

ORDINANCE BILL NO. 14 FOR 1997

ORDINANCE NO. 1111

AN ORDINANCE AMENDING SWEET HOME MUNICIPAL CODE CHAPTER 17.12 PERTAINING TO ADMINISTRATION AND ENFORCEMENT; AMENDING CHAPTER 17.32 PERTAINING TO C-1 CENTRAL COMMERCIAL ZONE; CHAPTER 17.36 PERTAINING TO C-2 HIGHWAY COMMERCIAL ZONE; AND, CHAPTER 17.80 PERTAINING TO CONDITIONAL USES.

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

Section 1. Sweet Home Municipal Code 17.12 shall be amended to read as follows:

Chapter 17.12

ADMINISTRATION AND ENFORCEMENT

Sections:

- 17.12.010 Authorization to initiate amendments.
- 17.12.020 Public hearings on amendments.
- 17.12.025 Review criteria for map amendments.
- 17.12.030 Record of amendments.
- 17.12.040 Limitation.
- 17.12.050 Administration.
- 17.12.060 Zoning permit.
- 17.12.070 Home occupation permit.
- 17.12.080 Authorization of similar uses.
- 17.12.090 Appeals.
- 17.12.100 Form of petitions, applications and appeals.
- 17.12.110 Filing fees.
- 17.12.120 Notice of public hearing.
- 17.12.130 Public hearing procedure.
- 17.12.140 General administrative provisions.
- 17.12.150 Enforcement

17.12.010 Authorization to initiate amendments. An amendment to the text of the ordinance codified in this title or a legislative zoning map amendment may be initiated by the City Manager, the City Planning Commission, the City Council, or a property owner. A quasijudicial zoning map amendment may be initiated by a property owner, a representative of the property owner, the City Manager, the Planning Commission or the City Council. A request for a quasijudicial zone map amendment by a

property owner shall be accomplished by filing an application with the City planner at least 45 days prior to the planning commission meeting using forms prescribed pursuant to Section 17.12.100.

17.12.020 Public hearings on amendments.

A. The Planning Commission may elect to conduct a public hearing on a proposed amendment.

B. The Planning Commission shall recommend to the City Council approval, disapproval or modification of the proposed amendment.

C. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment.

D. All public hearing procedures shall be in accordance with Sections 17.12.120 and 17.12.130.

E. Within five days after a decision has been rendered with reference to an amendment, the City Manager shall provide the applicant with written notice of the decision. Written notice of a decision shall apply to recommendations made by the Planning Commission and to final action made by the City Council.

17.12.025 Review Criteria for map amendments. An amendment to the official zoning or Comprehensive Plan map may be authorized provided that the proposal satisfied all relevant requirements of this title, and also provided that the applicant demonstrates the following:

A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan;

B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;

C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district; and

D. The proposed amendment to the Comprehensive Plan Map is consistent with Oregon's Statewide Planning Goals.

17.12.030 Record of amendments. The City recorder shall maintain records of amendments to the text and zoning map of the ordinance codified in this title.

17.12.040 Limitation. No application of a property owner for an amendment to the text of this title or to the zoning map shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request; except the Planning Commission may permit a new application if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

17.12.050 Administration. The City Manager shall have the

power and duty to enforce the provisions of this title.

17.12.060 Zoning and Development Plan Review permits.

A. Prior to the construction, reconstruction, alteration or change of use of any structure or prior to the change of use of any piece of property where a structure may or may not be involved, a Development Plan Review permit for such construction, reconstruction, alteration or change of use shall be obtained from the City Manager. If the Development Plan Review permit involves construction, reconstruction or alteration of a structure, the permit shall be issued concurrently with the building permit, and no additional fee shall be required. If the permit involves a change of use without any construction, reconstruction or alteration of structure involved, a fee set by Council resolution shall be paid upon filing of an application.

B. Prior to the construction or reconstruction of fences or signs, a permit for the proposed work shall be obtained from the City Manager. Normal maintenance of fences and signs are not considered to be reconstruction. A fee set by Council resolution shall be paid upon filing of an application.

17.12.070 Home occupation permit.

A. The Planning Commission may permit home occupations in a residential zone, provided that the following standards are met:

1. The home occupation shall be secondary to the residential use;

2. All aspects of the home occupation shall be contained and conducted within a completely enclosed building;

3. No person other than immediate family members residing within the dwelling shall be engaged in the home occupation;

4. Other than one unlighted sign not exceeding two square feet in area, used only to identify the name and/or occupation of the resident, there will be no display that indicates from the exterior that the building is being used in whole or in part for any purpose other than residential uses;

5. No structural alteration shall be permitted which would detract from the use or outward appearance of the property as a residence;

6. The floor area devoted exclusively to the home occupation must not exceed forty-nine percent of the total floor area of the dwelling. If located within an accessory structure or a garage, the home occupation shall not utilize over five hundred square feet of floor area;

7. No materials or mechanical equipment shall be used which are detrimental to residential use of the dwelling or nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception or other factors;

8. There shall be no parking of customers' vehicles in

a manner or frequency so as to block any driveway or impede the safe flow of traffic.

9. In approving a Home Occupation Permit application, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this title, additional conditions which the Planning Commission considers necessary to protect the appropriate development and best interests of the surrounding property or the City as a whole.

B. Notice of the application shall be provided to all adjacent property owners within 300 feet of the subject property.

1. An application fee set by Council shall be paid upon filing an application.

2. There will be a public hearing by the Planning Commission to consider the request.

3. If the City receives any written objections relative to the standards set forth in this section during this 10 day period, a public hearing will be held before the Planning Commission to consider the objections.

C. The decision of the Planning Commission may be appealed to the City Council in accordance with Section 17.12.090.

17.12.080 Authorization of similar uses. The City Manager may permit in a particular zone a use not listed in this title; provided, the use is of the same general type as the uses permitted there by this title. However, this section does not authorize a use in a zone where it is not listed or a use specifically listed in another zone. This section does not authorize a use of the same general type specifically listed in another zone. The decision of the City Manager may be appealed to the Planning Commission using procedures as spelled out in Section 17.12.090 of this title.

17.12.090 Appeals.

A. An appeal of an administrative decision concerning this Title will be made to the Planning Commission. Appeals of a Planning Commission decision will be made to the City Council.

B. A fee set by resolution of Council will be paid upon filing of an appeal.

C. At an appeals hearing, the ordinances and criteria must be stated, and the applicant or appellant must address these criteria with sufficient specificity to allow decision makers an opportunity to respond to the issue.

D. Upon appeal or review, the appellate authority must consider the record of the action or ruling which resulted in appeal.

E. An aggrieved party in a proceeding for a zone change or discretionary permit may appeal the City Council decision to LUBA.

17.12.100 Form of petitions, applications and appeals.

A. Petitions, applications and appeals provided for in this title shall be made on forms prescribed by the City.

B. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this title.

17.12.110 Filing fees. The City Council shall establish application fees and fee policies by separate resolution for the performance of the actions and reviews required by this title.

17.12.120 Notice of public hearing.

A. Each notice of hearing authorized by this title shall be published in a newspaper of general circulation in the City at least ten days prior to the date of the hearing.

B. In addition, the following notice requirements shall apply:

1. A notice of hearing on a variance shall be mailed to the applicant and to all owners of record of property on the most recent property tax assessment role available to the city within one hundred feet of the subject property.

2. A notice of a hearing on a conditional use or an amendment to a zoning map shall be mailed to the applicant and to all owners of record of property on the most recent property tax assessment role available to the city within three hundred feet of the subject property.

C. Notice shall also be provided to any neighborhood or community organization recognized by the City and whose boundaries include the site.

D. Notice distances will be measured from the exterior boundaries of the subject property for which the application request has been made.

E. The notice shall be mailed at least twenty days prior to the date of hearing.

F. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

G. The notice provisions of this section shall not restrict the giving of notice by other means, including the posting of property or the use of radio.

H. When a zone change is proposed for a mobile home park, the residents of the mobile home park shall be given twenty days notice of the required public hearing.

I. Notice of a public hearing on a zone change shall be provided to the owner of an airport if:

1. The owner has requested notification from the City Planner; and

2. The property subject to the zone change is within five thousand feet of the side or end of an airport runway.

3. The zone change would allow a structure of thirty-five feet or greater in height and the property is located inside the runway approach surface.

J. All notices of public hearings shall contain the following information:

1. Explain the nature of the application and the proposed use or uses which could be approved;
2. List of applicable criteria from this title and the Comprehensive Plan that apply to the application at issue;
3. Set forth the street address or other easily understood geographic identifier;
4. State the date, time and location of the hearing;
5. State that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
6. Include the name and telephone number of a local government representative to contact for more information;
7. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost;
8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost; and
9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

17.12.130 Public hearing procedure.

A. Order of Public Hearing Procedure.

1. At the outset of the hearing, the chair shall review the public hearing procedure.
2. City staff shall briefly review the basic facts involved in the proposal.
3. The chair shall provide the opportunity for questions to be asked by the board or from the floor regarding clarification of the matter to be heard.
4. All those persons who support the proposed application shall first be permitted to present their case. The applicant or their representative shall proceed first to be followed by all others who support the application.
5. All those who oppose the proposed application shall then present their case. Representatives of a group shall proceed first followed by other persons.
6. All those who support or oppose the proposed application shall have the opportunity to speak.

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7. City staff shall then make further presentation, if appropriate. City staff may also answer questions or clarify issues during other stages of the hearing whenever permitted by the chair during the hearing.

8. Following all presentation, brief rebuttal shall be permitted by all parties in the same general order as initial presentations. The chair shall have broad discretion to limit rebuttal to avoid repetition and redundancy.

B. Members of the board conducting the hearing may question anyone making a presentation at a hearing, but such questioning shall occur after, not during, the individual's presentation.

C. Any questions from the floor shall be addressed to the chairman. The chair shall then direct the question to the appropriate person.

D. No person shall be disorderly, disruptive or abusive during the conduct of the hearing.

E. No person shall testify without receiving recognition from the chair and stating their full name and address.

F. All presentations shall be as brief as possible, and redundancy and repetition shall be avoided.

G. The chair shall have authority to:

1. Regulate the course and decorum of the hearing;
2. Dispose of procedural matters;
3. Rule on relevancy of testimony and request documentation at any time;

4. Impose reasonable limitations on the number of witnesses and time limits for presentation and rebuttal.

H. At the close of all presentations and rebuttal, the chair shall declare that the hearing is closed, and thereafter, no further evidence or argument shall be received. Once a hearing has been closed, it shall be reopened only upon vote of the City Council or Planning Commission.

I. Any person making a presentation may present one or more written exhibits, visual aides, affidavits and similar material to be considered as a part of the evidence.

J. At City Council hearings, all Planning Commission minutes and records shall be a part of the record before the City Council. A Planning Commission representative may testify as part of the City staff presentation at a City Council hearing.

K. The Planning Commission or City Council may allow a continuance of the public hearing in order to obtain additional information or to serve further notice upon other persons it decides may be interested in the proposal being considered. If continued the time and date when the hearing is to be resumed shall be announced.

17.12.140 General administrative provisions.

A. An applicant may apply at one time for all permits or zone changes needed for a development project.

B. The City shall take final action on all land use actions, limited land use actions, or zone change applications including all appeals, within one hundred twenty days of

completion of the application. Applications or appeals which require consideration by agencies or entities outside the City jurisdiction are excepted from this deadline. The one-hundred-twenty-day deadline may be extended for a reasonable amount of time at the request of the applicant.

C. If an application is incomplete, the City shall notify the applicant within thirty days of receipt of the application and allow the applicant to submit the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete, at least for the purpose of subsection B of this section, on the 31st day after the City received the application. If the applicant agreed to supply the missing information, the application shall be deemed complete for the purpose of subsection B of this section when the missing information is supplied.

D. If the application was complete when first submitted, or if the applicant supplies requested additional information within one hundred eighty days of initial submittal, approval or denial of the application shall be based upon the standards and conditions which were in effect at the time of submittal.

E. If an application is not acted upon within one hundred twenty days after completion:

1. The City shall refund to the applicant either the unexpended portion of any application fees previously paid, or 50% of the total amount of such fees, whichever is greater.

2. The applicant may apply in the circuit court of Linn County for a writ of mandamus to compel the City to issue the approval.

F. Ex parte contacts with a member of the decision making body shall not invalidate a final decision or action of the decision making body. The member receiving the information shall report the information for the record at the hearing. The chair shall allow rebuttal of the content at the first hearing where action will be considered or taken.

17.12.150 Enforcement.

A. Penalty. Violations of this Title constitutes an infraction and may be prosecuted under the provisions of Sweet Home Municipal Code Chapter 9.36 as now enacted or hereafter amended. Each day's violation is a separate offense.

B. Alternative Remedy. In case a structure is located, constructed, maintained, repaired, altered or used, or land is used in violation of this Title, the structure or land thus in violation shall constitute a nuisance. The City may, as an alternative to other remedies that are legally available for enforcing this Title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use. For abatement the City may follow the procedure set out in Sweet Home Municipal Code Article II of Chapter 8.04 as now enacted or hereafter amended except no

hearing need be held before abatement occurs if a hearing before the Planning Commission or City Council has already been held on the issue in dispute and said body has made a final decision thereon. The City can recover its expenses as set forth in the abatement procedure.

Section 2. Sweet Home Municipal Code 17.32.020 (9) shall be amended to read as follows:

9. The city manager shall determine whether a specific use is appropriate to a particular use group permitted in the C-1 zone. In considering a Development Plan Review permit for a commercial enterprise in the C-1 zone, the city manager shall either approve the use, disapprove the use, or refer it to the planning commission for a decision. A decision may be appealed using procedures as specified in Section 17.12.090.

Section 3. Sweet Home Municipal Code 17.36.040 (E) shall be amended to add the following:

E. A Development Plan Review permit for a use covered by this section shall be issued only on the basis of the plan for the use as approved through procedures specified in this section.

Section 4. Sweet Home Municipal Code 17.80.050 shall be amended to add the following:

Authorization of a conditional use shall be void one year after the date of approval of a conditional use application, or such lesser time as the authorization may specify, unless a building permit has been issued and substantial construction pursuant thereto has taken place or the plan approved by the Planning Commission has been implemented. However, upon written request, the planning commission may extend authorization for an additional period not to exceed one year.

Passed by the City Council and approved by the Mayor of Sweet Home this 14th day of October, 1997.



Mayor

ATTEST:



City Manager - Ex Officio City Recorder