

ORDINANCE BILL NO. 7 for 2005
ORDINANCE NO. 1171

AN ORDINANCE AMENDING ORDINANCE 984, SWEET HOME MUNICIPAL CODE CHAPTER 15.12, PERTAINING TO THE FLOOD HAZARD AREA REGULATIONS, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Sweet Home participates in the National Flood Insurance Program, and

WHEREAS, the federal and state regulations governing flood plain management have changed since adoption of Ordinance 984, and

WHEREAS, the City of Sweet Home wishes to continue participation in the National Flood Insurance Program.

Now therefore, the City of Sweet Home does ordain as follows:

Section 1. SHMC 15.12.010 is amended to read as follows:

The State of Oregon has delegated the responsibility to local governmental units to adopt regulations designed to protect the public health, safety and general welfare of its citizenry.

Section 2. SHMC 15.12.030 is deleted.

Section 3. SHMC 15.12.040 is amended to read as follows:

“Appeal” means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

“Area of special flood hazard” means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter “A”.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100 year flood”. Designation on maps always includes the letter “A”.

“Basement” means any area of the building having its floor below ground level on all sides.

“Critical facility” means a facility for which a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

“Elevated building” means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“Existing Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before the effective date of the adopted floodplain management regulations.

“Expansion to an Existing Manufactured Home Park or Subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters, and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Section 4. SHMC 15.12.060 is amended to read as follows:

Basis for Establishing Areas of Special Flood Hazard:

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Sweet Home” with accompanying Flood Insurance Maps are adopted by reference and declared to be a part of Sweet Home Municipal Code Chapter 15.12. The Flood Insurance Study is on file at City Hall. The best available information for flood hazard area identification shall be the basis for regulations as set forth in 15.12.090 (B) until a new FIRM is issued which incorporates the data utilized under 15.12.090 (B).

Section 5. SHMC 15.12.062 is added to read as follows:

Abrogation and Greater Restrictions:

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 6. SHMC 15.12.065 is added to read as follows:

Interpretation:

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit or repeal any other powers granted under State statutes.

Section 7. SHMC 15.12.067 is added to read as follows:

Warning and Disclaimer of Liability:

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Sweet Home, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 8. SHMC 15.12.070 is amended to read as follows:

Development Permit Requirement:

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.12.060. The permit shall be for all structures, including manufactured homes, as set forth in Section 15.12.040, and for all other development.

Section 9. SHMC 15.12.080 is amended to read as follow:

Designation of Building Official as Local Administrator:

The Building Official is appointed to administer and implement Sweet Home Municipal Code Chapter 15.12 by granting or denying development permit applications in accordance with its provisions.

Section 10. SHMC 15.12.084 is added to read as follows:

Application for Development Permit:

Application for a development permit shall be made on forms furnished by the Building Inspection Program and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, and drainage facilities.

Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification by a registered design professional that the floodproofing methods for any nonresidential structure meet the floodproofing criteria; and
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

Section 11. SHMC 15.12.090 Sections "B" and "C" are amended as follows:

B. Use of Other Base Flood Data:

When base flood elevation data has not been provided in accordance with Section 15.12.060, the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data known to be available federal, state or other source in order to administer Section 15.12.110.

C. Information To Be Obtained and Maintained.

1. Where base Flood Elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 15.12.090 (B), obtain and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement;
2. For all new or substantially improved floodproofed structures where base flood elevation data provided through the Flood Elevation Study, Firm or as required in Section 15.12.090 (B):
 - a. Verify and record the actual elevation; and
 - b. Maintain required floodproofing certifications.
3. Maintain for public inspection all records pertaining to the provisions of Sweet Home Municipal Code Chapter 15.12.

Section 12. SHMC 15.12.100 Sections "A" and "E" are amended as follows:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. All manufactured homes shall be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

E. Review of Building Permits:

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgement and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Section 13. SHMC 15.12.110 Sections "A-1", "B", "C", and "D" are amended to read as follows:

A. Residential Construction:

1. New Construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated 1 foot or more above base flood elevation;

B. Nonresidential Construction:

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a registered design professional that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Building Official;
4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 15.12.110 (A-2);
5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are 1 foot below the floodproofed level, e.g., a building constructed to the base flood level will be rated as 1 foot below that level.

C. Manufactured Homes:

1. All manufactured homes to be placed or substantially improved on sites shall be:
 - a. Elevated on a permanent foundation such that the finished floor of the manufactured home is at least 18" above base flood elevation and be securely anchored to an adequately anchored foundation system.
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36" in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

D. Recreational Vehicles:

Recreational vehicles placed on sites in compliance with City codes are required to either:

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements of 15.12.110(C-1) above.

Section 14. SHMC 15.12.114 is added as follows:

Floodways

Located within areas of special flood hazard established in Section 15.12.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood water debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional civil engineer is provided through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;
2. If subsection 1 of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sweet Home Municipal Code Chapter 15.12.

Section 15. SHMC 15.12.116 is added as follows:

Critical Facility

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area, 100-year floodplain. Construction of new critical facilities shall be permissible within the 100 year floodplain if no feasible alternative site is available. Critical facilities constructed within the 100 year floodplain shall have the lowest floor elevated 3 feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section 16. SHMC 15.12.118 is added as follows:

Appeal Board

1. The City Council shall hear and decide appeals and requests for variances from the requirements of Sweet Home Municipal Code Chapter 15.12.
2. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made in the enforcement or administration of Sweet Home Municipal Code Chapter 15.12.
3. Those aggrieved by the decision of the City Council, may appeal such decision as provided for by law.
4. In passing upon such applications, the City Council shall consider technical evaluations, relevant factors, and standards specified in other sections of this ordinance; and
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;

- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on individual owners;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a water front location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the Comprehensive Plan;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
- k. The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer and water systems, streets and bridges.

Section 17. SHMC 15.12.120 is added as follows:

Penalties for Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Failure to comply with any of the provisions and requirements of Sweet Home Municipal Code Chapter 15.12 shall constitute a violation and may be prosecuted under the provisions of Sweet Home Municipal Code Chapter 9.36 and any amendments thereto and Sweet Home Ordinance Number 1128. Abatement of the violations of this Sweet Home Municipal Code Chapter 15.12 can be accomplished by any remedy open to the City, including using the procedures set out in Sweet Home Municipal Code Chapter 8.04 for abatement of nuisances. Each day that a violation exists is a separate offense.

Section 18. Emergency Clause.

The amendments to the National Flood Insurance Program and the Oregon Revised Statutes requires the City to update the Flood Hazard Area Regulations ordinance in order to maintain eligibility in the NFIP. Loss of the NFIP would result in a loss of flood insurance for City residents and federal assistance in the case of flood related disasters amongst other losses. In addition, the City could be held liable by residents and businesses that could not get flood insurance because of the decision not to participate in the NFIP. The Council determines that an emergency exists and it is in the public interest and safety that this Ordinance take effect upon its passage by the Council and approval by the Mayor.

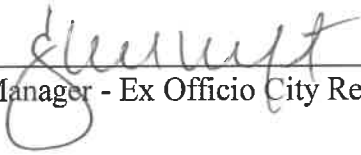
Therefore, this Ordinance shall be in full force and effect after the passage by the Council and approval by the Mayor.

PASSED by the City Council and approved by the Mayor this 24th day of May, 2005.



Mayor

ATTEST:



City Manager - Ex Officio City Recorder