



## MEMORANDUM TO VENICE CITY COUNCIL

**THROUGH CHARTER OFFICER:** Edward Lavalley, City Manager      **E-SIGN:**  
**FROM:** James R. Clinch, Assistant City Manager  
**DEPARTMENT:** City Manager

**DATE:** 12/06/2022

**MEETING DATE:** 12/13/2022

**SUBJECT / TOPIC:** LDR Petition Staff Update

### **BACKGROUND INFORMATION:**

The updated City of Venice Land Development Regulations (New LDRs) were formally adopted by City Council on July 12, 2022 through Ordinance No. 2022-15, replacing the previous LDRs originally adopted in 1978 (Old LDRs). This concluded an extensive process which had occurred over the past 5 years, with associated consultant expenses of over \$500,000, and over 100 public meetings and presentations, most notably four joint City Council and Planning Commission meetings, three evening public zoning workshops at the Community Center, two evening LDR workshops at City Hall, and four public meetings with City Council. These New LDRs constitute a 610 page document and include revised zoning maps for the entire City of Venice jurisdiction. This comprehensive LDR update process did not end there, however. City Planning staff committed throughout the adoption process to ensure this remains a living document and is updated regularly, based on the needs of the community, the technical application of the code and City Council's direction. Staff presented the first of these amendments to City Council at the November 29<sup>th</sup> meeting and is already working on a second set of amendments which will be presented to Planning Commission in January. Additionally, as part of the New LDR approval process, Planning staff agreed to research and revisit a list of several important items in the future. Work on these items has been ongoing and an update will be presented to City Council in January for further direction.

On August 1, 2022, an initiating petition for a citizen referendum was filed pursuant to City Charter Section 9.01(b), Citizen Referendum, seeking to reconsider and reject Ordinance No. 2022-15 (New LDRs). City Charter Section 9.05 provides that upon the filing of the required number of petition signatures, which has not occurred yet, the ordinance sought to be reconsidered shall be suspended from taking effect. During the suspension period, the previous Ordinance would take effect, in this case the Old LDRs.

In an effort to collaborate and work towards a mutual resolution of the Petitioners' Committee's concerns, the City Manager, City Attorney and Planning Director met proactively with the group on August 30, 2022. It became clear at this meeting that the Petitioners' Committee did not actually desire to reconsider or suspend the entire New LDRs, but rather had several specific issues they were seeking to resolve. Additionally, The City Manager sent a letter on September 9<sup>th</sup>, 2022, summarizing the meeting and requesting that these items be clarified with corresponding language proposed for insertion into the New LDRs. The

Petitioners' Committee provided a response on October 21, 2022, which included six specific items with language recommendations.

Planning and Zoning staff have taken time to carefully review these six "demands", as stated by the Petitioners' Committee, and have provided the attached staff analysis of each request, dated December 13, 2022. It is important to note that the Petitioners' Committee has indicated, through the submission of these six items, that they also do not wish to reinstitute the Old LDRs. Instead, they would like Council to revisit these six items and adopt new code language which is distinctly different from that contained in both the Old LDRs and the New LDRs. It is unclear why the Petitioners' Committee has chosen to seek the reconsideration and rejection of the New LDRs rather than utilize City Charter Section 9.01(a) which provides a process for registered voters to propose ordinances to the City Council. That would have been an appropriate process for the committee to use to pursue their request for new language, which is still available to them.

At the August 23, 2022 City Council meeting, staff were directed to obtain outside legal counsel in order to determine the legality of the proposed citizen referendum. The legal analysis of the proposed citizen referendum is summarized in the attached memorandum from Weiss Serota Helfman Cole & Bierman, dated December 5, 2022. This summary concludes that the suspension of the City's New LDRs would leave the City in violation of state law, as it would result in the City reverting to the Old LDRs, which are not consistent with the adopted Comprehensive Plan. Consequently, it has been advised that the City should refuse acceptance of the final citizen referendum petition if it were to be filed.

Currently, the new LDRs have been in place and functional for just over a 6 month time period. Planning and Zoning staff are implementing this new LDR language in the review and enforcement of all new development petitions, and the initial staff consensus is that the LDR language is functioning very well. If the City were required to reinstitute the Old LDRs, the substantial amount of time and money that has been dedicated to improving the City's land development criteria would be negated, the likelihood for significant lawsuits is high, and the actual desires of the Petitioners' Committee would not be resolved.

While immediate action is not required, City staff are willing to continue to collaborate and work with the committee, in the interest of facilitating a mutually acceptable resolution of the concerns expressed with the New LDR language. The adoption of the New LDRs was a monumental task, involving the input of thousands of community stakeholders, expert consultants, City Staff, Planning Commission and City Council. Regardless of the outcome of the discussions related to the referendum, City staff will continue to assess the New LDRs, working to improve them where determined necessary and by utilizing the appropriate City processes to do so.

**SUPPORTS STRATEGIC PLAN:** Goal Six: Preserve the Venice Quality of Life through Proper Planning

**COUNCIL ACTION REQUESTED:**

Staff Recommends Council consider the following actions for addressing the LDR petition:

- 1) Take no action – If a final citizen referendum petition is attempted to be filed, it will be refused. City staff will continue with LDR updates as necessary and previously agreed to.
- 2) Schedule a Special Council Meeting for public input, discussion and consideration of the six items presented by the Petitioners’ Committee. If a final citizen referendum petition is attempted to be filed in the meantime, it will still be refused.

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Yes    N/A

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| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Document(s) Reviewed for ADA compliance <small>(required if for agenda posting)</small> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | City Attorney Reviewed/Approval   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Risk Management Review  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Finance Department Review/Approval  |
|                                     |                                     | Funds Availability (account number): <a href="#">Click or tap here to enter text.</a>   |

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