

ORDINANCE BILL NO. 2 for 2012
ORDINANCE NO. 1229

AN ORDINANCE AMENDING SWEET HOME MUNICIPAL CODE CHAPTER 17.88 PERTAINING TO VARIANCES AND ADDING SWEET HOME MUNICIPAL CODE SECTION 17.08.035 PROHIBITING BURIAL OF HUMAN REMAINS ON PRIVATE PROPERTY WITHIN THE CITY OF SWEET HOME.

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

Section 1. Sweet Home Municipal Code Chapter 17.88 is amended to read as follows:

Chapter 17.88

VARIANCES

Sections:

17.88.010	<u>Purpose.</u>
17.88.020	<u>Process.</u>
17.88.030	<u>Application Requirements.</u>
17.88.040	<u>Criteria.</u>
17.88.050	<u>Considerations.</u>
17.88.060	<u>Expiration of a Variance.</u>
17.88.070	<u>Extensions.</u>
17.88.080	<u>Termination of a Variance.</u>

17.88.010 Purpose. The purpose of this Chapter is to provide flexibility to development standards in recognition of the complexity and wide variation of site development opportunities and constraints. The Variance procedures are intended to permit efficient use of land while ensuring that the purpose of each development standard is met.

17.88.020 Process. An application for a Variance shall be processed as a quasi-judicial land use decision. Notice will be provided as per Sweet Home Municipal Code Section 17.12.120. The Planning Commission will hold a public hearing following the procedures in Sweet Home Municipal Code Section 17.12.130. Ministerial decisions that do not require interpretation or the exercise of policy or legal judgment will be made without public notice or hearing.

17.88.030 Application Requirements. An application for a Variance must meet the following submittal requirements.

1. The applicant shall file an application with the City. Within thirty (30) days following the filing of the application, the City will make a determination of completeness of the application. If deemed complete, the application will be processed in accordance with this Title.
2. The application form shall be accompanied by the following information:
 - a. A site plan drawn to scale, considering, but not limited to, the following:
 - i. The dimensions and arrangement of the existing and proposed development on the subject property;
 - ii. Adjoining properties, streets, alleys, structures and drainage ways;
 - iii. Identification of all requested variations;
 - iv. Vehicle and pedestrian access ways;
 - v. Fences and walls;
 - vi. Off street parking areas;

- vii. Natural features, such as waterways, floodplain, floodway or riparian areas, wetlands, trees, topography, etc.
- b. Narrative describing the requested variation(s), alternatives considered, and the reason for the choices made.
- c. A review of how the application meets the review criteria.

17.88.040 Criteria. The criteria that shall be used in approving, approving with conditions, or denying a requested Variance will be based on findings with respect to compliance with each of the following criteria, if applicable.

1. The development resulting from an approved Variance will not be detrimental to public health or safety.
2. The request is not in conflict with the Comprehensive Plan.
3. The request is the minimum Variance necessary to make reasonable use of the property.
4. The requested Variance is consistent with the purposes of the zone.
5. If more than one Variance is requested or needed, the cumulative effect of the Variances will result in a project that remains consistent with the purposes of the zone.
6. Identified negative impacts resulting from the Variance can be mitigated to the extent practical.
7. The location, size, design characteristics and other features of the proposal shall have minimal adverse impacts on property values, livability of the permitted development in the surrounding area, and the natural environment.
8. The property has a physical circumstance or condition that makes it difficult to develop.

17.88.050 Considerations. A determination that the criteria have been met involves the balancing of competing and conflicting interests. The following considerations may be used as guidelines in the granting authority's deliberations.

1. Whether the situation that created a need for a Variance was created by the person requesting the Variance.
2. The economic impact upon the person requesting the Variance if the request is denied.
3. An analysis of the physical impacts the development could have, such as visual, noise, traffic, and increased potential for drainage, erosion or landslide hazards.
4. Preservation of native tree species such as Oregon White Oak and Pacific Madrone over 8" in caliper or Douglas Fir, Willamette Valley Ponderosa Pine, Big Leaf Maple, Incense and Western Red Cedar over 12" in caliper, measured at four and one-half feet above grade on the uphill side.
5. Whether the proposal impacts the aesthetics of the property.

17.88.060 Expiration of Approval. A Variance shall be void one year, or other time specifically set by the Planning Commission, after the date of the Planning Commission approval if the development has not been substantially established within that time period.

1. Substantial establishment of a development will be determined based on the following:
 - a. The approved development has been lawfully established, or
 - b. New construction required in association with the Variance has been permitted and has progressed in a timely manner as determined by the Building Permit process.
 - c. All Conditions of Approval have been met or any failure to fully comply is not the fault of the applicant and progress continues to be made towards compliance.

17.88.070 Extensions.

1. The City Planner may grant one extension of up to one year for a Variance that contained a one year initial duration upon written request of the applicant and prior to the expiration of the approved period. This must be a ministerial decision.
2. The Planning Commission may grant one extension of up to two years upon written request of the applicant and prior to the expiration of the approved period. This must be a ministerial decision.
3. A Variance not meeting the above standards for extensions shall expire and a new application will be required.

17.88.080 Termination of a Variance. A Variance may be terminated by the Planning Commission. A

termination will be processed in the same manner as a new Variance application.

1. The following may initiate a termination hearing:
 - a. The owner of the subject property
 - b. The Planning Commission
 - c. The City
2. A termination shall be based on findings including any one or more of the following:
 - a. The Approval of the Variance was obtained by misrepresentation; or,
 - b. The development does not meet the conditions specifically established in the Variance approval; or,
 - c. The development is in violation of any provision of this Title or any other applicable City codes or State statutes.

Section 2. Sweet Home Municipal Code Section 17.08.035 is added as follows:

17.08.035 Burial of Human Remains on Private Property. The use of private property for the burial of human remains and family burial grounds is prohibited within the City of Sweet Home.

PASSED by the City Council and approved by the Mayor this 8th day of May, 2012.


Mayor

ATTEST:


City Manager - Ex Officio City Recorder