of neighborhood or community organizations recognized by the City and whose boundaries include the site. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded.
   b. Time for Filing. A notice of appeal shall be filed with the Director within 12 days of the date the notice of decision is mailed.
   c. Content of Notice of Appeal. The notice of appeal shall be accompanied by the required filing fee and shall contain:
      i. An identification of the decision being appealed, including the date of the decision.
      ii. A statement demonstrating the person filing the notice of appeal has standing to appeal.
      iii. A statement explaining the specific issues being raised on appeal.
      iv. A statement demonstrating that the appeal issues were raised during the public comment period.
   d. The requirements of this section are jurisdictional and required for City acceptance.
2. Scope of Appeal. Appeal hearings on Type II decisions made by the Director shall be *de novo* hearings before the Planning Commission. Appeals shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type II decision, but may include other relevant evidence and arguments. The Planning Commission may allow additional evidence, testimony, or argument concerning any relevant ordinance provision.

3. Appeal Hearing Procedure. Hearings on appeals of Type II decisions follow the Type III public notice and hearing procedures, pursuant to Section 11.7.

11.7 Type III Procedure (Quasi-Judicial Decision)

Type III quasi-judicial decisions are made after a public hearing before the Planning Commission.

A. **Application Requirements.**

1. Application Form and Fee. Applications subject to Type III review shall be submitted on forms provided by the Director. All property owners of the subject parcel or their authorized agent, as applicable, must sign the application. The application shall not be considered complete unless it includes all information required by this ordinance and the appropriate application fee.
2. Submittal Information. Type III applications shall include all of the following information.
   a. The information requested on the application form.
   b. Plans and exhibits required for the specific approvals sought.
   c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail.
   d. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, as applicable.
   e. The required fee.

B. **Notice of Public Hearing.**

1. Mailing of Notice of Public Hearing.
   a. The City shall mail notice of public hearing not less than 20 days before the hearing if only one hearing is scheduled; when more than one hearing will be held, notice shall be mailed a minimum of ten (10) days before the hearing. Such notice shall be mailed to all individuals and organizations listed below.
      i. Applicant.
      ii. Owners and applicants of the subject property.
      iii. Owners and occupants for properties located within 200 feet of the perimeter of the subject site. *Note: only 100 feet is required by ORS 197.763(2)(A)*
      iv. Neighborhood group or community organization officially recognized by the City that includes the area of the subject property.
      v. Any person or organization that has submitted a written request for notice.
2. Content of Notice of Public Hearing. Notices mailed and posted pursuant to this section shall contain all of the following information:
   a. The street address or other easily understandable reference to the location of the proposed use or development.
   b. The nature of the application and the proposed use or uses which could be authorized.
   c. The applicable criteria for the decision, listed by commonly used citations.
   d. The date, time and location of the scheduled hearing.
   e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards are available for review and that copies will be provided at a reasonable cost.
   f. The name and telephone number of a City contact person.
   g. A statement that a copy of the City's staff report and recommendation to the hearings body will be available for review at no cost at least seven days before the hearing, and that a copy will be provided on request at a reasonable cost.

h. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.

i. A statement that failure to raise an issue at the hearing, in person or by letter, or failure to provide statements or evidence with sufficient specificity to enable the decision-maker to respond to the issue precludes an appeal based on that issue.

3. Posted Notice. The City shall post the notice of public hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the Director. Posting shall occur not later than the date of the mailing of the notice.

4. Certification of Notices. The City shall prepare an affidavit or other certification stating the date(s) the notices were mailed and posted, which shall be made a part of the file.

5. Newspaper Notice. The City shall publish a notice in a newspaper of general circulation in the City at least ten days prior the date of the public hearing. *Note: this is NOT a Statutory requirement but it is required locally under current code. We do not have to retain this requirement.*

C. **Conduct of the Public Hearing.**

1. Announcements. At the commencement of the hearing, the Chairperson, or the Chair's designee, shall state to those in attendance all of the following information and instructions.

a. Commence the hearing by announcing the nature and purpose of the hearing and summarizing the rules for its conduct.

b. Call for statements of conflicts of interest, ex parte contacts, and bias or challenges to impartiality on these bases.

c. Identify the applicable approval criteria by commonly used citations. (The Chair may reference the written and oral staff report).

d. Testimony, arguments and evidence must be directed toward the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision.

e. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal to the state Land Use Board of Appeals on that issue.

f. Prior to the end of the hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. If prior to the end of the initial evidentiary hearing, the hearings body shall grant such request by continuing the public hearing as provided in subsections 5 and 6, below, or leaving the record open for additional written evidence, arguments or testimony, as provided in subsection 11.7.C.7, below. If not the initial evidentiary hearing, the hearings body has discretion to grant any such request.

g. At the conclusion of the hearing, the hearings body shall deliberate and make a decision based on the facts and arguments in the record, or may set deliberation and decision making over to a future meeting date within applicable timelines.

2. Ex Parte Contacts, Conflicts of Interest and Bias.

a. Actual Conflicts of Interest/Bias. No member of the hearings body may discuss or vote on a matter when:

i. Any of the following has a direct or substantial pecuniary interest in the matter: the member or the member's spouse, brother, sister, child, parent, father-in-law, or mother-in-law; any organization or business in which the member is then serving as an officer or director or employee or has so served within the previous 2 years; or any business with which the member is negotiating for or has an arrangement or

understanding concerning a prospective partnership, employment or other business affiliation.

ii. The member owns all or a portion of the property that is the subject of the matter before the hearings body or owns abutting or adjacent property.

iii. The member has a direct personal interest in the matter or for any other reason cannot participate in the hearing and decision impartially.

Any member of the hearings body who has an actual conflict of interest in the matter shall disclose the nature of the actual conflict, on the record. Following disclosure of the reason for abstention, the member shall leave the table during hearing, deliberation, discussion, and voting on the matter.

b. Potential Conflicts of Interest or Bias. Any member of the hearings body who has a potential conflict of interest or perceived bias in the matter shall disclose the nature of the potential conflict or bias on the record. Following disclosure, the member may proceed in the same manner as described in 11.7.C.2.f, below.

c. Ex Parte Contacts. Ex parte contacts must be announced on the record as called for under 11.7.C.1.b. Ex parte contacts are all reports or other materials outside the record, including communications directly or indirectly with any applicant, appellant, other party to the proceedings or party representative about any issue involved in the hearing or in connection with the particular application. Ex parte contacts invalidate the hearings body's decision unless placed on the record and all parties are provided a right to rebut the substance of the communication at the first hearing following the communication. A communication between a hearings body member and City staff is not an ex parte contact for purposes of this section.

d. The applicant and interested parties have the right to challenge the qualifications of any hearings body member and to rebut the substance of any disclosed ex parte contact, conflict of interest or bias declaration on the record.

e. If an identified potential conflict, contact, or bias has not impaired the member's impartiality and ability to decide the matter on the record, the member shall so state on the record and may then participate in the hearing and decision.

3. Presenting and Receiving Evidence.

a. The hearings body may set reasonable time limits for oral presentations and may limit or consolidate cumulative or repetitious testimony, argument or evidence.

b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received until the record is closed.

4. The hearings body, in making its decision, shall consider only facts and arguments in the record, except that the hearings body may take notice of local, state, or federal regulations, previous City decisions, and case law not in the record if identified in the final decision.

5. If the hearings body grants a continuance, the hearing shall be continued to a date time and place certain, announced into the record, that is at least seven (7) days after the date of the first evidentiary hearing. When announced in this manner, no additional notice is required. An opportunity shall be provided at the continued hearing for persons to present and respond to new evidence, argument or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to conclusion of the continued hearing that the record be left open for at least seven days to submit additional written evidence, arguments or testimony in response to the new written evidence. In the interest of time, the hearing body may close the hearing and limit additional testimony to arguments and not accept additional evidence.

6. If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven days after the hearing. Any participant may file a written request with the City for an opportunity to respond to new evidence submitted while the record was left open. If such a request is filed, the hearing body shall reopen the record, as follows:
    a. When the record is reopened to admit new evidence, arguments or testimony, any person may raise new issues that relate to that new evidence, argument, testimony or applicable criteria.
    b. An extension of the hearing or record granted pursuant to this section is subject to the limitations of subsection 18.5.1.090.B.
    c. Unless waived by the applicant, the hearings body shall grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not new evidence. Applicant's additional 7 days is excluded from and not subject to any applicable 120 day limit of ORS 227.178.

D. **Notice of Decision.**
1. Mailing of Notice of Decision. The City shall mail notice of the decision to the following:
    a. Applicant or authorized agent.
    b. Owners and occupants of the subject property.
    c. Parties of record, including any group or individual who submitted written comments during the comment period.
    d. Those groups or individuals who requested notice of the decision.
    e. The Department of Land Conservation and Development, if required.
2. Content of Notice of Decision. The notice shall include all of the following:
    a. The date notice was mailed.
    b. The decision.
    c. A statement that the decision will not become final until the period for filing a local appeal has expired.
    d. An explanation of the appeal rights, including any right of appeal to LUBA.

E. **Certification of Notices.** The City shall prepare an affidavit or other certification stating the date(s) the notices were mailed and posted, which shall be made a part of the file.

F. **Effective Date of Decision.** Unless a condition of approval specifies otherwise or the decision is appealed, a Type III decision becomes effective 12 days after the City mails the notice of decision.

G. **Appeal of Type III Decision.** A Type III decision may also be appealed to the Council as follows:
1. Who May Appeal. Appeals may only be filed by the following parties:
    a. Applicant
    b. Owner of the subject property.
    c. Neighborhood group officially recognized by the City that includes the area of the subject property.
    d. Any person who submitted written comments or provided oral testimony at the public hearing.
2. Appeal Filing Procedure.
    a. Notice of Appeal. An appeal of a Planning Commission Type III decision requires submittal in accordance with this subsection of a notice of appeal and the appeal fee.
    b. Time for Filing. The notice of appeal shall be filed with the City Administrator within 12 days of the date the notice of decision is mailed.

c. Content of Notice of Appeal. The notice shall include the appellant's name, address, identification and date of the appealed decision, an explanation of appellant's standing, and a clear and distinct explanation of how the decision-maker failed to properly evaluate the application procedurally or make a decision consistent with applicable criteria. The basis of the appeal is limited to the issues raised during review of the original application.

d. The requirements of this section for submittal of an appeal are jurisdictional and required for City acceptance.

3. Mailed Notice. The City shall mail the notice of appeal together with a notice of the date, time, and place of the City Council appeal hearing to all Interested Parties, as defined in 11.7.G, at least 20 days prior to the meeting. The notice shall contain all information required for the original notice, as specified in 11.7.B.2.

4. Scope of Appeal.

a. The review of a decision of the Planning Commission by the City Council shall be confined to the record of the proceeding before the Commission. The record shall consist of the appealed decision, the original application and all materials submitted prior to the close of the record, including minutes and recorded testimony of prior hearings.

5. Appeal Hearing Procedure. The decision of the City Council is the final decision of the City on an appeal of a Type III decision, unless the decision is remanded to the Planning Commission.

a. Oral Argument. Oral argument on the appeal shall be permitted before the Council. Oral argument shall be limited to ten minutes for the applicant, ten for the appellant, if different, and three minutes for any other party. Written arguments shall be submitted to the City Recorder prior to the commencement of oral testimony.

b. Council Decision. The Council may affirm, reverse, modify, or remand the decision and may approve or deny the request, or grant approval with conditions. The Council shall make findings and conclusions, and make a decision based on the record before it as justification for its action. The Council shall cause copies of a final order to be sent to all parties participating in the appeal.

6. Record of the Public Hearing. For purposes of City Council review, the notice of appeal and the written arguments submitted by the parties to the appeal, and the oral arguments, if any, shall become part of the record of the appeal proceeding. The public hearing record shall include the following information:

a. The notice of appeal and the written arguments submitted by the parties to the appeal.

b. Copies of all notices given as required by this Article, and correspondence regarding the application that the City mailed or received.

c. All materials considered by the hearings body including the application and all materials submitted with it.

d. Documentary evidence, exhibits and materials submitted during the hearing or at other times when the record before the Planning Commission was open.

e. Recorded testimony (including DVDs when available).

f. All materials submitted by the Director to the hearings body regarding the application;

g. The minutes of the hearing.

h. The final written decision of the Commission including findings and conclusions.

7. Effective Date and Appeals to State Land Use Board of Appeals. City Council decisions on Type III applications are final the date the City mails the notice of decision. Appeals of

Council decisions on Type III applications must be filed with the State Land Use Board of Appeals, pursuant to ORS 197.805 - 197.860.

11.8 Type IV Procedure (Quasi-Judicial Zoning Map Amendment)

Certain zoning map amendments are discretionary in nature, and require the exercise of judgment in applying the policies of the Comprehensive Plan and its implementing ordinances. These actions fall under the quasi-judicial standards established under Section 11.7, but also require review and approval by the City Council and adoption by ordinance.

A. **Determination.** A request will generally be considered a quasi-judicial process if it involves the following factors:
   1. The process is bound to result in a decision;
   2. The decision-maker is bound to apply preexisting criteria to concrete facts; and
   3. The action is customarily directed at a closely circumscribed factual situation or small number of persons.

   Although no factor is considered determinative and each must be weighed, the more definitively these factors are answered affirmatively, the more it will be considered a quasi-judicial decision.

B. **Procedure.** Type IV decisions require a recommendation made by the Planning Commission after a public hearing following the Type III quasi-judicial hearings procedures of Section 11.7, except the City Council is the sole review authority for annexations. The City Council reviews the recommendation of the Planning Commission at a public hearing and is the final decision-maker in Type IV development applications, which, if approved, shall occur through adoption of an ordinance.

C. **Notice of Public Hearing.** Notification procedure for Type IV actions shall follow the same procedures as that for Type III actions, but shall also include notification to State agencies such as DLCD, ODOT, etc. as applicable.

D. **Final Decision, Effective Date, and Notice of Decision.** A Type IV action, if approved, becomes final and takes effect as specified in the enacting ordinance. A notice of decision shall be mailed to all parties as specified for a Type III decision, and DLCD.

11.9 Type V Procedure (Legislative Decision)

Type V actions are reviewed by the Planning Commission, which makes a recommendation to the City Council. The Council makes final decisions on legislative proposals by enacting an ordinance.

A. **Initiation of Requests.** The City Council or Planning Commission may initiate the process for a legislative decision.

B. **Procedure.** Public hearings on Type IV actions are conducted similar to City Council hearings on other legislative proposals, except the matter shall have an initial evidentiary public hearing before the Planning Commission, who shall make a recommendation to the City Council. Criteria for approval shall include, as applicable, establishing consistency with the Comprehensive Plan.

C. **Notice of Public Hearing.** Notification procedure for Type IV actions is as follows:
   1. The Director shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments to the Comprehensive Plan, Zoning Map, Land Development Ordinance, or Land Division Ordinance at least 35 days before the first public hearing at which public testimony or new evidence will be received.
   2. At least 20 days but not more than 40 days before the date of the first hearing on an application to legislatively amend the Comprehensive Plan, Zoning Map, the Land Development Ordinance, or the Land Division Ordinance, the Director shall mail notice of such hearing to:

a. Each owner whose property is rezoned in accordance with ORS 227.186;
b. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175; and
c. Neighborhood groups and community organizations that have submitted written request for notification.

3. At least ten days before the scheduled Planning Commission and City Council public hearing dates, public notice shall be published in a newspaper of general circulation in the City. The notice shall include the time and place of the public hearing, and a brief description of the proposed amendment.

D. **Final Decision, Effective Date, and Notice of Decision.** If a legislative proposal is approved pursuant to this ordinance, it becomes final and takes effect as specified in the enacting ordinance. A notice of a legislative land use decision shall be mailed to all parties of record, those groups or individuals who requested notice of the decision, and DLCD.

11.10 Application Submittal Requirements

The Director is authorized to set standards and procedures for application submittal requirements, including the number and type of applications required (e.g., hard copies, electronic copies), size and format of applications (e.g., paper size, electronic format), and dates when applications can be received. The Director shall make the requirements for application submittals readily available to the public.

11.11 Complete Application and Time Limits

A. **Complete Applications.** The Director shall determine within 30 days of receiving an application for Type I-IV review whether the application is complete, and shall advise the applicant accordingly in writing. Where an application is deemed incomplete, the Director shall inform the applicant that the applicant must respond pursuant to subsection 1, 2, or 3, below, within 180 days from the date of application submittal. The 120-day clock under subsection B below does not begin until the applicant:

1. Submits all of the missing information; or
2. Submits some of the missing information and written notice that no other information will be provided; or
3. Submits written notice that none of the missing information will be provided.

B. **Time Limit - 120-day Rule.** If required by statute, the City shall take final action on Type I-IV land use applications pursuant to this Article, including resolution of all local appeals, within 120 days from the date the Director deems the application complete for purposes of processing, unless the applicant requests an extension in writing. If the City of Veneta surpasses a population of 5,000, certain multifamily projects may be subject to a reduced time limit of 100 days pursuant to SB 1051.

C. **Time Periods.** In computing time periods prescribed or allowed by this Article, the designated period of time does not include the date of the action or event cited. For example, where this ordinance provides for an appeal period ending ten days after the City mails a decision, the ten-day period does not include the day the decision is mailed. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.

11.12 City Council or Planning Commission May Initiate Procedures

The City Council or Planning Commission may initiate any Type I, Type II, Type III, or Type IV planning action by motion duly adopted by the respective body designating the appropriate City department to complete and file the application.

11.13 Failure to Receive Notice

The failure of a property owner to receive notice shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was mailed.

11.14 Resubmittal of Applications

A Type II-IV application that is denied by the Planning Commission or the City Council shall not be eligible for resubmittal for one year from the date of the denial, unless evidence is submitted that conditions, the application, or the project design have changed to an extent that further consideration is warranted.

11.15 Fees

Fees authorized by this Ordinance and the Land Division Ordinance shall be set by Council resolution.

11.16 Withdrawal of an Application

A. An application may be withdrawn if the City receives consent in writing to withdraw the application from the owner(s) of the property or their authorized representative(s) under the following circumstances:
   1. An applicant may withdraw an application at any time before the application is deemed complete.
   2. An applicant may withdraw an application previously deemed complete at any time prior to adoption of a final City decision.
   3. The City Administrator or designee may withdraw any City-initiated application at any time.
   4. Notwithstanding any preexisting, nonconforming use that remains consistent with the allowances of Article 9, a violation of a City ordinance has been identified on the subject property and processing of the application would not correct the identified violation.

B. If an application is withdrawn after public notice has been mailed, any noticed hearing will be cancelled.

C. Once an application has been withdrawn, the application fees shall be refunded by the following formula:
   1. Application withdrawn prior to being deemed complete: 85%.
   2. Application withdrawn prior to publication or distribution of public notice: 75%.
   3. Application withdrawn after publication or distribution of public notice: 50%.
   4. Application withdrawn after issuance of a decision or public hearing: no refund.

11.17 Expiration of Decision

A. Unless a different period of time is established within a decision issued pursuant to this ordinance or the Veneta Land Division Ordinance, decisions issued pursuant to a Type I-IV process shall expire and become void automatically after the number of years specified in Table 11.16 unless one of the following circumstances has occurred:
   1. Actual construction or alteration has begun under a required permit, or in the case of a permit

not involving construction or alteration, actual commencement of the authorized activity has begun;

2. The approved land use has begun and is continuing operation in compliance with any applicable conditions of approval; or
3. An extension has been granted pursuant to section 11.17.

B. If a final local decision is on appeal, the effective date of the decision and corresponding valid period before expiration shall begin when the final decision is issued on the appeal.

C. Type IV actions are not subject to expiration or extension.

Table 11.16 Expiration and Extension of Decisions			
Procedure	**Valid Period**	**Extension 1**	**Additional Extensions**
Type I	1	0	0
Type II	3	1	0
Type III	3	1	1
Type IV	N/A	N/A	N/A

(Fix table #; Confirm that new table is consistent with current numbers)

11.18 Extension of Decision.

A. Written Request for Extension Required. A written request to extend the expiration date of a decision made pursuant to this ordinance must be filed with the Director by the applicant before the decision expires.

B. No modifications. The previous land use decision will not be modified in any way.

C. First Extension. A first extension may be granted for the applicable period of time as specified in Table 11.17 pursuant to subsection A above. A first extension shall be approved through a Type I permit.

D. Second or Longer Extension. A request for a second extension of a Type III decision or an extension longer than specified in Table 11.16 may be considered subject to the following criteria:

1. The extension is necessary because it is not possible to begin development within the allowed time for reasons beyond the control of the applicant;
2. The previous land use decision will not be modified in design, use, or conditions of approval; and
3. There have been no changes in circumstances, applicable regulations, or statutes likely to require modification of the previous land use decision or conditions of approval since the effective date of the previous land use decision.
4. Second extensions shall be considered through the Type III Conditional Use procedure and shall not be used to extend an entitlement that would have been rendered noncompliant by a change in local code; or State, Federal or case law.

E. Extensions for Multi-phase Projects. Phasing schedules are required as part of the initial decision for multi-phase projects. Longer approval periods for multi-phase projects may be authorized if approved by the decision-maker under one of the following circumstances:

1. Completion of a phase may extend the approval period of remaining phases only if specifically granted in the original approval; or
2. Post-approval phasing extensions shall be considered through the Type III Conditional Use procedure and shall not be used to extend an entitlement that would have been rendered noncompliant by a change in local code; or State, Federal or case law.

11.19 Expedited Land Divisions

In conformance with ORS 197.360, applications for an Expedited Land Division ("ELD") may be submitted subject to the following:

A. Application Form and Fee. Applications for an ELD shall be submitted on forms provided by the Director. All property owners of the subject parcel or their authorized agent, as applicable, must sign the application. The application shall not be considered complete unless it includes all information required by this ordinance.

B. Submittal Information. The application shall include all of the following information:

1. The information requested on the application form.
2. Plans and exhibits required for the ELD sought.
3. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail.
4. Information demonstrating compliance with all prior decision(s) and conditions of approval for the subject site, as applicable.
5. The required fee.

C. Decision. The Director shall approve or deny an ELD application after conducting the review procedures required by ORS 197.365;

D. Appeal procedure. The Director's decision may only be appealed in accordance with ORS 197.375.

11.20 Amendments to the Comprehensive Plan and Implementing Ordinances

A. **Purpose.** Amendments may be necessary from time to time to reflect changing community conditions, needs and desires; to correct mistakes; or to address changes in the law.

B. **Authorization to Initiate Amendments.** An amendment to the Comprehensive Plan text or map, this Ordinance, the Land Division Ordinance, or amendments to the zoning map that do not fall under the Type IV procedure may only be initiated by the City Council, the Planning Commission or by application of the property owner by filing an application with the City Administrator using forms prescribed pursuant to this Ordinance.

C. **Compliance with Comprehensive Plan.** Any Type V amendments shall comply with the provisions of the City of Veneta Comprehensive Plan text and map, excepting amendments to the Comprehensive Plan Text or map.

D. **Compliance with Statute and Rule.** Certain Sections of this ordinance are pre-empted by Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR). Any amendments to local ordinances shall comply with applicable Statute and Rule. If an amendment to the ORS or OAR is adopted at the State level, the City shall observe those standards even if not formally incorporated into this ordinance through the procedure for an amendment.

E. **Review Procedure.** Applications shall be processed using the Type V procedure set forth in Section 11.9, above.

F. **Adoption by Ordinance.** All decisions approving applications to amend this ordinance or the Comprehensive Plan text or maps require adoption by City Council ordinance. After a Planning Commission public hearing, the Commission shall recommend to the City Council approval, approval with modifications, or denial of the amendment, based upon applicable approval criteria. The Council shall consider the recommendation of the Planning Commission and at a duly noticed meeting act to reject or adopt the Planning Commission's recommendation. Approval shall be effected by ordinance adoption.

Amendments to Land Division Ordinance (No. 494)

ARTICLE 2 - APPLICATION PROCEDURES

2.03 SUBMISSION PROCEDURE

Following preliminary review and the pre-development land division conference, where applicable, the land divider shall prepare an application and a tentative plan with other supplementary data required to indicate the general program and objectives of the proposed land division. The form of application shall be as prescribed by the City and shall be submitted to the Building and Planning Official who shall coordinate the process of review and action. The submission and informational requirements and review procedures shall be as specified for each land division classification contained in this ordinance.

Applications that are accompanied by the required application fee will be reviewed and, within 30 days of its receipt, the applicant will be notified as to the completeness. If the City determines that the application is complete, the City will process the application in accordance with the review procedures for the type of application that has been submitted.

Applications shall be processed in the following manner, consistent with the procedural standards in the Land Development Ordinance (No. 493):

Action	Procedure	Applicable Regulations
Lot Line Adjustment, including Lot Consolidations	Type I	Chapter
Partition, Re-plat or Vacation of 2-3 lots		
Preliminary Plat	Type II	Chapter
Final Plat	Type I	Chapter
Minor Amendment	Type II	Subsection
Subdivision, Replat or Vacation of >3 lots		
Preliminary Plat	Type III	Chapter
Final Plat	Type I	Chapter
Minor Amendment	Type II	Subsection
Major Amendment	Type III	Chapter

Any Type I or II application submitted with or that can be considered with a Type III application (such as those requiring approval of a Variance or Conditional Use) shall be noticed and considered by the Planning Commission concurrent with the other application(s) at the higher review level.

2.05 VARIANCE PETITION

Variances to the requirements of this ordinance may be considered pursuant to the standards and procedures for a Variance outlined in the Land Development Ordinance (No. 493).

ARTICLE 4 - SUBDIVISIONS

4.02 TENTATIVE PLAN REVIEW AND ACTION PROCEDURES

A. City Staff Review and Action. Upon deeming an application complete, the - Director shall furnish one (1) copy of the tentative plan and supplementary material to the City Engineer and Public Works Superintendent. Public agencies believed to have an interest shall be provided notice of the proposal. These officials and agencies shall be given fifteen (15) days to review the plan and to suggest revisions that appear to be in the public interest.

B. -Dedications and Conditions of Approval: The Planning Commission may require dedication of land and easements and may specify conditions or modifications to the tentative plan as necessary to ensure compliance with city regulations.

C. -Failure to Complete Subdivision Requirements: Tentative Plan approval shall remain effective for three (3) years from the date of Planning Commission action. Within three (3) years, the applicant must submit a complete Final Plat application for review along with all supplementary data required to meet the conditions of approval listed in the Final Order. If the land divider is unable to proceed with the subdivision prior to the expiration of the three (3) year period following the approval of the tentative plan, the applicant must resubmit the tentative plan and make any revision(s) necessary to meet changed conditions or modifications in laws or ordinances of the State of Oregon, Lane County, or the City of Veneta.

D. -Performance Bonds and Irrevocable Agreements: At tentative plat approval, the applicant shall post a performance bond and enter into an Irrevocable Agreement between the applicant and the City, in a form as provided by the City, to assure that the subdivision improvements are completed. The performance bond shall be equal to the cost of public improvements including city water and sewer main extension and service and streets, which includes curbs, gutters and sidewalks with the City of Veneta. The cost of public improvements shall be based on an estimate by the City Engineer. Performance bonds shall be in the form of a surety bond, irrevocable letter of credit, cash, or other financial instrument acceptable to the City Attorney.

4.03 REVIEW OF TENTATIVE PLAN APPLICATIONS

A tentative plan application shall be approved, approved with conditions, or denied based on the standards found in the following sections of the Land Division Ordinance, Land Development Ordinance, and other sources specified in this section:

A. The transportation system supports the new development and provides vehicular, bicycle, and pedestrian access to each lot in conformance with the applicable City requirements, including Design Standards (Article 6) and Improvement Requirements (Article 7) of this Land Division Ordinance; the requirements of the zoning district (Land Development Ordinance); and the Veneta Transportation System Plan.

B. Each lot will be served with sanitary sewer (or septic systems), water, and other public utilities in conformance with the applicable City requirements, including Design Standards (Article 6) and Improvement Requirements (Article 7) of this Land Division Ordinance; the requirements of the zoning district (Land Development Ordinance); and City utility plans.

C. The surface water drainage shall be in conformance with the City's Drainage Master Plan and other applicable City requirements, including Design Standards (Article 6) and Improvement Requirements (Article 7) of this Land Division Ordinance; and the requirements of the zoning

district (Land Development Ordinance).

D. Topography, floodplain, wetlands, and vegetation have been incorporated into the subdivision design in conformance with the applicable City requirements, including Design Standards (Article 6) and Improvement Requirements (Article 7) of this Land Division Ordinance; and the requirements of the zoning district (Land Development Ordinance).
E. Development of any remainder of property under the same ownership can be accomplished in accordance with city requirements.
F. Adjoining land can be developed or is provided access that will allow its development in accordance with city requirements.
G. The proposed preliminary plat complies with all of the applicable city requirements, including Design Standards (Article 6), Improvement Requirements (Article 7), and the requirements of the zoning district in which the property is located (Land Development Ordinance)

4.04 AMENDMENTS

A. Minor Amendments. Minor amendments to any approved tentative subdivision plan may be approved, approved with conditions, or denied administratively as long as the amendment(s) substantially comply with the tentative plan, fully comply with all City ordinances and do not:
   1. Involve any interpretation of submission requirements or require findings that would set a precedent for other tentative subdivision plan amendments,
   2. Impact utilities, the transportation system, drainage, or natural features of the site,
   3. Require a variance,
   4. Raise questions of adequacy of services by the Public Works Superintendent, City Engineer, or any affected public or private agency, and
   5. Create more lots than the approved tentative subdivision plan.
B. Major Amendments. Major amendments to an approved tentative subdivision plan involve changes that do not meet the criteria listed under minor amendments. Major amendments to an approved tentative plan must be reviewed and processed in the same manner as required for the original tentative subdivision plan. A new application and filing fee is required.

4.06 REVIEW AND ACTION PROCEDURES

A. Upon receipt, the plat and other required data shall be reviewed by the Building and Planning Official, City Engineer and Public Works Superintendent to determine that the subdivision as shown is substantially the same as it appeared on the approved tentative plan, meets any conditions of approval, and that there has been compliance with provisions of the law and of this ordinance.
B. The City may make such checks in the field as are desirable to verify that the plat is sufficiently correct on the ground and City representatives may enter the property for this purpose.
C. If it is determined that full conformity has not been made, the Building and Planning Official shall advise the sub divider of the changes or additions that must be made and shall afford the land divider an opportunity to make the changes or additions.
D. If after approval by the City Engineer and Public Works Superintendent the Building and Planning Official determines that the plat conforms to all requirements, it shall give approval, provided supplemental documents and provisions for required improvements are satisfactory. After acceptance, a recordable copy of the map shall be submitted to the City for signature. Final approval shall be indicated by the signature of the Building and Planning Official on the

recordable copy of the plat. Acceptance by the public of the dedication of any street or other easements shown on the plat shall be indicated by the signature of the Mayor on behalf of the City.

ARTICLE 5 - PARTITIONS

5.03 TENTATIVE PLAN REVIEW AND ACTION PROCEDURES

A. -Planning Commission Review. – If the proposed partition requires a variance or is submitted concurrently with any other land use action requiring a Type III application, the Building and Planning Official shall submit the proposal to the Planning Commission for a consolidative higher level review. Any other proposal may be submitted to the Commission for review at the discretion of the Building and Planning Official.

B. Dedications and Conditions of Approval. The Building and Planning Official or the Planning Commission may require dedication of land and easements and may specify conditions or modifications to the tentative plan as necessary.

C. -Tentative Plan Approval: The action of the Building and Planning Official or the Planning Commission shall be incorporated into a Final Order with all conditions of approval and a copy sent by mail to the applicant within seven (7) days of the decision. The original copy of the Final Order shall be retained in the City Planning files.

D. Failure to Complete Partition Requirements: Tentative plan approval shall remain effective for three (3) years from the date the Building and Planning Official or Planning Commission took action. Within that three (3) year period, the applicant must submit a complete Final Plat for review along with all supplementary data required to meet the conditions of approval listed in the Final Order issued either by the Building & Planning Official or the Veneta Planning Commission. If the land divider is unable to proceed with the partition prior to the expiration of the three (3) year period following the approval of the tentative plan, the applicant must resubmit the tentative plan and make any revisions(s) necessary to meet changed conditions of modifications in laws or ordinances of the State of Oregon, Lane County, or the City of Veneta

5.04 REVIEW OF TENTATIVE PLAN APPLICATIONS

A tentative plan partition application shall be approved, approved with conditions, or denied based on the standards found in the following sections of the Land Division Ordinance, Land Development Ordinance, and other sources specified in this section:

A. The transportation system supports the new development and provides vehicular, bicycle, and pedestrian access to each lot in conformance with the applicable City requirements, including Design Standards (Article 6) and Improvement Requirements (Article 7) of this Land Division Ordinance; the requirements of the zoning district (Land Development Ordinance); and the Veneta Transportation System Plan.

B. Each lot will be served with sanitary sewer (or septic systems), water, and other public utilities in conformance with the applicable City requirements, including Design Standards (Article 6) and Improvement Requirements (Article 7) of this Land Division Ordinance; the requirements of the zoning district (Land Development Ordinance); and City utility plans.

C. The surface water drainage shall be in conformance with the City's Drainage Master Plan and other applicable City requirements, including Design Standards (Article 6) and Improvement

Requirements (Article 7) of this Land Division Ordinance; and the requirements of the zoning district (Land Development Ordinance).

D. Topography, floodplain, wetlands, and vegetation have been incorporated into the partition design in conformance with the applicable City requirements, including Design Standards (Article 6) and Improvement Requirements (Article 7) of this Land Division Ordinance; and the requirements of the zoning district (Land Development Ordinance).
E. Development of any remainder of property under the same ownership can be accomplished in accordance with city requirements.
F. Adjoining land can be developed or is provided access that will allow its development in accordance with city requirements.
G. The proposed preliminary plat complies with all of the applicable city requirements, including Design Standards (Article 6), Improvement Requirements (Article 7), and the requirements of the zoning district (Land Development Ordinance).

8.05 AMENDMENTS

Amendments to this Ordinance shall be processed pursuant to the criteria and standards for a Type IV Amendment in the Land Development Ordinance (No. 493).

8.06 DEFINITIONS

Capitalized words and phrases within this ordinance are defined in the Veneta Land Development Ordinance (No. 493). Terms not defined shall utilize commonly accepted definitions.-***All definitions will be deleted***

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Memorandum

To: Planning Commission

From: Lisa Garbett, Associate Planner

Date: May 5, 2020

Re: Administrative Land Use Decisions (January – March 2020)

January

(1) – Type "A" Tree Removal Permit

February

(1) – Temporary Use Permit - Renewal

(2) – Type "A" Tree Removal Permit

March

(1) – Type "A" Tree Removal Permit

Web Link to Land Use Decisions on City Website: https://www.venetaoregon.gov/planning/page/land-use-decisions