

Ordinance 1247
Introduced by All Commissioners

**AN ORDINANCE AMENDING WARRENTON MUNICIPAL CODE TITLE 16,
DEVELOPMENT CODE, DIVISION 4, APPLICATIONS AND REVIEW
PROCEDURES, CHAPTER 16.208, TYPES OF APPLICATIONS AND REVIEW
PROCEDURES, SECTION 16.208.050, TYPE III PROCEDURE**

WHEREAS, the City of Warrenton is best served by an efficient and effective land use decision-making process; and

WHEREAS, the City Commission finds it appropriate to amend the Development Code's procedural requirements to assure that the land use decision making process continues to meet the City's needs; and

WHEREAS, the City Commission conducted a public hearing on this amendment on January 12, 2021, to receive public testimony and to consider the Planning Commission's recommendation;

NOW, THEREFORE, the City of Warrenton ordains as follows:

Section 1. Amend Warrenton Municipal Code Section 16.208.050.H, to read as follows:

[new language; ~~deleted language~~]

16.208.050. Type III Procedure (Quasi-Judicial)

...

H. Appeal. A Type III quasi-judicial decision may be appealed to the City Commission as follows:

1. Who May Appeal. The following people have legal standing to appeal a Type III quasi-judicial decision:
 - a. The applicant.
 - b. Any person who submitted written or oral testimony to the decision making body.
 - c. The Planning Director or City Manager.

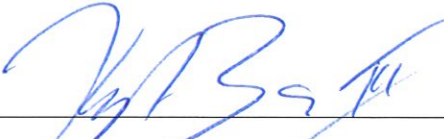
Section 2. This Ordinance shall take full force and effect 30 days upon its adoption by the Commission of the City of Warrenton.

First Reading: January 12, 2021

Second Reading: January 26, 2021


ADOPTED by the City Commission of the City of Warrenton, Oregon this 26th day of January, 2021.

Approved



Henry A. Balensifer III, Mayor

Attest



Dawne Shaw, City Recorder

Findings, Ordinance 1247

Comprehensive Plan

Establish a comprehensive planning process which benefits the public as a whole by ensuring the opportunity for local citizens to be involved during all phases of the process, requiring an adequate factual basis for decisions and actions, achieving a desirable level of coordination and consistency with other governmental bodies, and providing a suitable balance between stability and change. (Comprehensive Plan Section 10.200, Procedures, Goals)

This goal is implemented, in part, through the various types of decision-making procedures described in the Development Code. The amendment to the Type III procedure's appeals process does not conflict with this policy because it does not reduce or curtail opportunities for citizen involvement in the planning process; nor does the amendment compromise the requirement for an adequate factual basis for decisions and actions; nor does the amendment change the balance between stability and change. The amendment merely clarifies that the Planning Director and City Manager may appeal Type III Planning Commission decisions to the City Commission. The amendment leaves unchanged the right of permit applicants and parties to the Planning Commission hearing to appeal these decisions. Based on this, the City Commission finds that the development code amendment is consistent with this policy.

Effective review and updating of the Comprehensive Plan will be carried out through extensive involvement of the Planning Commission. (Comprehensive Plan Section 10.310, Procedures, Policy 1)

Policy 1 assures that the Planning Commission is involved in comprehensive plan amendments. The proposed amendment does not reduce the Planning Commission's role; nor does it change the way the City develops and reviews comprehensive plan amendments. Comprehensive plan amendments are handled under a Type IV procedure. This amendment affects only Type III decisions. Based on this, the City Commission finds that the amendment does not conflict with policy 1.

The City will undertake a major review of its Comprehensive Plan in accordance with the State mandated periodic review schedule. The City will make other revisions to the Comprehensive Plan as necessary to address local needs and concerns. (Comprehensive Plan Section 10.310, Procedures, Policy 2)

The amendment does not alter the City's ability to consider Comprehensive Plan amendments at any time. The State-mandated periodic review schedule mentioned in policy 2 is no longer applicable to Warrenton (ORS197.629(1)). The policy does not prohibit the City from considering development code amendments outside of the periodic review schedule. Comprehensive Plan amendments are handled under a Type IV procedure (WMC 16.208.060).

This amendment affects only Type III decisions. Based on this, the City Commission finds the amendment consistent with this policy.

All Comprehensive Plan amendments shall comply with the Statewide Planning Goals and will be supported by adequate evidence indicating the desirability of the proposed revisions. The desirability of changes in the intent or boundaries of land and water use areas, as shown on the respective maps, will be determined in part by (a) the expected impact on the ability of the Plan to help satisfy land and water use needs; (b) the improvements to transportation facilities and community facilities and services, if any, necessary to accommodate the change; and (c) the physical development limitation and other natural feature characteristics of the areas involved. (Comprehensive Plan Section 10.310, Procedures, Policy 3)

Policy 3 requires that amendments comply with the applicable statewide planning goals. These are addressed elsewhere in this document.

Policy 3 requires evidence of the desirability of the proposed revisions. The amendment adds the City Manager and the Planning Director to the list of parties that may appeal a Type III Planning Commission decision to the City Council. The City Commission determined that the proposal is desirable because it provides an additional safeguard in those rare cases when the Planning Commission is not fully apprised of all relevant facts; or when the Planning Commission's decision exposes the City to unacceptable risk.

Policy 3 addresses map amendments. This amendment is to the text of the zoning ordinance, and has no impact on amendments to the zoning map or comprehensive plan map.

For these reasons, the City Commission finds the amendment consistent with policy 3.

Amendments to the Comprehensive Plan text or map may be initiated by the City Commission, Planning Commission, Community Development Director, any City resident or any person or organization owning real property in the City. The person proposing the amendments will be responsible for providing justification for the revisions, and will also be responsible for providing a for of notice for the text of any exception language, should such be necessary to meet Statewide Planning Goals. (Comprehensive Plan Section 10.310, Procedures, Policy 4)

This amendment was initiated by the interim city planner at the direction of the City Manager. The justification for the revision is that it provides clarity to the Type III appeals procedure, adding the City Manager and Planning Director to the list of parties that may appeal a Type III decision. The language in policy 4 referring to exception language concerns exceptions to statewide planning goal requirements. It is not relevant to this amendment, because the

amendment does not include an exception. Based on this, the City Commission finds that the amendment does not conflict with policy 4.

The Planning Commission and the City Commission shall hold public hearings on proposed amendments to the Comprehensive Plan or map. Notice of public hearings will be given in accordance with Development Code requirements. (Comprehensive Plan Section 10.310, Procedures, Policy 5)

The amendment does not alter public notice or hearing requirements in policy 4. The adoption procedure for DCR20-02 followed the Development Code's applicable Type IV requirements. The amendment affects only Type III appeals; it does not change Type III notice or hearing requirements. Based on this, the City Commission finds the amendment consistent with policy 5.

For purposes of reviewing and updating the Comprehensive Plan, the Planning Commission will be the officially recognized committee for citizen involvement. It will be appointed in an open and public manner and its membership shall be representative of a broad range of geographical, cultural and economic elements of the population in the Warrenton area. Adequate resources will be allocated for its activities and other citizen involvement efforts. (Comprehensive Plan Section 10.310, Procedures, Policy 6)

This amendment does not change or diminish the Planning Commission's role as the committee for citizen involvement in Comprehensive Plan reviews and updates; nor does the amendment alter the method for appointing Planning Commissioners. The City provides adequate financial resources for citizen involvement efforts through its budget process; the amendment does not change the extent or scope of the City's citizen involvement process. For these reasons, the City Commission finds the amendment consistent with policy 6.

The Planning Commission and City staff will provide the general public with an opportunity to be involved in inventory work, plan revisions and plan implementation. Efforts will be undertaken to respond to citizen suggestions and make technical information and minutes of meetings available to the general public. (Comprehensive Plan Section 10.310, Procedures, Policy 7)

The amendment does not reduce opportunities for the public to be involved in inventory work, comprehensive plan revisions, and plan implementation. The City makes agendas, staff reports, and Planning Commission minutes available on its website, and at City Hall. The amendment does not alter the availability of technical information or meeting minutes. Based on this, the City Commission finds that this amendment does not conflict with policy 7.

When reviewing and updating the Comprehensive Plan, the City will attempt to (a) give ample consideration to the comments and concerns of other governmental bodies; (b) achieve consistency with their policies to the extent appropriate; and (c) avoid

unnecessary overlapping responsibilities. Affected special districts and appropriate local, regional, state and federal agencies will be notified by mail of public hearings on Comprehensive Plan amendments. (Comprehensive Plan Section 10.310, Procedures, Policy 8)

This policy addresses Comprehensive Plan reviews and updates. Reviews are generally non-hearing, work session items. Updates are formally considered under a Type IV procedure. The amendment addresses Type III procedure appeals. Policy 8 is not applicable to this amendment.

Implementation will occur in a manner which makes possible meaningful participation by local citizens and interested governmental bodies; consistency between the Plan and implementation measures intended to fulfill Plan objectives; and periodic review and update of these controls. (Comprehensive Plan Section 10.320, Plan Implementation, Policy 1)

The amendment does not detract from the policy of ensuring meaningful participation in the implementation of the Comprehensive Plan; it allows the City Manager and Planning Director to appeal a Type III Planning Commission decision. The amendment does not alter any other implementation measures related to citizen participation.

The amendment does not create inconsistency between the Development Code and the Comprehensive Plan. As shown by these findings, the amendment does not conflict with applicable Comprehensive Plan policies, or with any Development Code requirements.

The amendment does not interfere with the City's ability to review and update the Comprehensive Plan and Development Code. These kinds of updates are considered under a Type IV procedure; the amendment modifies the Development Code's Type III procedure.

For these reasons, the City Commission finds the amendment consistent with all parts of Plan Implementation policy 1.

Major actions undertaken to implement the Comprehensive Plan shall take place in a well-publicized, open atmosphere. The Planning Commission, general public and interested governmental bodies will be given an opportunity to comment on these actions before they are carried out. (Comprehensive Plan Section 10.320, Plan Implementation, Policy 2)

The Comprehensive Plan is implemented through the Development Code and the Zoning Map, so *major actions to implement the comprehensive plan* include development code amendments, such as this one. This amendment and the public hearings before the Planning Commission and City Commission have been well-publicized by notices in *The Columbia Press*, and on the City's website. Additionally, the amendment has been posted on the Oregon Department of Land

Conservation and Development's website. The general public and interested governmental bodies had the opportunity to comment on the amendment. The Planning Commission conducted a public hearing on this amendment on December 10, 2020. The Planning Commission's recommendation was received by the City Commission at a public hearing on January 12, 2021. The City Commission finds that the amendment's adoption process followed applicable procedural requirements of Plan Implementation policy 2, as implemented through the City's Development Code. The City Commission further finds that the amendment is consistent with policy 2 because it does not alter the requirements of policy 2: the amendment affects only Type III matters, not Development Code or Zoning Map amendments, which are considered under Type IV procedures.

Provisions of the zoning ordinance, subdivision and partitioning regulations and other land and water use controls used to implement the Plan shall be consistent with the Plan. This does not mean, however, that these provisions have to be specifically authorized by the Plan or cannot be more detailed than those in the Plan. (Comprehensive Plan Section 10.320, Plan Implementation, Policy 3)

The consistency requirement in policy 3 is not violated by the amendment because the Type III appeal procedure occurs only in the development code, and nowhere else in the City's planning documents. The City Commission finds that the procedures in WMC 16.208 are an example of detailed development code language mentioned in policy 3. For these reasons, the City Commission finds the amendment consistent with Pan Implementation policy 3.

Land and water use controls used to implement the Plan will be periodically reviewed and updated. Before changes in the regulations are adopted, there will be at least one public hearing on the proposal and adequate public notice of every hearing. (Comprehensive Plan Section 10.320, Plan Implementation, Policy 4)

The *land and water use controls* that implement the Comprehensive Plan are the Development Code and the Zoning Map. The Planning Commission considered this Development Code amendment at a public hearing on December 10, 2020. The hearing was advertised in *The Columbia Press*, and on the City's website. This amendment does not alter the hearing or public notice requirements for Development Code or Zoning Map amendments. The amendment has no impact on Development Code or Zoning Map amendments, which are considered under a Type IV procedure, because the amendment affects the appeals process for Type III land use decisions. Based on this, the City Commission finds that the amendment does not conflict with the requirements of Plan Implementation policy 4.

Statewide Planning Goal 1, Citizen Involvement

Goal 1 is: *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.* This development code amendment was reviewed in accordance with the acknowledged provisions for citizen involvement in Warrenton's municipal code, which implement goal 1. The amendment does not restrict opportunities for citizen involvement. The Development Code's requirements for advertising and hearings are unchanged. Opportunities for citizens to appeal land use decisions are not restricted or narrowed by the amendment. Instead, the amendment adds the City Manager and Planning Director to the list of parties that may appeal certain Planning Commission decisions to the City Commission. Based on this, the City Commission finds the amendment consistent with Statewide Planning Goal 1.

Statewide Planning Goal 2, Land Use Planning

Goal 2 requires that local governments “establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.” The amendment to the City's Type III appeals process fits into the City's land use planning processes and policy framework. The amendment clarifies that the City Manager and Planning Director may appeal a Type III decision from the Planning Commission to the City Commission. The amendment does not alter the basic framework for planning and decision-making in Warrenton. Based on this, the City Commission finds the amendment consistent with Statewide Planning Goal 2.

Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces

The basic aim of Goal 5 is “To protect natural resources and conserve scenic and historic areas and open spaces.” The City's goal 5 implementation measures in its Comprehensive Plan and Development Code are unaffected by the proposed amendment. Goal 5 protection measures remain in force. The amendment does not add any new resources to the City's goal 5 inventories, or take any resources out of these inventories, or alter prior decisions concerning those goal 5 resources. Based on this, the City Commission finds the amendment consistent with Statewide Planning Goal 5.

Statewide Planning Goal 6, Air, Water and Land Resources

Goal 6 is “to maintain and improve the quality of the air, water and land resources of the state.” It deals mainly with control of “waste and process discharges from future development.” The amendment does not affect any of the City's goal 6 implementation measures. These implementation measures, in the Development Code and the Comprehensive Plan, remain in effect. Based on this, the City Commission Finds that the amendments are consistent with Statewide Planning Goal 6.

Statewide Planning Goal 7, Areas Subject to Natural Hazards

Goal 7 is to “to protect people and property from natural hazards.” The City’s goal 7 implementation measures are not changed by the amendment. The Flood Hazard Overlay Zone and the Soil Hazard Overlay zone are two of the City’s principal goal 7 implementation tools. These are unchanged by the amendment. Those areas subject to goal 7 are still subject to the City’s goal 7 implementation measures. Based on this, the City Commission finds the amendments do not conflict with Statewide Planning Goal 7.

Statewide Planning Goal 8, Recreational Needs

Goal 8 is “to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.” The City’s goal 8 needs are met by lands that are zoned primarily for recreational purposes. The amendment does not change this. The amendment does not alter the City’s approach to meeting its goal 8 obligations, or any goal 8 implementation measures. None of the City’s Goal 8 Comprehensive Plan policies are changed by the amendment. Based on this, the City Commission finds that the amendment is consistent with Statewide Planning Goal 8.

Statewide Planning Goal 9, Economic Development

Goal 9 is “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.” The amendment has no impact on the City’s ability to meet its goal 9 obligations. The amendment does no reduce the City’s inventory of buildable commercial or industrial lands. The amendment does not change any substantive requirements for reviewing new commercial or industrial development. Based on this, the City Commission finds the amendment consistent with Statewide Planning Goal 9.

Statewide Planning Goal 10, Housing

Goal 10 is “to provide for the housing needs of citizens of the state.” The goal requires cities to assess future need for various housing types and to plan and zone sufficient buildable land to meet those projected needs. The amendment has no impact on land available for housing in Warrenton; nor does it change the substantive requirements for approval of new residential development; nor does it alter the mix of housing types allowed in the City. Based on this, the City Commission finds the amendments consistent with Statewide Planning Goal 10.

Statewide Planning Goal 11, Public Facilities and Services

Goal 11 is “to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” The amendment does

not change any of the City's goal 11 implementation measures. The supply of developable lands, and the capacity of public facilities needed to serve those lands, are unchanged by the amendment. The amendment has no impact on City policies regarding the expansion and financing of public facilities. Based on this, the City Commission finds the amendment consistent with Statewide Planning Goal 11.

Statewide Planning Goal 12, Transportation

Goal 12 is "to provide and encourage a safe, convenient and economic transportation system." The City's goal 12 implementation measures are unaffected by the amendment. Warrenton's existing transportation infrastructure and the City's plans for future expansion of transportation facilities are unchanged by the amendment. Current and likely future transportation demand is not affected by the amendments. Based on this, the City Commission finds the development code amendment consistent with Statewide Planning Goal 12.

Statewide Planning Goal 13, Energy

Goal 13 is simply "to conserve energy". The City's goal 13 implementation measures are unchanged by the amendment. Based on this, the City Commission finds that the amendment is consistent with Statewide Planning Goal 13.

Statewide Goal 14, Urbanization

Goal 14 is "to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities." The amendment does not conflict with this goal: it clarifies a relatively minor part of the City's Type III appeal process. The amendment does not alter the UGB. None of the City's goal 14 implementation measures are affected by the amendment. Based on this, the City Commission finds the amendments consistent with Statewide Planning Goal 14.

Statewide Planning Goal 16, Estuarine Resources

Goal 16 is "to recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries." The City's primary goal 16 implementation measures are the estuarine resources element of its comprehensive plan; the development code's Aquatic Natural, Aquatic Conservation, and Aquatic Development zones; and the development code's Columbia River Estuary Shoreland and Aquatic Area Development Standards. These implementation

measures are unchanged by the amendment. Based on this, the City Commission finds the amendment consistent with Statewide Planning Goal 16.

Statewide Planning Goal 17, Coastal Shorelands

Goal 17 aims “to conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics.” The City implements goal 17 primarily through the Coastal Shorelands element of its comprehensive plan; and through the development code’s Coastal Lake and Freshwater Wetlands Zone, and Water-Dependent Industrial Shorelands Zone. The amendment does not change any of these implementation measures. Based on this, the City Commission finds that the amendment is consistent with Statewide Planning Goal 17.

Statewide Planning Goal 18, Beaches and Dunes

Goal 18 is: “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.” The City’s basic implementation measures for goal 18 are the Comprehensive plan’s beaches and dunes element, and the development code’s Beach and Dune Overlay District. The amendment does not change any of these implementation measures, or the City’s overall goal 18 planning strategy. Based on this, the City Commission finds that the amendment is consistent with Statewide Planning Goal 18.