

ORDINANCE BILL NO. 10 FOR 2003

ORDINANCE NO. 1156

AN ORDINANCE AMENDING SWEET HOME MUNICIPAL CODE CHAPTER 17.72 PERTAINING TO THE NATURAL RESOURCES OVERLAY ZONE AND DECLARING A NEED FOR EXPEDIENCY.

WHEREAS, the City of Sweet Home declares a need for expediency for the purposes of protecting the health, safety and welfare of Sweet Home residents, for the health and welfare of the natural environment and for the purposes of securing short term and long term economic security for the community.

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

Chapter 17.72

NR NATURAL RESOURCES ZONE

Sections:

- 17.72.010 Purpose.
- 17.72.020 Establishment.
- 17.72.030 Applicability.
- 17.72.040 Activities Subject to Review.
- 17.72.050 Exceptions in the Riparian Zone.
- 17.72.060 Agency Review.
- 17.72.070 General Development Standards.
- 17.72.080 Variances.
- 17.72.090 Mitigation Standards.
- 17.72.100 Plan Amendment Option.

17.72.010 Purpose. The NR zone is designed to protect identified significant natural resources in the City of Sweet Home. The intent of this zone is to ensure reasonable economic use of property while protecting valuable natural resources.

17.72.020 Establishment. A NR zone is an overlay zone that can be applied in conjunction with any other zone designation. The NR zone is applied to natural resource areas identified in this ordinance.

17.72.030 Applicability. The procedures and requirements of the NR Zone apply to any parcel designated as having one of the following identified natural resources:

1. Significant wetlands, as mapped in the City's *Local Wetlands Inventory (LWI)*.
2. Riparian Corridors, as mapped in the City's *Riparian Inventory*.

17.72.040 Activities Subject to Review. In a NR zone, the following actions are subject to the review:

1. New structural development.
2. Exterior expansion of any building or structure.
3. Increases in impervious surfaces or storage areas.
4. Grading, excavation or fill.
5. Removal of native vegetation.

17.72.050 Exceptions in the Riparian Zone. The following activities may be excepted from the requirements of this Chapter upon administrative review approval that they are designed to meet the standards listed in this Chapter.

1. Drainage facilities, utilities, and irrigation pumps.
2. Streets, roads, driveways, or paths.
3. Water-related and water-dependent uses.
4. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.
5. Removal of non-native vegetation and replacement with native plant species.
6. Alteration of the area by placement of structures or impervious surfaces within the Riparian Zone upon demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures, providing that the alterations not exceed 50% of the width of the riparian area, measured from the upland edge of the Zone.

17.72.060 Agency Review. Decisions made by the City of Sweet Home under this ordinance do not supercede the authority of the state or federal agencies which may regulate or have an interest in the activity in question.

1. It is the responsibility of the landowner or applicant to ensure that any necessary state or federal permits or clearances are obtained.
2. The City will notify the Division of State Lands for development permits and other land use decisions affecting inventoried wetlands.

17.72.070 General Development Standards. The City of Sweet Home has adopted safe harbor setback methodology for the identification of significant riparian corridors and significant wetlands. These resources are identified on the *Local Wetlands Inventory* and *Riparian Inventory* Maps. Property owners are responsible to have a qualified professional identify the wetlands boundary on the affected property.

1.

Natural Area	Width of Vegetated Corridor, per side
South Santiam River	75'
Ames Creek and Wiley Creek	50'

2. Setbacks for structures within a riparian corridor are measured from the top of bank, which is the line of ordinary high water in a two year event.

3. For an exception to be allowed, the applicant shall comply with the following requirements:
 - a. Demonstrate that no other practicable access to the buildable area exists.
 - b. Design roads, driveways, and paths to be the minimum width necessary while allowing for safe passage of vehicles and/or pedestrians.
 - c. Consider the need for future extensions of shared access, access easements, or private streets in order to avoid subsequent encroachments into a significant natural resource.
 - d. During construction, no stockpiling of fill materials, parking, or storage of equipment shall be allowed within a significant natural resource.
 - e. Erosion control measures, such as silt fences and biofilter bags, shall be used to reduce the likelihood of sediment and untreated stormwater entering a significant natural resource.
 - f. Utilities and drainage facilities: Public and private utilities or drainage facilities may be placed when it is shown that no other practicable alternative location exists. If a utility or drainage facility is allowed the following standards shall apply:
 - i. Demonstrate that no other practicable access exists;
 - ii. The corridor necessary to construct utilities shall be the minimum width practical so as to minimize intrusion into a significant natural resource.
 - iii. Removal of trees and native vegetation shall be avoided unless absolutely necessary. Native vegetation shall be used to restore the vegetative character of the construction corridor.
 - iv. The existing grade of the land shall be restored after construction.
 - v. No stockpiling of fill materials, parking, or storage of equipment shall be allowed within a significant natural resource.
 - g. Structures or other non-conforming alterations existing fully or partially within a significant Natural Resource may be expanded provided the expansion occurs outside of a significant natural resource. Substantial improvement of a non-conforming structure in a significant natural resource shall require compliance with the standards of this ordinance.
 - h. Existing lawn within a significant natural resource may be maintained, but not expanded within the limits of a significant natural resource. Development activities shall not justify replacement of native vegetation, especially riparian vegetation, with lawn.
4. Removal of non-native vegetation and replacement with native plant species is allowed and shall comply with the following requirements .
 - a. The replacement vegetation shall at a minimum,
 - i. Cover the area from which vegetation was removed,
 - ii. Maintain or exceed the density of the removed vegetation, and
 - iii. Maintain or improve the shade provided by the vegetation.
5. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from the Community Development Director.
6. The control or removal of nuisance plants should primarily be by non-chemical means (e.g. hand-pulling).
 - a. If non-chemical means fail to adequately control nuisance plant populations, a glyphosate based herbicide, or other environmentally safe herbicide, may be used.
 - b. No pre-emergent herbicides or auxin herbicides that pose a risk of contaminating water should be used.

- c. Herbicide applications must be applied according to manufactured specifications.

17.72.080 Variances. A variance to the provisions of this Chapter may be applied for to consider hardships, claims of map errors verified by DSL, and when necessary to allow reasonable economic use of the subject property. Permanent alteration of the significant natural resource by an action requiring a Variance is subject to the Mitigation procedures and criteria of this Chapter.

17.72.090 Mitigation Standards. When impacts to any identified significant natural resource occur, mitigation will be required.

1. For impacts to wetlands the following standards and criteria shall apply:
 - a. The applicant must obtain a fill and removal permit from the Oregon Division of State Lands and U.S. Army Corps of Engineers.
 - b. The applicant must provide an approved mitigation plan that complies with all Oregon Division of State Lands and U.S. Army Corps of Engineers wetland regulations.
2. For impacts to riparian corridors, the following standards and criteria shall apply:
 - a. A mitigation plan prepared by a qualified professional shall be submitted to the City. The mitigation plan shall meet the following criteria:
 - i. Mitigation for impacts to a non-wetlands riparian area shall require a minimum mitigation area ratio of 1:1;
 - ii. The mitigation plan shall document
 - (1) the location of the impact,
 - (2) the existing conditions of the resource prior to impact,
 - (3) the location of the proposed mitigation area,
 - (4) a detailed planting plan of the proposed mitigation area with species and density, and
 - (5) a narrative describing how the resource will be replaced.
 - b. Mitigation shall occur on-site and as close to the impact area as possible. If this is not feasible, mitigation shall occur within the same drainage basin as the impact.
 - c. All vegetation planted within the mitigation area shall be native to the region. Species to be planted in the mitigation area shall replace those impacted by the development activity.
 - d. Trees shall be planted at a density of not less than 5 per 1000 square feet. Shrubs shall be planted at a density of not less than 10 per 1000 square feet.

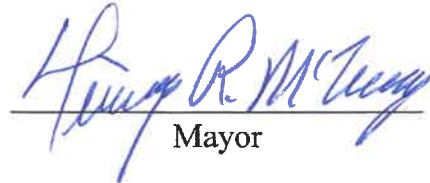
17.72.100 Plan Amendment Option. Any owner of property affected by the NR Zone may apply for a Zone amendment. The amendment must be based on a specific development proposal. The effect of the amendment would be to remove the NR Zone from all or a portion of the property. The applicant shall demonstrate that such an amendment is justified by completing an Environmental, Social, Economic and Energy (ESEE) consequences analysis prepared in accordance with Oregon Administrative Rules. If the application is approved, then the ESEE analysis shall be incorporated by reference into the applicable Sweet Home Inventory, and the

Maps shall be amended.

1. The ESEE analysis shall adhere to the following requirements:
 - a. The ESEE analysis must demonstrate to the ultimate satisfaction of the Sweet Home City Council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource.
 - b. The ESEE analysis must demonstrate why the use cannot be located on land outside of the natural resource area.
 - c. The ESEE analysis shall be prepared by a qualified professional experienced in the preparation of Goal 5 ESEE analyses, with review by DLCD.

Section 2. Expediency: It is in the best interest and benefit of the City that this ordinance becomes effective immediately, as set forth in the City of Sweet Home Charter, Section 29. 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 23rd day of September, 2003.


Mayor

ATTEST:


City Manager - Ex Officio City Recorder