

ORDINANCE NO. 8 for 1961

Ordinance No. 385

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS; THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED; THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACES; THE LOCATION AND USES OF BUILDINGS FOR TRADE, INDUSTRY, RESIDENCES OR OTHER PURPOSES; CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE REGULATION, RESTRICTIONS AND BOUNDARIES OF EACH DISTRICT; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING PENALTIES FOR THE VIOLATION HEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, INCLUDING ORDINANCE NO. 230, AS AMENDED BY ORDINANCES NO. 244, 291, 300, 351, and 359. 243

WHEREAS the Legislature has passed an enabling act codified in Chapter 227, Oregon Revised Statutes, enabling cities to adopt and pass zoning ordinances in said cities; and

WHEREAS a public hearing has been held by the City Council on September 26, 1961, to hear all objections and comments concerning these changes in zoning regulations; and

WHEREAS, due notice has been given to the general public of the time and place of the public hearing, by publication of notice thereof in the September 21, 1961 edition of the New Era; and

WHEREAS, the City Planning Commission has recommended that this Ordinance be adopted by the City Council; and

WHEREAS, it is necessary for the purpose of promoting the health, safety, morals, and general welfare of the people of the City of Sweet Home by lessening congestion in the streets, securing safety from fire, and other dangers, providing adequate light and air, preventing the overcrowding of land and avoiding undue congestion of population, to adopt a zoning ordinance regulating and restricting the height, number of stories, size of building, percentage of a lot that may be occupied, the size of open spaces, the location and use of buildings and land for trade, industries, residences and other purposes and creating districts for said purposes and establishing the boundaries thereof:

NOW THEREFORE, THE CITY OF SWEET HOME DOES ORDAIN AS FOLLOWS:

Section 1. DEFINITIONS: The following words and phrases shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in this section, excepting in those instances where in the context clearly indicates a different meaning. Words used in the present tense include the future, the singular number includes the plural and the plural includes the singular, the word lot includes the word plot and the word building includes the word structure.

SINGLE FAMILY DWELLING: A single family dwelling is a building used or arranged for use as the home or abode of but one family and in which not more than three boarders or lodgers are accommodated.

TWO FAMILY DWELLING: A two family dwelling is a building used or arranged for use as the home or abode of but two families, living independently of each other, and in which not more than three boarders or lodgers shall be accommodated by each family.

PRIVATE GARAGE: A private garage is a garage for not more than three automobiles for storage only, and intended for private use, but in which space may be rented for storage only of not more than two noncommercial automobiles, by other than the occupants of the buildings to which such garage is accessory.

NON-CONFORMING BUILDING OR USE: A non-conforming building or use is one that does not conform with the regulation of a given use district.

LOT: A lot is a parcel of land in one unit, in a single or a joint ownership, occupied by not more than one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this ordinance.

CORNER LOT: A corner lot is a lot or portion of a lot not more than 75 feet wide at the junction of and fronting on two intersecting streets, except that in new additions where lots are platted wider than 75 feet, the corner lots shall be the width of the platted lot. Any portion of lot more than 75 feet distant from that street with the greater frontage shall comply with the provision of this ordinance applicable to interior lots.

INTERIOR LOT: An interior lot is a lot other than a corner lot.

DEPTH OF LOT: The depth of a lot is the average distance from the street line of the lot to its rear lines measured in the general direction of the side lines of the lot.

STREET LINE: The street line is the dividing line between the street and the lot. ~~between the rear line of the building and rear line of lot.~~

REAR YARD: A rear yard is an open, unoccupied space on the same lot with a building between the rear line of the building and rear line of lot.

SIDE YARD: A side yard is an open unoccupied space on the same lot with a building, situated between the building and the side line of the lot and extending through from the street to the rear yard, or where no rear yard is required, to the rear line of the lot.

HALF STORY: A half story is a story which is situated in a sloping roof, the usable floor area of which does not exceed two-thirds of the floor area of the story immediately below it.

BUILDING AREA: The building area is the maximum horizontal projected area of a building and its accessories, including eaves and other projections not resting on the ground.

PARKING: A parking is the space on a street between the established sidewalk lines and the established curb lines.

SET BACK: A set back is the space between the street line and any portion of a building, which area shall be unoccupied by structures except that eaves, cornices, steps, platforms, and porches having no roof covering and not being over thirty-six (36) inches in height may project within this space. Fences and hedges not over thirty-six (36) inches high are permitted within this area.

VALUE OF A BUILDING: For the purpose of this ordinance the value of a building shall mean the depreciated value of such building at the rate of two and one-half (2½) per cent per year based upon the original cost thereof.

Section 2. EXISTING BUILDING AND NON-CONFORMING USES.

When a property or an existing building at the time of the passage of this ordinance has a use which was legal prior to the passage of this ordinance, such use may continue, even though the same does not conform with the zoning regulations. If the use of the buildings or premises is changed, it shall be changed to a use conforming to the zoning regulations and after such change, it will not be permissible to change back again to the original non-conforming use. A non-conforming use shall not be extended, but the extension of a use to any portion of a building which was arranged or designed for such non-conforming use at the time of the passage of this ordinance, shall not be deemed the extension of a non-conforming use. If a non-conforming use be discontinued for the period of one year, the same cannot be again continued.

A building arranged, designed or devoted to a non-conforming use at the time of the passage of this ordinance may not be reconstructed or structurally altered to an extent exceeding in aggregate cost during the lifetime of the building fifty per cent of the value of the building, unless the use of such building be changed to a conforming use. A non-conforming advertising sign, if removed from the premises may not be replaced. No exterior sign aggregating more than six square feet in area shall hereafter be erected to advertise a non-conforming use.

A non-conforming use, if changed to a more restricted non-conforming use, shall not thereafter be changed to a less restricted use.

When a building having a non-conforming use, with the exception of a grocery store, is damaged by fire or other cause so that the total deterioration exceeds sixty percent of the cost of replacing the building using new materials, then such building shall not be rebuilt, unless such building in its construction and uses conforms fully to the requirement of this ordinance and other ordinances of the city; as applied to new buildings and uses in the district in which it is to be located. When a building having a non-conforming use is damaged by fire or other cause to an extent which will permit rebuilding, such construction must commence within three months of date of damage and be completed within one year of such date if the use is to continue as a non-conforming use.

BUILDINGS MOVED: No building or structure shall be moved from one lot to another unless such building or structure shall thereupon be made to conform to all the provisions of this ordinance relative to buildings or structures hereafter erected upon the lot or premises to which such building or structure shall have been moved.

Section 3. For the purpose hereinafter set forth and for regulating, classifying and restructuring the location of buildings, trades, and industries, and the location of buildings designed, erected or altered for specified uses, and for the purpose of regulating and controlling the uses of property in the City of Sweet Home, Oregon, the City of Sweet Home is hereby divided into five districts designated as follows:

- Zone I Restricted Residential Zone I
- Zone II Residential Zone II
- Zone III Business District
- Zone IV Light Industrial District
- Zone V Heavy Industrial District

The boundaries of designated districts are shown upon the map made a part of this ordinance and designated as the zoning map. This map shall be on file at all times in the office of the City Recorder. All notations, references, and other information shown thereon are a part of this ordinance and have the same force and effect as if the zoning map and all such notations, references, and other information shown thereon were fully set forth or described herein.

Section 4. ZONE I - RESTRICTED RESIDENTIAL

In Zone I, Restricted Residential District No. I, there may be erected, altered and maintained only single family and two family dwellings, with or without such accessory buildings as are appropriate to such a dwelling, including private garages, porcolas, in connection with such single or two family dwellings. The raising of vegetables and produces for private use or otherwise shall be allowed within said district.

Livestock, fowls, or other animals other than animals ordinarily kept for pets shall not be allowed or kept in said district, except however, where property or existing buildings in said district at the time of the passage of this ordinance, is being used for keeping animals or livestock, pursuant to the livestock ordinance of Sweet Home, such use may continue, however, if, such non-conforming use be at any time discontinued, the same cannot be again resumed.

The occupants of such dwellings may be engaged therein in such professions and occupations as are ordinarily carried on in a private home including the home office of a physician, surgeon, dentist, insurance agent, realtor, beauty parlor, notary public, accountant, attorney, surveyor, and studio of an artist, teacher, or musician, and other ordinary uses of the private home.

Other buildings and uses permitted in said district are: public, private and parochial grade or high schools, churches, libraries, non-commercial museums, public parks, public utility substations, and green houses and hot houses for private use only, all of which must conform to setback regulations herein established and must maintain the character of residential surroundings. The City of Sweet Home shall be permitted to construct within this district such buildings as it may desire, provided the same are constructed and used for civic purposes, provided, however, that a building which has been constructed and used for a dwelling house or for a two family or multiple family dwelling or for an apartment house shall not be converted into a mortuary or funeral home and the use of any of said dwelling houses for a mortuary or funeral home shall not be permitted in this zone.

The height of buildings in said district shall be limited to two and one-half stories. The minimum area of single family dwellings or of each unit of two family dwellings in said area shall be 780 square feet excluding area of garages. No more than forty per cent of the area of an interior lot in said district shall be covered by building or buildings, nor more than forty per cent of a corner lot. No building erected within said district shall be located within fifteen feet of any adjacent street line, and no garage or carport shall be located within twenty feet of any adjacent street line. No building erected within said district shall be within five feet of the rear line of the property on which the same is located. Every building erected within said district shall be so located as to have one side yard of at least five feet and on the other side a yard of at least eight feet, measuring from the sides of such building to the property lines adjacent thereto; provided, however, that the restrictions of this subdivision shall not apply to structures erected

on the rear half of the lot and not exceeding one story in height, 400 square feet in area and detached from other buildings, by five feet or more, Private garages, the entrance or entrances to which face and open toward either the front or the rear of the lot may be built to within three feet from the sideline of the lot or property, provided, however, that such private garage is not used for dwelling purposes, and provided further that if there is an existing alley in the rear of said property, a private garage may be placed within said prohibited area.

Every lot in Zone I shall have a minimum area of 5000 square feet and a minimum width at the front building line of 50 feet. If, at the time of passage of this ordinance, a lot, or the aggregate of contiguous lots or land parcels in a single ownership in Zone I, has an area or dimensions which does not meet the lot size requirements, the lot or aggregate holdings may be occupied by a single-family dwelling subject to the other requirements of this section.

Section 5. ZONE II.

In Zone II, Residential District No. II, there shall be permitted the erections, alterations and maintenances provided in Zone I, Residential District No. I, and in addition thereto, only the following: the erection, alteration and maintenances of multiple dwellings, apartment houses, motels, lodging or rooming houses, green houses, hospitals, other than for the contagious or insane, schools, colleges and other institutions of learning other than for correctional purposes, and trailer parks other than in Fire Zone I. Livestock, fowls and other animals, except animals ordinarily kept for pets and those kept for family use only, shall not be allowed or kept in said district. Buildings within said district shall not exceed sixty feet in height and shall not occupy more than 70% of the area of an interior lot or 80% of the area of a corner lot. No building erected within said district shall be within 15 feet of any adjacent street line. No building in said district shall be located within five feet of the rear line upon which the same is located. Every such building shall be so located as to have one side yard of at least five feet on one side and on the other a yard of at least three feet measuring from the side of such building to the property lines adjacent thereto. For buildings two stories or more in height, such side yard shall be increased one foot each in width for each additional story. Private garages, the entrance or entrances to which face and open towards either the front or the rear of the lot may be built to within three feet of the side line of the lot or property, provided, however, that the area over such a private garage is not used for dwelling purposes, provided further that if there is an existing alley in use in the rear of said property, a private garage may be placed within said prohibited area.

Every lot in Zone II shall have a minimum area of 5000 square feet and a minimum width at the front building line of 50 feet. If, at the time of passage of this ordinance, a lot, or the aggregate of contiguous lots or land parcels in a single ownership in Zone II, has an area or dimensions which does not meet the lot size requirements, the lot or aggregate holdings may be occupied by a single-family dwelling subject to the other requirements of this section.

Section 6. ZONE III.

In Zone III, Business District, there may be erected, altered and maintained all the uses permitted in Zone I, Residential District No. I, and Zone II, Residential District No. II, and in addition thereto only the following: financial institutions, offices, retail stores, community houses, restaurants, filling stations, wholesale offices and sample rooms, public buildings, armories, garages, theaters, amusement houses, shops for custom manufacturing wherein goods are retailed on the premises to the ultimate consumer, newspapers and printing establishments, convention halls, public or private institutions.

Section 7. ZONE IV.

In Zone IV, Light Industrial District, there shall be permitted all the uses permitted under Zone I, Residential District I, Zone II, Residential District No. II, Zone III, Business District, and in addition thereto all types of wholesaling and manufacturing, except those excluded by ordinance or constituting a nuisance, except that no building or premises shall be used for, nor shall any building be erected which is arranged, maintained or designed for, any kind of trade, industry, or use which is noxious or offensive by reason of the emission of dust, gas, noise, smoke, odor, or by reason of any cause whatsoever.

Section 8. ZONE V.

In Zone V, Heavy Industrial District, there shall be permitted all the uses permitted under Zone I, Residential District No. I, Zone II, Residential District No. II, Zone III, Business District, Zone IV, Light Industrial District, and in addition thereto all types of wholesaling and manufacturing, except those excluded by ordinance or constituting a nuisance.

Section 9. TRAILER COURTS. As provided above, trailer courts may be located in Zone II, III, IV, and V, except that no trailer court may be located in Fire Zone I, as prohibited by the Trailer Court Ordinance of the City of Sweet Home. All other requirements of said ordinance shall also be strictly complied with in the location of trailers and trailer courts.

Section 10. WRECKING YARDS. The use of a building or parcel of ground for the purpose of dismantling, disassembling, or reducing to its component parts any vehicle, including motor vehicles and trailers, or any machinery, for the purpose of retailing the parts or portions derived from such vehicle or machinery, shall be a conditioned industrial use permitted by the City Council in Industrial Zones IV and V only and subject to such rules and regulations as the City Council may adopt by Council motion.

Section 11. TRANSITIONAL USES. Transitional uses shall be permitted by the City Council on a lot in Zone I or Zone II where the side of the lot abuts a commercial or industrial zone, or where the front of the lot is across the street from a commercial or industrial zone, provided the yard and setback standards of the zone are met and any building erected does not exceed one story in height.

Transitional uses shall include:

- a. Professional offices;
- b. Outdoor nursery for the growing, sale, and display of trees, shrubs, and flowers;
- c. Public parking area surfaced with asphaltic concrete or a comparable permanent dustless surfacing, provided with bumper guards and screened from abutting residential property by a fence, wall, or hedge maintained in good condition;
- d. Mortuaries, provided the design assures that arrangements for parking and assembly of funeral processions would occur without encroachment into the residential zone; and
- e. Other uses which the City Council finds to meet the following standards:
 1. The uses do not create excessive traffic on residential streets;
 2. The uses do not cause the parking of vehicles in front of residences;
 3. The uses do not create noise, glare, or odor which would be out of character with the residential zone;
 4. The uses retain a residential character by being provided with landscaped yards and open space and by limited height of buildings; and,
 5. the uses do not involve extensive loading and unloading activity or truck traffic.

Section 12. Wherever in this ordinance there is a restriction with respect to the erection, maintenance and use of buildings, the same restriction shall apply to a similar use carried on outside the buildings, or on any lots, parcels or ground or areas within such restricted area.

Section 13. Signs on residences indicating professional or business occupancies permitted in Zone I, Residential District No I and Zone II, Residential District No. II, shall not exceed six inches by eighteen inches in size. Signs on churches, schools and other public buildings permitted in said district shall not exceed twenty-four square feet in size. No person shall erect or maintain any sign in either of said districts which does not conform to the foregoing limitations, or which is lighted other than by indirect non-flashing lighting.

Section 14. In cases where construction is proposed in Zone I, Residential District No I and Zone II, Residential District No. II, and the hereinbefore established setback lines in the opinion of the Council are improper for the particular location involved, the City Council may, upon petition of the owner, grant a permit for the location of the proposed building back of a set-back line located at a distance from the street determined by the average distance from the street of existing residential buildings in the block facing the street upon which the proposed building is to face.

Section 15. ILLEGAL OCCUPANCY. Any use of a premises or building which deviates from or violates any of the provisions of this ordinance shall be termed an illegal occupancy and the person or persons responsible therefor shall be subject to the penalties herein provided.

Section 16. TEMPORARY USES. A temporary permit for a nonconforming use may be created only by resolution of the City Council for a period not exceeding six months and shall be revocable at the will of the City Council or extended for a time specified in the grant thereof. Such extension may be granted by the City Council without recommendation from the Planning Commission. The temporary permit or any extension thereof shall be subject to such limitations and conditions as the City Council may impose.

Section 17. AMENDMENTS CHANGING ZONES AND REGULATIONS. Amendments to this ordinance changing the REGULATIONS or the lines of the Zoned Districts or both, may be made from time to time by the City Council in the following manner:

AMENDMENTS INITIATED BY THE CITY COUNCIL. The City Council may from time to time by motion initiate proposed changes in the REGULATIONS, and if such proposed change is approved by a majority of the councilmen present, a public hearing shall be held thereon not later than thirty (30) days after such approval;

If, by such proposal a change in regulations of this ordinance is proposed, notice of such Public Hearing shall be given to the general public in the manner required by publication once in a newspaper of general circulation published in the City of Sweet Home. Such notice shall state that an amendment to this ordinance has been proposed by the City Council stating generally the substance of such amendment and that a public hearing will be held for the purpose of affording persons particularly interested and the general public an opportunity to be heard, and shall designate the time and place of such hearing which shall not be more than seven (7) days after the date of the publication of such notice. Such public hearing shall be held at a regular or special meeting of the City Council. At any time after such public hearing, the Council may by ordinance amend the Regulations of this zoning ordinance in accordance with the proposal submitted to the public at such hearing.

All proposals for changes of zone boundaries shall be referred to the Planning Commission for its study and recommendations thereon. After the report of the Planning Commission is received, the City Council shall set a date for a public hearing to consider the proposed change of boundaries. Owners of the "property affected" shall be personally notified of such proposed change and of a hearing thereon. For the purpose of determining which property owners are entitled to such notice, the term "property affected" shall be deemed to be the area bounded by lines 300 feet, exclusive of streets and alleys, from and parallel to the boundary of the area to be changed. A property owner shall be deemed to have been personally notified if a notice of such public hearing enclosed in a stamped envelope addressed to his name and address is deposited in the United States Post Office. A statement signed by the City Recorder of the City of Sweet Home to the effect that such stamped envelope containing such notice has been deposited in the United States Post Office shall be conclusive evidence that the requirement of this ordinance with respect to such notice has been complied with. Such notice shall be sufficient if it is mailed not less than 15 days before such hearing.

AMENDMENTS INITIATED BY PETITION. All changes except those initiated by the Council shall be made only upon petition. If such proposed change be a change in the boundaries of the Zoned District or, if thereby, a portion of a zoned District is changed from one zone to another, the petition shall be signed by the owners of not less than 50 per cent of the property included within the area to be changed and shall also be signed by the owners of not less than 50 per cent of the property in the area within a 300 foot radius of the perimeter of the property to be changed. If the proposed change initiated by the property owners changes the regulations of this ordinance the petition shall be signed by the owners of at least 50 per cent of the property included within an area bounded by lines 1000 feet from the lines parallel to the boundary of the area to be changed.

Whenever a petition containing the required number of signatures requesting an amendment changing the districts or regulations shall be presented to the Council, it shall be the duty of the Council to vote upon such amendment within ninety days after filing of the same with the City Recorder by the petitioner. The petition shall show the signatures of the various property owners, their addresses, and description of property owned sufficient for identification thereof.

The petitioners shall also furnish a complete list of names and addresses of owners, together with a description of all property in the affected area. If there is property within the affected district in a less restricted zone than that to which it is proposed to change the area as designated on the petition, this property need not be included on the list furnished.

The City Council shall within sixty days after the filing of any petition for a change in this ordinance, afford persons particularly interested and the general public an opportunity to be heard at a time and place specified in notice of hearing published in the manner required by law.

Amendments hereto shall be made only by ordinance regularly passed by the Common Council of the City of Sweet Home and in accordance with the specifications hereinabove set forth.

If a protest against such amendment be presented, duly signed by the owners of twenty per cent of the land within such area proposed to be altered, such amendment shall not be passed except by a two-thirds vote of the Council.

Section 18. SIGNATURES. When the signature of an owner of property is required the person or persons who are purchasing property under contract shall sign their names as the owner or owners of the property covered by the contract of purchase and shall be deemed to be the owner or owners of such property and the signatures of the contract sellers shall not be required; provided that it shall be shown in connection with such signatures or signature that such person or persons are purchasing such property under contract; and provided further, that the City Council may require submission of satisfactory proof of the existence of such contract of purchase; and provided further, that when any property is held under a joint ownership or tenancy by the entirety that the signature of all of the owners shall be required before the property that they own jointly or by the entirety shall be deemed to have consented to the change.

Section 19. VALIDITY OF ORDINANCE. If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, imperial invalidate or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgement or decree shall be rendered.

Section 20. PENALTY FOR VIOLATION. The owner or owners of any building or premises, or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, or be maintained, and any architect, builder or contractor who shall assist in the commission of any such violation, and all persons or corporations who shall violate or maintain any violation of any of the provisions of this ordinance or who shall fail to comply therewith, or with any requirements thereof, or who shall build in violation of any detailed statement of plan submitted and approved thereunder, shall for each and every violation or non-compliance be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than Two Hundred Dollars, or by imprisonment in the city jail not to exceed one hundred days, or by both such fine and imprisonment. Each day that a violation of this ordinance continues shall be considered a separate offense.

Section 21. REPEAL OF CONFLICTING PROVISIONS. All ordinances or parts of ordinances in conflict herewith, including Ordinance No. 230 as amended by Ordinances No. 244, 291, 300, 251 and 259, be and the same are hereby repealed.

PASSED by the Council and approved by the Mayor this 21 day of October, 1961.

ATTEST:

Robert S. Whit

City Recorder

William J. Ramsey
Mayor