



CITY OF SWEET HOME CITY COUNCIL AGENDA (REVISED)

October 20, 2020, 5:30 PM
Sweet Home City Hall, 3225 Main Street
Sweet Home, OR 97386

WIFI Passcode: guestwifi

PLEASE silence all cell phones – Anyone who wishes to speak, please sign in.

Mission Statement

The City of Sweet Home will work to build an economically strong community with an efficient and effective local government that will provide infrastructure and essential services to the citizens we serve. As efficient stewards of the valuable assets available, we will be responsive to the community while planning and preparing for the future.

Meeting Information

The City Council will hold a Special City Council meeting at 5:30 p.m. in the City Council Chambers at City Hall, 3225 Main Street. In order to protect residents, staff, and elected officials due to the novel COVID-19 virus, the frequency and length of public meetings, including the City Council, boards and commissions, will be minimized. Non-urgent and non-essential City business with expected public feedback will be postponed whenever possible. Individuals attending public meetings in person will be required to maintain appropriate social distancing (6-ft.) and be free of symptoms related to COVID-19. The City of Sweet Home City Council is streaming the meeting via the Microsoft Teams platform and asks the public to consider this option. There will be opportunity for public input via the live stream. To view the City Council meeting live, online visit live.sweethomeor.gov. If you don't have access to the internet you can call in to (541) 367-5128 and choose option #1 to be logged in to the call.

This video stream and call in options are allowed under Council Rules, meet the requirements for Oregon public meeting law, and has been approved by the Mayor as Chairperson of the meeting.

Call to Order and Pledge of Allegiance

Roll Call

Recognition of Visitors and Hearing of Petitions:

Old Business:

New Business:

- a) [Public Hearing Regarding Community Development Block Grants \(pg. 2\)](#)
- b) [Appointment of Manager Pro Tem](#)
- c) [Discussion Only - Amendments to the Commercial Exterior Improvement Program \(pg. 3\)](#)
- d) [Discussion Only - Vacant Buildings \(pg. 21\)](#)
- e) [Discussion Only - Business License or Registry \(pg. 34\)](#)
- f) Discussion Only - Business Incentives

Council Business for Good of the Order

Adjournment

The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the City Manager's Office at 541-367-8969.

Public Notice and Notice of Public Hearing
Posted: 10/13/2020

The City of Sweet Home is completing an Emergency Response Assistance project funded with Community Development Block Grant funds from the Oregon Business Development Department. The location of the project is: East Linn County. It is estimated that the project has benefited at least 200 persons of whom 50% are low or moderate income.

The City of Sweet Home is also eligible to apply for an additional 2020 Community Development Block Grant from Business Oregon. Community Development Block Grant funds come from the U.S. Department of Housing and Urban Development. The grants can be used for public facilities and housing improvements, primarily for persons with low and moderate incomes.

Approximately \$12 million will be awarded to Oregon non-metropolitan cities and counties in 2020. The City of Sweet Home is preparing an application for Emergency Response Assistance for projects that prevent, prepare for, and respond to the COVID-19 Pandemic.

The maximum grant that a city or county can receive for Emergency Response Assistance for projects that prevent, prepare for, and respond to the COVID-19 Pandemic is \$50,000. The City of Sweet Home is preparing an application for a 2020 Community Development Block Grant from the Business Oregon for the Boys & Girls Club of the Greater Santiam to offer emergency child care services for healthcare workers, first responders, and other individuals who are unable to return to work due to the lack of adequate child care resulting from the COVID-19 Pandemic. It is estimated that the proposed project will benefit at least 200 persons, of whom at least 51% will be low or moderate income.

A public hearing will be held by the Sweet Home City Council at 5:30 PM on Tuesday, October 20th in the Council Chambers at Sweet Home City Hall, 3225 Main Street in Sweet Home. One of the purposes of the hearing is for the City Council to obtain citizens views about the project and to take comments about the local government's performance. Another purpose of the hearing is for the City Council to obtain citizen views and to respond to questions and comments about: community development and housing needs, especially the needs of low- and moderate-income persons, as well as other needs in the community that might be assisted with a Community Development Block Grant project; and the proposed project. Written comments are also welcome and must be received by Monday, October 19th at 3225 Main Street, Sweet Home, Oregon 97386. Both oral and written comments will be reviewed by the City Council.

The location of the hearing is accessible to persons with disabilities. Please contact Blair Larsen at 541-818-8036 if you will need any special accommodations to attend or participate in the hearing.

More information about Oregon Community Development Block Grants, the proposed project, and records about the City's past use of Community Development Block Grant funds is available for public review at Sweet Home City Hall during regular office hours. Advance notice is requested. If special accommodations are needed, please notify Blair Larsen at 541-818-8036 so that appropriate assistance can be provided.

Permanent involuntary displacement of persons or businesses is not anticipated as a result from the proposed project. If displacement becomes necessary, alternatives will be examined to minimize the displacement and provide required/reasonable benefits to those displaced. Any low- and moderate-income housing that is demolished or converted to another use will be replaced.

MEMORANDUM



TO: City Council
Ray Towry, City Manager
Interested Parties

FROM: Blair Larsen, Community and Economic Dev. Director

DATE: October 16, 2020

SUBJECT: Proposed Amendments to the Commercial Exterior Improvement Program Documents

On the questionnaires distributed at the Economic Development Workshop held in August, a majority of the Council identified continuing and improving the Commercial Exterior Improvement Program (CEIP) as a high priority. The intent of this memo and the attached amended CEIP documents is to respond to this Council priority and propose changes to the program in order to make it more effective.

The intent of the Commercial Exterior Improvement Program is to make the City more inviting to visitors and more appealing to residents by encouraging property owners to make improvements that will beautify their buildings and exterior spaces. Notable improvements that received awards from this program include the Rio Theatre, Thriftway, O&M Tire, Moneyman, and others.

The current program covers all commercially zoned properties within the City, and allows a maximum award of 50% of the project cost up to \$5,000, unless a larger amount is recommended by the review committee and approved by the City Manager. Staff believes that these provisions weaken the program in two ways. First, improving commercial properties is very expensive, and \$5,000 doesn't go as far as it would for a residential property—to get the results the Council wants, a larger amount should be considered. Second, including all commercial areas in the City spreads out the effects of the program, making it harder to have an impact on visitors.

Proposed Changes

Staff recommends increasing the maximum grant award to 50% of the project cost up to \$10,000 to \$15,000. Less than \$10,000 limits the grant to smaller, less impactful projects, while more than \$15,000 will likely deplete our available funding too quickly. Staff recommends retaining the ability for the committee to recommend a higher grant award for projects that have a greater impact.

Staff also recommends limiting the eligible areas in order to focus the impact of the program. It is often said that you never get a second chance to make a first impression. Staff believes that Sweet Home's "first impression" area is the western edge of town, our "gateway" area, followed by the downtown core. Most visitors to the City come from the west along US 20. Limiting program eligibility to this area will focus the effects of the program to the areas that visitors see first and see the most. See the attached map.

Finally, staff recommends requiring grant recipients to place a City-provided sign in a conspicuous place upon completion stating that the improvements were funded in part by a grant from the City of Sweet Home. The public deserve to know where public funding is being spent, and the City deserves some credit for the improvements that the program is helping to fund.

Other Potential Changes

When considering these amendments to the program, Staff recommends that the Council review the entire program to ensure that the improvements eligible for grant funding will have the desired impact. As you can see from section 4.2 of the program Main Document, several different types of improvements are covered, from awnings and façade enhancement to parking lots and roofing. Important questions to consider include:

- Will this improvement make it more likely for visitors to stop or return to Sweet Home?
- Will this improvement make it more enjoyable for residents to walk around our downtown?
- Will this improvement have the visual impact the Council is seeking?
- Will this improvement encourage neighboring properties to invest in their buildings?

Conclusion

These amendments are in draft form and are intended to provoke discussion. Staff is happy to make adjustments or consider additional changes.



Community and Economic Development Department

City of Sweet Home

1140-12th Avenue 3225

Main Street

Sweet Home, OR 97386

541-367-8969 8113

Fax 541-367-5007

Sweet Home Commercial Exterior Improvement Program (CEIP) Frequently Asked Questions

1. What is this Commercial Exterior Improvement Program?

The Commercial Exterior Improvement Program (CEIP) is a matching grant program that was approved by the Sweet Home City Council in order to provide an incentive to property and business owners to improve the exteriors of their commercial buildings and property.

2. What properties are eligible for this program?

Commercial buildings located in the Main and Long Street corridors between 1st and 18th Avenues are eligible for this grant program. See the enclosed map.

2-3. What kinds of projects are eligible under this matching grant program?

Eligible projects include upgrades to the exterior of a business to bring it into compliance with the Americans with Disabilities Act (ADA), construction of new awnings, building façade enhancement, landscaping, exterior building painting, parking lot improvements, walkway improvements, and sign replacements. Projects need to enhance the aesthetic quality of Sweet Home's business districts.

3-4. What level of a match will the City provide?

The City will provide a match of 50% to 75% of eligible project costs based on the type of proposed improvement. The business owner would be responsible for the remaining balance.

4-5. What is the most funding that I can receive?

Five-Ten thousand dollars (\$510,000) is the maximum potential grant award for most projects. If the Grant Review Committee determines that an improvement would provide an exceptional public benefit, a higher award amount may be approved.

5-6. How can I take advantage of this program?

The first step is to fill out an application, which is included in this packet. The completed application and referenced documents should then be submitted to the Community and Economic Development Department at City Hall, 1140-12th Ave 3225 Main Street, Sweet Home.

6-7. How do I receive my grant reimbursement?

After an approved project is completed, business owners should notify the City and submit receipts for their expenses. The City will review the receipts, verify that work has been completed, and arrange for funds to be sent to the business.

7-8. Why did the City of Sweet Home create this program?

This program places into action the Vision and Mission of Sweet Home's City Council, to "create an economically strong environment in which businesses prosper."



8.9. Who can I call if I have questions?

Please call the City of Sweet Home Community and Economic Development Department at (541) 367-8113. The program is detailed in the “Main Document,” which is included in this packet.

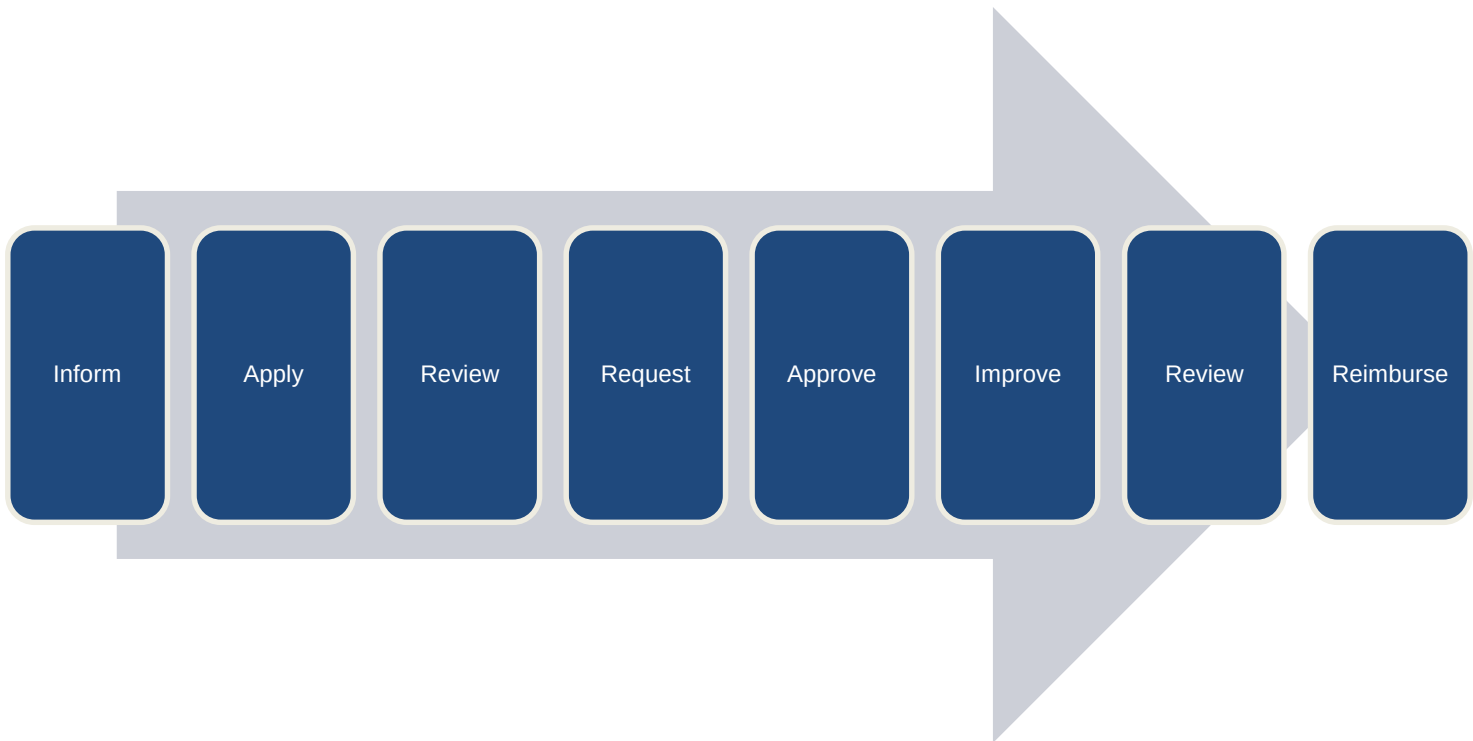


Community and Economic Development Department

City of Sweet Home
3225 Main Street
Sweet Home, OR 97386
541-367-8113
Fax 541-367-5007
www.sweethomeor.gov

Sweet Home Commercial Exterior Improvement Program (CEIP)

How Does The Program Work?



1. Business owner/operator INFORMED of CEIP.
2. Business owner/operator APPLIES for CEIP.
3. Grant Review Committee REVIEWS application.
4. Grant Review Committee may REQUEST more information.
5. Grant Review Committee APPROVES application.
6. IMPROVEMENTS start on property.
7. Grant Review Committee REVIEWS completed work.
8. REIMBURSEMENT is made to the business owner/operator.

Questions? Call the Community and Economic Development Department at (541) 367-8113



Community and Economic Development Department

Sweet Home Commercial Exterior Improvement Program (CEIP) Main Document Draft Amendment

1.0 PURPOSE AND INTENT

- 1.1 The Sweet Home City Council's Vision and Mission Statement ~~for 2017-2018~~ states in part that the Council aspires: "to create an economically strong environment in which businesses prosper." This environment includes:
 - 1.1.1 Implementing a business vitalization program,
 - 1.1.2 Supporting future economic development efforts within City Hall, and
 - 1.1.3 Developing economic opportunities with regional partners.
- 1.2 The purpose and intent of the Commercial Exterior Improvement Program (CEIP) is to support this vision by offering grants to incentivize the improvement of commercial exteriors in Sweet Home. The purpose is to increase the aesthetic quality of Sweet Home's business districts in order to attract customers, visitors, and prospective business operators to Sweet Home.

2.0 PROGRAM OBJECTIVES

- 2.1 Exterior facades shall be updated and integrated into a design that complements adjacent structures to provide a harmonious composition of masses, materials, colors, and textures.
- 2.2 Exterior lighting standards and fixtures shall be of a design and size compatible with the building and adjacent areas.
- 2.3 Exterior building components, such as windows, doors, eaves and parapets, shall have appropriate proportions and relationship to one another.
- 2.4 Exterior design attention shall be given to mechanical equipment or other utility hardware so as to screen them from view to the extent feasible.
- 2.5 Exterior signs should be a part of the architectural concept. Size, materials, color, lettering and location shall be harmonious with the building design and the number of signs shall be minimized.

3.0 APPLICATION PROCESS

- 3.1 Applications are available at 1) Sweet Home City Hall, 2) the City's website under the Community and Economic Development Department, and 3) the Chamber of Commerce, 1575 Main Street. Completed applications include the application form and supplemental material; which may include but is not limited to: evidence of property and/or business ownership, a photograph of the current business exterior to be improved, property equity information, and a description of methods and materials to be used. The applicant must also provide itemized cost estimates from a licensed contractor and the amount of the grant requested. Cost estimates may be provided by the applicant for those improvements that would and can lawfully be completed by the applicant. Please submit applications to Sweet Home City Hall. Applicants may refer to the CEIP Checklist for a complete list of required items.



- 3.2 Competed applications shall be submitted to the City of Sweet Home Community and Economic Development Department at City Hall.
- 3.3 If the applicant is not the owner of the property to be improved, written authorization from the property owner must be submitted with the application.
- 3.4 The City may contract with the Oregon Cascades West Council of Governments to assist in the administration of this program.

4.0 ELIGIBILITY

4.1 Eligible Businesses are defined as those businesses that comply with the following:

- 4.1.1 Eligible businesses must be located within a commercial zone ~~and the city limits~~ in the gateway and downtown areas of Sweet Home: The Main Street corridor between 1st and 18th Avenues, and the Long Street Corridor between Holley Road and 18th Avenue (See the attached program map).
- 4.1.2 Building owners and business operators must be current with all City taxes, licenses and fees.
- 4.1.3 Business owners and operators may be subject to a title search and/or credit check.

4.2 Eligible Improvements and their matching amount include:

IMPROVEMENT	MATCHING GRANT (Percentage indicates maximum amount of grant funds available)
Americans with Disabilities Act Compliance	75%
Awning	50%
Façade Enhancement	50%
Façade Enhancement Consistent with Approved Options	75%
Landscaping	50%
Painting	50%
Parking Lot	50%
Pedestrian Environment (sidewalks, walkways, public plaza, lighting, code compliance, roof, rot repair, masonry cleaning, rain gutter and downspout repair, new siding)	75%



Replacement Signs	50%
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- 4.3 Eligible improvements are those improvements listed in Section 4.2 and found by the Grant Review Committee ("Committee") to be the consistent with the Purpose and Intent of this program listed in Section 1.0 and the Program Objectives listed in Section 2.0.
- 4.4 Each eligible business may receive up to \$~~510~~,000, or the level determined in Section 4.5, each calendar year. This waiting period may be waived to all eligible businesses by the City Manager upon recommendation by the Committee and availability of funds.
- 4.5 Grants that exceed \$~~510~~,000 may be approved according to the matching levels listed in Section 4.2 upon a finding by the Committee, City Manager, and Mayor that the project would provide an exceptional public benefit and comply with the Purpose and Intent of the program listed in Section 1.0 and the Program Objectives listed in Section 2.0.
- 4.6 Eligible improvements include those projects for which expenses were incurred after January 1, ~~2018~~2020.

5.0 CONDITIONS AND CONSIDERATIONS

- 5.1 The City Manager, or designee, shall have the authority to approve grants listed under Section 4.4. The City Manager, or designee, and Mayor shall have the authority to approve grants listed under Section 4.5.
- 5.2 All eligible improvements shall be completed within six (6) months from the date that the applicant receives final approval for a grant request. Extensions shall not be granted; however, an eligible business may reapply under the rules that are in effect at the time of reapplication.
- 5.3 The CEIP is a reimbursement program. Upon completion of an approved improvement, the applicant shall submit receipts that clearly itemize the expenses incurred to complete the improvement. Funds shall be disbursed upon verification by the Committee that the project was completed according to the approved grant percentages and all terms specified when the grant was approved.
- 5.4 Improvements that are not completed as proposed may not be provided reimbursement. The Committee shall have the authority to review these instances on a case by case basis. At no times shall the grant reimbursement exceed the agreed upon match percentage.
- 5.5 The City may contract with local design professionals to assist with design services.
- ~~5.6~~ 5.6.7 All improvements shall comply with all applicable local, state, and federal requirements. These include, but are not limited to: all applicable planning and building codes. Work shall be completed by a licensed contractor; however, work may be completed by a property owner or business operator only if disclosed as a part of the grant application and permissible under all applicable local, state, and federal laws.
- Upon completion, and for a duration of at least one month, applicants must display in a conspicuous place on the property a City-provided sign stating that the improvements were funded in part by the City of Sweet Home.

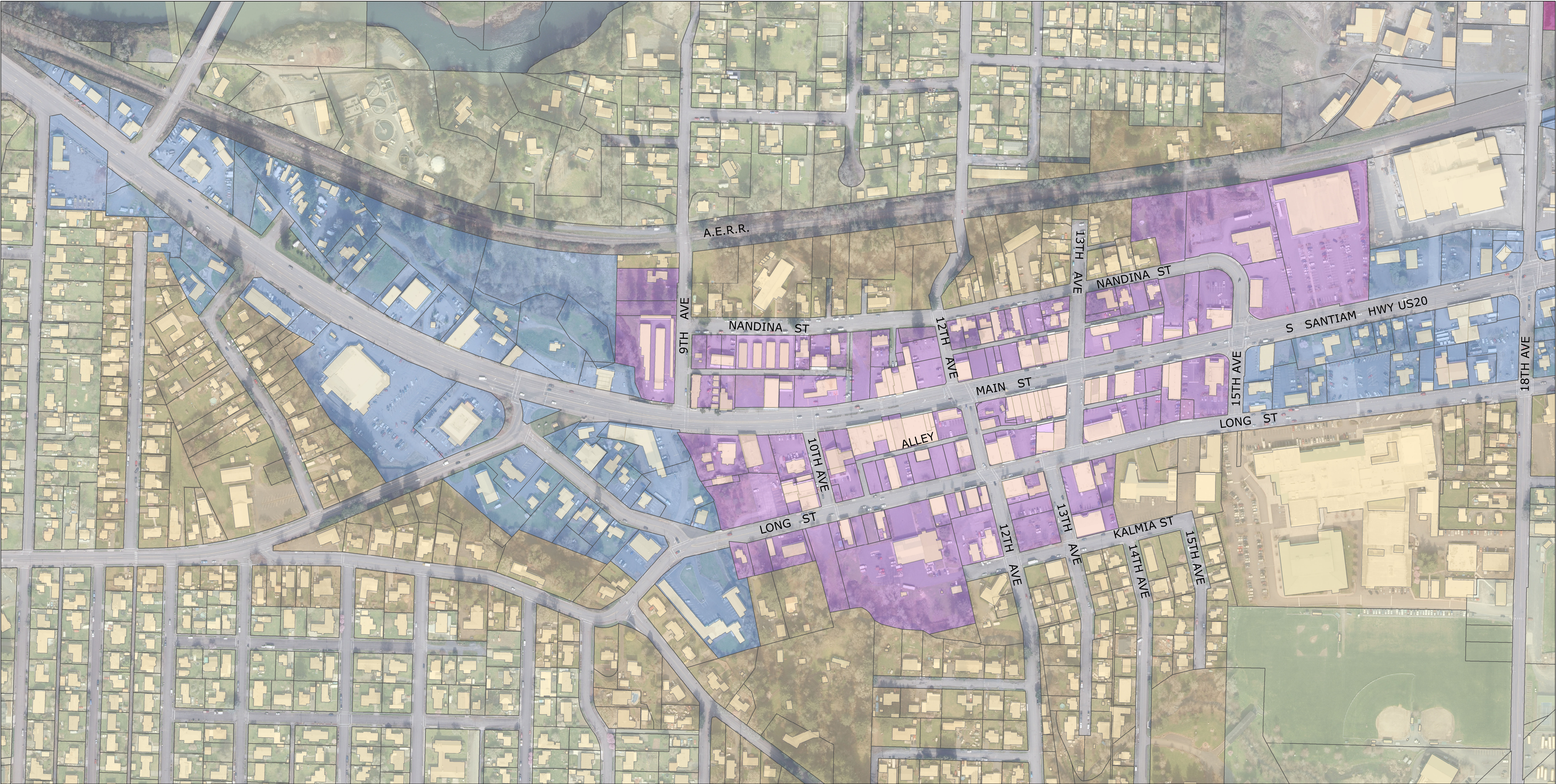
6.0 THE GRANT REVIEW COMMITTEE



- 6.1 The City Manager shall appoint the members of the Grant Review Committee (Committee).
- 6.2 The Committee shall consist of five (5) members. The Committee shall include one (1) representative from the City Council, one (1) representative from the Chamber of Commerce, and three (3) members that are engaged in local economic development efforts.
- 6.3 A quorum of the Committee shall consist of three (3) members. Recommendations by the committee may be provided by a majority vote of the quorum.
- 6.4 The Committee shall meet at times and locations that are agreeable to committee members.
- 6.5 The Committee shall review all grant applications and determine business and improvement eligibility under this program. The Committee shall make recommendations as authorized under this program.
- 6.6 The Committee shall make grant award recommendations of approval or denial to the City Manager for those grant awards of \$~~510~~,000 or less as described in Section 4.4. The Committee shall make grant award recommendations of approval or denial to the City Manager and Mayor on those grant awards that would exceed \$~~510~~,000; as described in Section 4.5.

7.0 PROGRAM IMPLEMENTATION

- 7.1 Where a question regarding implementation of this program arises, or where sections of this program may conflict, the City Manager, or designee, in consultation with the Grant Review Committee shall be authorized to determine the appropriate course of action as specified under this Section and guided by the Purpose and Intent statement listed in Section 1.0 and Program Objectives listed in Section 2.0. Modifications to the program shall only be made as specified under Section 7.2 and 7.3.
- 7.2 Minor modifications to this program; which are defined as those changes that do not significantly alter the terms by which funds are distributed under this program, may be approved by the City Manager upon recommendation by the Committee.
- 7.3 Major modifications to this program; which are defined as those changes that exceed minor modifications listed under Section 7.2 must be approved by the City Council.



Narrative:
This map indicates the coverage area for the Sweet Home CEIP modifications in and around the downtown business core area.
The total number of affected properties are xxxxx.
xxxxxxx
xxxxxxx
The project area and the lots affected, follows the extent of the full area of the properties, including the large lots.

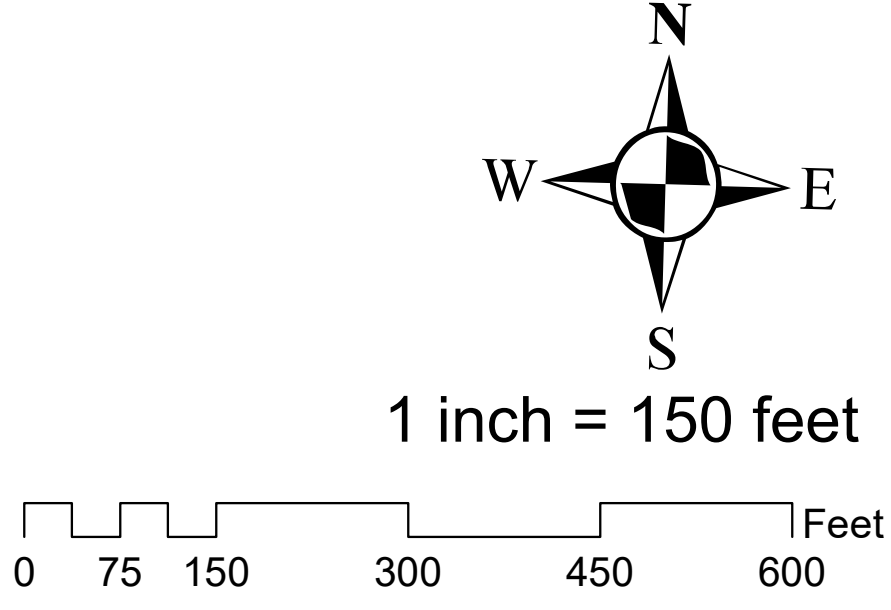
Sweet Home Commercial Exterior Improvement Program

Program Amendments 2020

Main Street from 1st Avenue to 18th Avenue.
Long Street from Holley Road to 18th Avenue.

Legend

Zoning		R1
		R2
		R3
	C1	RC
	C2	
	M	RMT



	Building Structures
	Sweet Home Properties



Community and Economic Development Department

City of Sweet Home
3225 Main Street
Sweet Home, OR 97386
541-367-8113
Fax 541-367-5007
www.sweethomeor.gov

Sweet Home Commercial Exterior Improvement Program (CEIP) Application

Date: _____

GRANT REQUEST: \$ _____

APPLICANT

Name: _____

Phone: _____

Mailing Address: _____

Email: _____

BUSINESS

Owner: _____

Business Name: _____

Business Address: _____

Employer Identification Number: _____

OWNER OF PROPERTY (If Different Than Applicant)

Property Owner: _____

Owner's Address: _____



SCOPE OF WORK

Please describe your proposed project under the following sections as applicable. Please attach additional documentation as needed.

Awnings:

Doors:

Driveway and Parking Lot:

Exterior Walls and Detailing:

Roof:

Signage:



Windows:

Other Projects:

TOTAL COST OF PROJECT: _____

AMOUNT OF GRANT REQUEST: _____

IF THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY, DOES THE APPLICANT HAVE:

Lease? _____ Yes _____ No

Expires: _____

Other: _____

APPLICATION CHECKLIST

Please include the following information with your application

- ☐ Authorization from property owner (If not applicant)
- ☐ Cost estimates from licensed contractor and detailed project budget
- ☐ Photograph of building before improvement
- ☐ Evidence of ownership
- ☐ Preliminary design drawings



Plot Plan. Please provide a map of the property that depicts the proposed improvement location(s).

Answers to the following questions are not required for approval of this application; however, they will help Sweet Home's economic development partners to better serve you and our community.

1. What is your vision for your property or business? In what way can the City of Sweet Home or regional partners help?

2. If your property is vacant, to what type of business would you like to lease?

3. What challenges do you face operating a business in Sweet Home (e.g., unreliable internet service, parking for customers, business education)?

4. What improvements do you think would help the Sweet Home business community (e.g., requiring business licenses, finding easier ways to work with City Hall, change in city codes, more networking events)?

CERTIFICATION BY APPLICANT

The applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the applicant's knowledge.

If the applicant is not the owner of the property that is the subject of this application, or if the applicable business is a partnership, cooperation, etc. rather than an individual, the applicant



certifies that he/she has the authority to sign and enter into an agreement to perform the work on the property as proposed by this application.

The Grant Review Committee may request additional information in order to make a decision on this application. The applicant agrees to provide additional information as requested. Incomplete applications may not be processed. The applicant understands that the Commercial Exterior Improvement Program provides reimbursement for approved projects. The applicant will be responsible to comply with all conditions placed on approval, if the application is approved, as provided at the time of the decision of this application. The applicant shall comply with all terms and conditions of the Commercial Exterior Improvement Program ("Main Document").

The applicant acknowledges that in addition to obtaining approval under this program, the applicant may need to obtain Building, Planning and/or Public Works permits from the City of Sweet Home. Other state permits may also be required. Those permits may incur additional fees and/or conditions of development.

If the applicant is not the owner of the property, the applicant and the property owner are responsible for coordinating project development with the appropriate City department. Contact the Community and Economic Development Department at (541) 367-8113.

Applicant's Signature

Date

Applicant's Signature

Date

Property Owner's Signature

Date

Property Owner's Signature

Date

PLEASE RETURN COMPLETED APPLICATION TO:

Community and Economic Development Department
City of Sweet Home
3225 Main Street
Sweet Home, OR 97386



Community and Economic Development Department

City of Sweet Home
3225 Main Street
Sweet Home, OR 97386
541-367-8113
Fax 541-367-5007
www.sweethomeor.gov

Sweet Home Commercial Exterior Improvement Program (CEIP) Grant Review Committee Application Review

Grant Request		File:	
Date Received:		Applicant:	
Business Location:		Owner (Assessor Records)	
Committee Review Date		Notes:	
Current with City Taxes and Fees	☐ Yes ☐ No	Property Zoning:	

1. Community and Economic Development Department Initial Review

Date:

Comments: Applicant should consult with the Community and Economic Development Department to obtain all necessary development permits; including building permits and sign permit(s): (541) 367-8113.

2. CEIP Grant Review Committee

Committee Member	In Attendance? Quorum = 3
Mayor Greg Mahler	
Dave Bauer	
George Medellin	
Jo Ann McQueary	

a. Is the business eligible under Section 4.1?

Requirement:

4.1 Eligible Businesses are defined as those businesses that comply with the following:

4.1.1 Eligible businesses must be located within a commercial zone in the gateway and downtown areas of Sweet Home: The Main Street corridor between 1st and 18th Avenues, and the Long Street



Corridor between Holley Road and 18th Avenue (See the attached program map).

- 4.1.2 Building owners and business operators must be current with all City taxes, licenses and fees.*
- 4.1.3 Business owners and operators may be subject to a title search and/or credit check.*

Committee Determination:

Eligible Business Under Section 4.1?	☐ Yes ☐ No
Comments:	

a. Are the improvements eligible under Section 4.2?

Requirement:

4.2 Eligible Improvements and their matching amount include:

<i>IMPROVEMENT</i>	<i>MATCHING GRANT (Percentage indicates maximum amount of grant funds available)</i>
<i>Americans with Disabilities Act Compliance</i>	<i>75%</i>
<i>Awning</i>	<i>50%</i>
<i>Façade Enhancement</i>	<i>50%</i>
<i>Façade Enhancement Consistent with Approved Options</i>	<i>75%</i>
<i>Landscaping</i>	<i>50%</i>
<i>Painting</i>	<i>50%</i>
<i>Parking Lot</i>	<i>50%</i>
<i>Pedestrian Environment (sidewalks, walkways, public plaza, lighting, code compliance, roof, rot repair,</i>	<i>75%</i>



masonry cleaning, rain gutter and downspout repair, new siding)	
Replacement Signs	50%

Committee Determination:

i. Type of Improvement listed in Section 4.2:	
ii. Is the improvement eligible as described in Section 4.3: Does it comply with the Purpose and Intent of the Program and the Program Objectives?	☐ Yes ☐ No
iii. What is the match percentage?	
iv. Expenses incurred after January 1, 2018?	☐ Yes ☐ No
v. Is the grant request over \$10,000?	☐ Yes ☐ No
If Yes, did the committee make the finding that the project would provide an exceptional public benefit and qualify for more than \$10,000?	☐ Yes ☐ No ☐ N/A
vi. What amount does the Committee recommend be approved under this program?	
Recommendation of Grant Review Committee for File: ☐ Approval ☐ Denial <u>Comments:</u>	
Decision by the City Manager: ☐ Approval; Including Grant Review Committee Recommendations ☐ Denial	
_____ Ray Towry, City Manager	_____ Date

MEMORANDUM



TO: City Council
Ray Towry, City Manager
Interested Parties

FROM: Blair Larsen, Community and Economic Dev. Director

DATE: October 16, 2020

SUBJECT: Two Options to Address the Problems of Vacant Buildings

The Economic Development Workshop identified the vacant buildings in the downtown area as a high priority for the Council. Vacant commercial space is a thorny problem with multiple causes. Vacancies are often caused by competition in the market, and lack of commercial activity, however it can also be exacerbated by the condition of the building, available amenities, and the general appearance of the area.

As with any action affecting private property, the City must tread carefully and ensure that it is not adding to the problems of already-burdened property owners. We can do this by carefully outlining our purposes and ensuring that our solutions are carefully targeted.

1. PURPOSES

Staff proposes the following purposes to guide City efforts to combat the vacant building problem:

a. Prevent further deterioration of building stock

One of the primary concerns about vacant buildings is the rate at which they deteriorate. Recently, one of our local realtors toured several vacant properties in search of a place for her own office. She found almost all of them to be in such disrepair as to be unsuitable for her needs. A program directed at vacant buildings should include measures to prevent further decay.

b. Ensure that vacant properties are secure

Vacant buildings can be a magnet for trespassers, whether they be someone looking for shelter, or vandals, or worse. A solution to the vacant building problem should include provisions for improved security.

c. Gather information on owner intentions, property availability, and costs

Some buildings are vacant despite their owners every attempt to fill them. Some owners prefer to leave a property vacant until the right renter comes around. However, every owner has a price at which they would be willing to sell or lease the property. As the City attempts to lure new businesses to town, and assist entrepreneurs with starting their businesses, a database of available properties, or properties that could be made available, would be invaluable. Such information would speed the decline of the vacancy rate.

d. Connect property owners with opportunities for buyers, renters, and improvements.

COVID-19 has taught us how valuable information is when it comes to matching local businesses with assistance and resources. It is no different with property owners. In addition to the City's Commercial Exterior Improvement Program, City Staff periodically come across opportunities for improvements, potential tenants or buyers, or other important information. Any effort to decrease the number of vacant properties needs to include provisions for making these matches.

It is important to note that regardless of the action that the City takes, vacant buildings will not be filled by a City program or ordinance. Only private enterprise and property owner action will result in actively used buildings. In addition, even if a strong ordinance is passed, some properties may not improve in any visible manner. Some buildings may comply fully with any ordinance or voluntary program, but still look exactly the same as they did before.

However, it is possible that the City can achieve significant progress towards these purposes through an ordinance or voluntary program.

2. OPTIONS

As a government entity, the City has the option of simply passing an ordinance to target the problem. However, we also have the option of implementing a voluntary program. Both options have their pros and cons.

a. VACANT BUILDING ORDINANCE

Attached to this memo is a draft Vacant Building ordinance. The ordinance is preferable to a voluntary program in the following ways:

- It requires information from owners of vacant property.
- It requires property owners to maintain their buildings in watertight, secure condition.
- It requires owners to inspect their properties on a regular basis.
- It requires property owners to have a local presence or locally contracted property management company.
- It includes penalties for violating the ordinance, including provisions for liens against the property.

While an ordinance will have more teeth and may be more effective than a voluntary program, it has some drawbacks:

- An ordinance will be perceived as infringing upon property rights.
- An ordinance obligates the City to enforce it as written and will be less flexible than a voluntary program.
- An ordinance will likely require more staff time to operate and enforce than a voluntary program.
- Increasing burdens on property owners will not increase the number of potential buyers or renters for those properties.

b. VOLUNTARY VACANT BUILDING REGISTRY

A Voluntary Vacant Building Registry will not be as enforceable, but has the following benefits, compared to an ordinance:

- A voluntary program is gentler, and likely more palatable to the community.
- Voluntary programs are not perceived as infringing upon any rights.
- A voluntary program can gather the same information as an ordinance, and participants may be more willing to provide it.
- Presumably, a voluntary program will have fewer participants, and may require less staff time to maintain.
- The number of properties involved in a voluntary program may be increased by requiring participation in order to be eligible for certain benefits, such as the Police Department's voluntary trespass program, the Commercial Exterior Improvement Program, or a higher level of Chamber of Commerce membership.

Despite these benefits, compared to an ordinance, a voluntary program will fall short in the following ways:

- Compliance with the program will be nearly unenforceable.
- A voluntary program may require more staff time and advertising in order for property owners to understand and be convinced of the benefits and participate.
- Property owners who currently do not maintain their buildings may be unlikely to participate unless it is required.

At this time, staff does not have any program materials for a voluntary vacant property program. However, such a program would attempt to achieve everything that an ordinance would, but would not have any enforcement mechanisms except for exclusion from the program and other City grants or special programs.

3. CONCLUSION

While both options will likely help the City achieve its purpose to some degree, it appears that an ordinance would be more effective. However, some property owners may see an ordinance as being overly burdensome, and lead to the perception that the City is punishing people for owning a vacant building.

ORDINANCE BILL NO. ____ FOR _____

ORDINANCE NO. ____

**SWEET HOME ORDINANCE PERTAINING TO THE REGISTRATION, MAINTENANCE,
SAFETY, AND SECURITY OF VACANT BUILDINGS**

WHEREAS, the City of Sweet Home desires to preserve and protect the habitability and promote the productive use of real property in the City, and to protect the city from blight by requiring that vacant properties be adequately secured and maintained.

NOW THEREFORE,

The City of Sweet Home does Ordain as follows:

Section 1. Sweet Home Municipal Code Chapter 8.20 titled VACANT BUILDINGS is created to read as follows:

§8.20.010 Purpose.

This chapter is enacted for the purpose of preserving and protecting the habitability of real property in the city, and the peaceable, safe, sanitary, and secure occupancy, and productive use of real property in the city.

§8.20.020 Definitions.

As used in this chapter, except where the context indicates otherwise, the following definitions apply:

"Abandoned building" means:

1. A building that is both vacant and subject to either pending judicial execution sale under ORS 18.901 (2017) et seq., or to nonjudicial foreclosure pursuant to ORS 86.752 (2017) et seq.; or
2. A building that is both vacant and subject to either a judicial execution sale under ORS 18.901 (2017) et seq., or nonjudicial foreclosure pursuant to ORS 86.752 (2017) et seq. where legal title is retained by the beneficiary(ies) of a foreclosed trust deed or was otherwise transferred to beneficiary(ies) pursuant to a deed in lieu of foreclosure.

"Building" means a site-built or manufactured structure, including mobile homes, built to the support, shelter or enclosure of persons, animals, chattels or property of any kind and having a fixed base on or fixed connection according to the uniform building code standards.

"Chief" means the chief of police of the Sweet Home police department, or designee.

"City manager" means the city manager of the city of Sweet Home, or designee.

"Code enforcement officer" means the code enforcement officer of the city of Sweet Home, or designee.

"Commercial building" means a nonresidential building constructed or used for purchasing, selling or conducting other transactions involving the handling or disposition of any article, substance, commodity or services for livelihood or profit, and places where commodities, services or merchandise are sold or agreements are made to furnish them.

"Foreclosed building" means a building upon real estate that an owner obtains as a result of:

1. Foreclosing a trust deed on the real estate;
2. Obtaining a judgment foreclosing a lien on the real estate;
3. Purchasing the real estate at a trustee's sale or a sheriff's sale; or
4. Accepting a deed to the real estate in lieu of foreclosure.

"Industrial building" means a nonresidential building constructed or used for manufacturing, processing, compounding, packaging or assembling of products.

"Lender" means any person who makes, extends, or holds a real estate loan agreement and includes, but is not limited to, mortgagees, beneficiaries under trust deeds, vendors under conditional land sales contracts, trustees, and a successor in interest to any mortgagee, beneficiary, vendor, or trustee. The term also includes any mortgagee, beneficiary, or trustee that accepts a deed in lieu of foreclosure.

"Local" means within thirty (30) miles of a building.

"Natural person" means a real human being, as opposed to a legal person, which may be a private or public organization.

"Owner" means any person holding or claiming to hold any legal title or interest in real property, including, but not limited to, a fee owner, a mortgagee in possession, a vendee under a land sale contract, or a beneficiary under a deed of trust.

"Person" means any natural person, association, partnership, or corporation, or other form of legal entity or entity in fact capable of owning or using property.

"Premises" means real estate, including that upon which a building is located or constructed, that is in the same ownership as the building, and that a reasonable person would associate with ownership or use of the building when viewing the building and premises from outdoors. Where there is more than one building on premises, or where multiple buildings on premises are owned by different owners, the premises are common to each building. Premises are often, but not always, defined by tax lot lines or recorded legal descriptions.

"Real property" means any real property, including, but not limited to, lots, parcels, tracts, premises, buildings, houses, rooms, structures, or any separate part or portion thereof, whether temporary or permanent, and whether or not on the ground itself, and any conveyance or any part or portion thereof.

"Tenant" means a residential tenant as defined by the Oregon Residential Landlord and Tenant Act, and any other person holding real property under the terms of a rental agreement.

"Vacant" means:

1. Lack of building habitation or use, or abandonment of habitation or use; or
2. Use of a building, either intermittent or continuous, by persons with no legal right to be present.

"Vacant building" means:

1. A building, or substantial portion thereof, that is unoccupied or has not actively been furnished and so used as a place of business, employment, residence, or other human activity, for more than fifteen (15) days. This includes manufactured structures and mobile homes, whether located in a mobile home park or not. A vacant building also includes any building under construction where no substantial work has taken place for more than sixty (60) days. "Vacant building" does not include a building designed for storage, intermittent or similar types of use, if such building is secure from unauthorized entry, in good repair, and does not otherwise constitute a nuisance; or
2. A building where one or more conditions is present, either singularly or in combination, that would lead a reasonable person to conclude that the building is vacant. Such conditions include, but are not limited to:
 - a. Overgrown or dead vegetation at the property;
 - b. Accumulation of newspapers, circulars, flyers, mail, or similar items;
 - c. Past due utility notices or disconnected utilities;
 - d. Accumulation of trash, junk, or debris;
 - e. Absence of furnishings or other items typically found inside a residential, industrial, or commercial building as the case may be;
 - f. Evidence of criminal mischief or criminal trespass; or
 - g. Statements or other evidence supplied by neighbors, delivery agents, passersby, or government employees, that the building is vacant

§8.20.020 Registration.

- A. A building owner shall register the building with the city recorder in the event:
 1. Of an anticipated judicial foreclosure of the property, no earlier than the commencement of any of the actions described by ORS 18.904, 18.906, 18.908 (2017) and not later than the date first set for the execution sale described in ORS 18.930 (2017);
 2. Of an anticipated nonjudicial foreclosure of the property under ORS 86.752 et seq. (2017) not later than the date of service or mailing of the notice of sale described in ORS 86.764 (2017);

3. That the owner becomes aware that the building is vacant, as defined in this chapter; or
 4. The owner receives written notice from the code enforcement officer that the code enforcement officer believes the building is a vacant building, abandoned building, or foreclosed building.
- B. Each registration shall be made on a form approved by the city manager and shall contain, at a minimum:
1. If subsection A.1 or A.2 applies, then:
 - a. The name of the lender;
 - b. The address of the vacant building;
 - c. Legal description and tax parcel identification number of the property per the county assessor's records;
 - d. The date the property became vacant or the lender took legal possession;
 - e. The direct address of the lender and post office box, if applicable (post office boxes alone are not acceptable);
 - f. A direct contact name and telephone number for the lender;
 - g. If the lender does not reside in or have a business office in the city, then the name, mailing address, telephone number, and email address of a local individual or entity charged with responsibility by the trustee, mortgagee, or beneficiary, for ensuring compliance with the obligations imposed by this chapter; and
 - h. A person or entity appointed by the lender who resides in or has a business office in the city, who is authorized to receive service of process, if applicable.
 2. If subsection A.3 applies, then:
 - a. The name of the owner(s);
 - b. The address of the vacant building;
 - c. Legal description and tax parcel identification number of the property per the county assessor's records;
 - d. The date the property became vacant or the owner took legal possession;
 - e. The direct address of the owner(s) and post office box, if applicable (post office boxes alone are not acceptable);
 - f. A direct contact name and telephone number for the owner(s);
 - g. If the owner does not reside or have a principal office in the city, the name, mailing address, telephone number, and electronic mail address of a local agent for the owner(s).
- C. Each registration must be accompanied by a payment of a registration fee in an amount to be set by council resolution.
- D. The city recorder or designee shall maintain a list of registered buildings and deliver a copy thereof to the code enforcement officer upon request.
- E. The city recorder or designee shall share all registration information with the Police Department, and all vacant properties shall be enrolled in the Police Department's Property Watch program.

- F. If ownership of a registered building changes, the registrant shall send notice of the change to the city recorder within thirty (30) days of the change.
- G. The registration is valid for one year. The property owner or lender must secure a new registration annually if the property remains vacant.
- H. An owner or lender who has registered a property under this chapter must report any change of information contained in the registration to the City within 10 business days of the change, including but not limited to any change in ownership or designation of a responsible person.
- I. Properties subject to this chapter shall remain under the registration requirement as long as the property remains vacant.

§8.20.030 Maintenance.

- A. Every owner of an abandoned building, foreclosed building, or vacant building shall cause the building and premises to be maintained in a generally well-kept condition, at least consistent with conditions found on surrounding or nearby occupied property, and including all of the following:
 - 1. Ensuring that the condition of the subject property does not constitute a public nuisance or a chronic public nuisance as described by the code.
 - 2. Keeping the premises free of weeds, dead vegetation, graffiti, trash, accumulated newspapers, circulars, flyers, discarded personal items, and other items or conditions that would cause a reasonable person to suspect the building or real property is vacant or abandoned.
 - 3. Regular watering, irrigation, cutting, pruning, and mowing of the lawns and other vegetated areas of the subject real property and the removal of all trimming and debris resulting from such work.
 - 4. All fences and gates shall be maintained in sound condition and in good repair.
 - 5. Foundations, basements, cellars and crawlspaces shall be maintained in sound and watertight condition, adequate to support the building, and protected against the entry of rodents or other animals.
 - 6. Exterior walls shall be free of holes, breaks, loose or rotting boards or timbers, and any other condition which might admit rain or dampness to the interior portions of the walls or the interior spaces, and shall be protected against the entry of rodents or other animals.
 - 7. Exterior windows and doors shall be maintained in sound condition and good repair, with hardware for locking and the locking mechanism maintained in property functioning condition.
 - 8. Any window which is broken, cracked, or missing glass or glazing shall be replaced and maintained in good repair.
 - 9. All graffiti shall be promptly covered or removed.
- B. Compliance with this section does not relieve a person of any obligations imposed by state law, other sections of this code, or any covenants, conditions, and restrictions that apply to the building or premises.

§8.20.040 Security.

- A. Every owner of an abandoned building, foreclosed building, or vacant building, shall cause the building to be secured (including closure and locking of windows, doors, gates and other opening(s) allowing access to the building) and thereafter maintained so as not to be accessible to unauthorized persons.
- B. The owner shall post notice which provides, at a minimum, a direct contact name and a telephone number available twenty-four (24) hours a day for persons to report problems or concerns with the building or real property. The following standards apply to this notice:
 - 1. The telephone number listed in the notice must:
 - a. Be answered, or reasonably likely to be answered, by a human being during the hours of eight a.m. and five p.m., local time;
 - b. Be connected to a voicemail system that records calls between the hours of five p.m. and eight a.m., local time, if no human is available to answer the phone; and
 - c. Be a domestic number or a toll-free number but not an international number.
 - 2. The notice must be placed on the interior of a window facing the street to the front of the property so the notice is easily decipherable from outside of the building. If no such area exists, then the posting must be placed on the exterior of the building in a location visible from the street to the front of the property. An exterior posting shall be constructed of and printed with weather-resistant materials.
 - 3. The notice shall be printed in a typeface at least eighteen (18) points in size, and must list the name and contact information of the owner(s) or local individual or entity charged with complying with this chapter, along with the following phrases completed with the appropriate identification and contact information:

"THIS PROPERTY OWNED/MANAGED BY: _____."

"TO REPORT PROBLEMS OR CONCERNS CALL _____."

§8.20.050 Inspection.

- A. Every owner of an abandoned building, foreclosed building, or vacant building shall inspect the building and premises no less than twice monthly to verify the requirements of this chapter, and any other laws applicable to the building, are being met.
- B. The owner or agent inspecting the property shall record and present to the city manager, code enforcement officer or designee (upon request) the dates of inspection in a form to be provided by the city.

§8.20.060 Local Presence or Property Management Required.

- A. If an owner or lender has no local presence, as defined in this chapter, that owner or lender shall contract with a local person or property management company in order to ensure compliance with this chapter.

- B. An 18-inch by 24-inch notice shall be posted by the owner or responsible person identifying a local direct contact name and 24-hour contact phone number for persons to report problems or concerns, and the posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street. If no such area exists, then the posting shall be placed on the exterior of the property in a location visible from the street to the front of the property. An exterior posting shall be constructed of and printed with weather resistant materials.
- C. If an owner fails to comply with the requirements of this chapter within fifteen (15) days after receiving notice that the Code Enforcement Officer believes that the property is vacant, then the owner(s) or lender(s) shall contract with a property management company, to perform the inspections outlined in SHMC §8.20.050 and verify that the maintenance and security requirements of SHMC §8.20.030 and SHMC §8.20.040 are being carried out.
- D. A property management company retained under this section must post the notice described in SHMC §8.20.040(B).
- E. Nothing in this chapter prevents a local owner(s) from contacting with a property management company to assist the owner in meeting the owner's responsibilities under this chapter.

§8.20.070 Additional Authority.

The code enforcement officer may require, with city manager approval, an owner(s) or lender to implement any additional maintenance listed below:

- A. Installation and operation of additional security lighting;
- B. Increased frequency of property inspections; and
- C. Employment of an on-site security guard.
- D. Any other measures as may be reasonably required to prevent the decline of the property.

§8.20.080 Additional Remedies; Lien Against Real Property.

- A. In addition to other penalties or enforcement specified in this chapter, if a lender or owner(s) fails to register the building or premises as provided in this chapter, the code enforcement officer may give notice of such failure by certified mail. The notice shall:
 - 1. Be directed to all persons shown on the assessor's records or otherwise known to the city to be the owner(s);
 - 2. Refer to the real property involved with convenient certainty, a building's street address, if any, being sufficient; and
 - 3. Notify the owner to comply with the registration requirements in this chapter within fifteen (15) days of mailing.
- B. If a lender or owner(s) fails to maintain, inspect, or secure the building or premises as provided in this chapter, then notwithstanding whether the premises is registered, the code enforcement officer may give notice and abate such conditions as follows:

1. Give written notice to the owner that includes the following:
 - a. A statement that the code enforcement officer has evaluated the building as being a vacant building pursuant to the definition of "vacant building" set forth in SHMC §8.20.020, along with a statement of the reasons why the building has been so evaluated;
 - b. A reference to the building with convenient certainty, a building's street address, if any, being sufficient;
 - c. Notice of the deficiency in maintenance, inspection, or security that has been observed, and direction to comply with the maintenance, inspection, and security requirements of this chapter within seventy-two (72) hours of the time described in subsection B.2.a;
 - d. Notice that if the condition is not corrected within seventy-two (72) hours, the city may cause the real property to be maintained, inspected, or secured, as provided in this chapter and will charge the costs to the lender or owner(s) and register the same on the city's lien docket against the real property. This subsection B.1.d constitutes the authority needed for the city to so maintain, inspect, or secure property to the standards of this chapter.
2. A copy of the notice described in subsection B.1 must, at a minimum, be:
 - a. Posted to the front door of the building, or to that side of the building fronting the most well-traveled street adjacent to the building, with the date, time of day, and name of the person posting the notice written on the front of the document in permanent ink;
 - b. Mailed, at least three business days before abatement, to the owner or owners at their last-known mailing addresses on record with the Linn County Assessor's office on the date of posting or available from Title Company or other documents, by certified mail, no later than the date the real property is posted. If no mailing address is of record with the assessor's office or known to the Sweet Home police at the time of posting, then a good faith effort to locate an address for an owner or owners, conducted on or before the day the notice is posted, will satisfy this section.
3. The code enforcement officer shall make a good faith effort to locate the telephone number of the owner, and call the owner on the day notice is posted and give a person reasonably appearing to be meaningfully connected to the real property oral notice that the building has been evaluated as vacant and that there are seventy-two (72) hours to secure or maintain the building, as the case may warrant. Efforts to locate phone numbers and call the owner qualify as good faith if they are reasonable under the circumstances then existing.
4. Notices mailed under subsection B.2.b must be placed in the mail three business days before commencement of city abatement activity under this chapter. For this purpose, a business day is any day except a Saturday, Sunday, or a legal holiday observed by the state of Oregon under ORS 187.010 and 187.020.

5. If the building is registered with the city then the code enforcement officer must also send the notice required under subsection B.2.b to the lenders listed in the registration materials. The chief will send this notice concurrently with the notice required under subsection B.2.b.
 6. If the building is not registered with the city, then the code enforcement officer may send a courtesy copy of the notice required under subsection B.2.b to one or more lenders if the lenders have an ownership interest in the property, as opposed to a mere security interest, and if the code enforcement officer has actual knowledge of the ownership interest on the day the code enforcement officer sends the owner notice under subsection B.2.b. This provision does not create or impose a duty on the code enforcement officer or any other city employee, official, or agent to receive or collect information about lenders or to send courtesy notice to a lender.
- C. Nothing in this section obligates the city to remedy the problem conditions alleged in the code enforcement officer's letter without charging the cost of such abatement as a lien against the real property on which the building is constructed. The total cost of such abatement, including but not limited to time of city employees or contractors, materials, expenses, overhead, and legal fees and costs, shall be included in such lien filing.
 - D. The city manager, at or near the time council passes this vacant building ordinance or any amendment thereto, shall promulgate a press release that announces passage of the legislation. A press release is adequately promulgated under this section if it is directed to the media sources customarily contacted by the city manager for distributing newsworthy city information. Failure of or disagreements about compliance with this subsection supply no defense in any action.

§8.20.090 Penalty.

- A. Any person who the code enforcement officer believes violates any provision of this chapter shall be prosecuted and penalized under SHMC Chapter 9.36
- B. Each day a violation is allowed to persist by a lender or owner(s) constitutes a separate occurrence.

§8.20.100 Duties Joint and Several.

Where a building or premises is owned by more than one person, any duty created by this chapter is joint and several as to all owners.

§8.20.110 Appeals.

- A. A lender or owner who is required to implement additional maintenance or security measures as provided for in SHMC §8.20.070 shall have the right to appeal to the municipal court by filing a petition for a hearing before the court with the court clerk. Additionally, a lender or owner who has received a notice of abatement outlined in §8.20.080(B), may, within fifteen (15) days after mailing of such notice, may likewise appeal to the municipal court for relief by filing a petition.

1. Such petition must include:
 - a. A copy of the code enforcement officer's notice;
 - b. Facts upon which petitioner relies for relief from the obligations of this chapter relative to the building or premises;
 - c. The petitioner's signature, telephone number, and mailing address. If a petitioner is not a natural person, a natural person must sign the petition on behalf of the petitioner and provide his or her mailing address and direct telephone number; and
 - d. The payment of a filing fee, if any is established by city council from time to time for the petition.
2. If the municipal court finds that strict compliance with this chapter would cause a real and unnecessary hardship upon the petitioner, then the court may relieve the petitioner of one or more obligations of this chapter.
3. Filing a petition under this subsection does not:
 - a. Relieve an owner(s) or lender from complying with any requirement of this chapter, including requirements listed in posted or mailed notices;
 - b. Stay city abatement of a building or premises;
 - c. Require the city to reverse, cancel, or undo any abatement action or effort completed, planned, or in progress at the time the petition is filed; or
 - d. Avoid any abatement cost or lien, whether or not the cost or lien has been calculated or, if calculated, charged against real property.
4. Any relief granted under this section operates only upon an owner or lender listed as a petitioner.

Passed by the Council and approved by the Mayor this ___ day of _____, 2020.

Mayor _____

ATTEST:

City Manager – Ex Officio City Recorder

MEMORANDUM



TO: City Council
Ray Towry, City Manager
Interested Parties

FROM: Blair Larsen, Community and Economic Dev. Director

DATE: October 16, 2020

SUBJECT: Business Licenses or Registration

When the COVID-19 pandemic began, and the State began shutting down parts of our economy, Staff scrambled to alert our businesses to aid programs, create 'shop local' lists, and other efforts to help businesses survive. This effort made clear one of the City's very big weaknesses: lack of information about local businesses, especially contact information. Many cities were able to use the information collected as part of their business licenses to meet this need. Sweet Home, like the City of Albany and other cities in our area, has never had a requirement or even the ability to grant a business license. Staff believes that a business license or registration ordinance or program could greatly aid both the City and its businesses.

Purpose

Licenses and permits are often misunderstood, so it is important that any ordinance or program be very clear about its purposes in order to avoid the perception of government overreach or an attempt to boost revenue. Staff suggests that an ordinance or program be instituted primarily to gather information on local businesses for the following purposes:

- Ensure public safety
- Connect business owners with opportunities
- Provide residents and visitors with information on local businesses
- Connect businesses with the City for feedback, public announcements and events, etc.
- Provide prospective businesses with information on existing business activity.

License or Voluntary Registry

As with anything government does, it is important to determine how much regulation should be enacted on a given activity. Even the smallest of license ordinances is still a regulation, and may be perceived by some as intrusive or burdensome. The City could enact an business license ordinance, that requires businesses to comply and includes a penalty for non-compliance, or the City could pursue a voluntary business registry, and give businesses the option to participate.

While Staff is hesitant to add more burdens on businesses, we believe that a voluntary program will not generate enough participation to meet its goals. Such a program would have to incentivize participation, and would have no real means of enforcement.

In addition, a license ordinance that closely adheres to its purposes would not add much of a burden, and would give new business owners a sense of validity. Many cities require that businesses be licensed, and many business owners coming in to the community expect it. In fact, some businesses have even requested a license, even though we don't have one, because their lender, partner, or supplier require a copy.

Enclosed is a draft ordinance for you to review. Any voluntary program would attempt to follow the same format as much as possible.

Suggested Requirements

Staff suggests that a business license or registration require, at a minimum:

- Contact information, including business email, website, etc.
- A brief description of business activities, services, and products
- Information on any hazardous materials or chemicals in use at the business

Suggested Benefits

It's always nice to have a carrot to go along with the stick when adding a new regulation. Staff believes that the sharing of information that would come from a business license or registration program would be enormously beneficial for both businesses and the City. However, there are other benefits that should be touted as well, that could incentivize participation in a voluntary program, or help the community accept a compulsory license:

- Participants could be automatically enrolled in the Police Department's Property Watch Program, which could allow officers to trespass individuals from businesses as needed.
- Eligibility for CEIP Grants or other aid programs could be made dependent upon businesses participation.
- License information could be shared with the Chamber of Commerce in order to provide networking opportunities.
- Business information could be shared over City media channels (website, social media, etc.) as part of a 'shop local' campaign that could advertise local products and services to residents.

Possible Misconceptions

Staff recommends that the City be clear in its communications about what any future program is, and what it is not, in order to avoid the inevitable accusations of government overreach or attempts to increase revenue.

A business license ordinance or registration program is all about the information. It is not an attempt to tell businesses what they can or cannot do. There are enough regulations at the state and federal levels to do that. Business licenses are not intended as a means of controlling who does business in the City. Staff recommends that licenses not apply to children's lemonade stands or teenagers babysitting. Staff also recommends that licenses not be required when a business has no presence in the City except for making deliveries or providing services to homes or businesses in the City, such as out-of-town contractors or delivery services. We are looking for information on our own businesses, not those from other cities.

Finally, a business license ordinance is not an attempt to tax businesses or gain more revenue from businesses. We do not want to discourage anyone from engaging in lawful businesses, and definitely see no reason add to anyone's tax burden. Any license fee would be set by Council resolution, and staff recommends that it be set at either \$0 or limited to covering the cost of the program.

Conclusion

The need for such a program is great, but there are many variations on how to enact a business license ordinance or registration program. We believe that we can meet our goals with a bare-bones ordinance, but Staff is happy to discuss changes or additions. The crucial part is the exchange of business information that will come with a new program.

ORDINANCE BILL NO. ____ FOR _____

ORDINANCE NO. ____

**SWEET HOME ORDINANCE PERTAINING TO THE REGISTRATION OF BUSINESSES
WITHIN THE CITY**

WHEREAS, the City of Sweet Home desires to provide for the health, safety, and welfare of the citizens and businesses of Sweet Home by requiring all businesses operating within the City to register with the City.

NOW THEREFORE,

The City of Sweet Home does Ordain as follows:

Section 1. Sweet Home Municipal Code Chapter X.XX titled BUSINESS REGISTRY is created to read as follows:

§X.XX.010 Purpose.

This chapter is enacted for the purpose of providing for the health, safety, and welfare of the citizens and businesses of Sweet Home by requiring all businesses within the corporate limits of the City of Sweet Home to register with the City.

§X.XX.020 Definitions.

As used in this chapter, except where the context indicates otherwise, the following definitions apply:

BUSINESS. An individual, shop, firm, company, corporation, association or partnership conducting any trade, profession, occupation or pursuit for gain. This definition includes, but is not limited to, non-profit organizations which sell food or liquor, transient merchants, and home occupations.

CITY. The City of Sweet Home, a municipal corporation of the State of Oregon.

EMPLOYEE. Any person working for, within or under the auspices of a business, other than a certified independent contractor or leased employee, including common law and statutory wage-earning, commission and salaried employees; executive and common employees; agents; sales representatives; sole proprietors; partners; corporate officers and any and all persons associated directly with the business, whether full- or part-time.

EXCLUSIVELY LICENSED BUSINESSES. Businesses exclusively licensed by the state of Oregon, or the activities of which are exclusively subject to regulations by the United States as being solely interstate in character.

GARAGE SALE. A commercial activity, open to the public, conducted at a private residence where personal property is sold or auctioned to others, provided the number of sale days at a particular residence does not exceed 3 days per occurrence and no more than 2 occurrences per calendar year.

LICENSE or *BUSINESS LICENSE.* The document issued by the city granting the privilege to carry on a particular business or pursue a certain occupation within the city.

NON-PROFIT. Any business or organization which holds a certificate of exemption from taxes from the Internal Revenue Service.

PLACE OF BUSINESS. A business location inside the city of Sweet Home, which meets all City ordinances, within a permanent structure or building which rest on a permanent foundation and which substantially complies with the Uniform Building Code or at a fixed location on public or private property not within a permanent structure.

TRANSFER. To transfer the name or ownership of a business, but does not include a change in business location.

§ X.XX.020 Business License Required.

There are hereby imposed upon the businesses, trades, shops, professions, callings and occupations specified in this chapter, a business license fee in the amount prescribed by resolution, and it is unlawful for any person to conduct, transact or carry on any such business in the city without first having obtained the license therefore for the current calendar year as herein provided and without first complying with any and all application provisions of this chapter.

§ X.XX.030 Exceptions.

The following activities are exempt from the provisions of this chapter:

- A. Wholesale deliveries to a licensed business from operations based outside the limits of the city.
- B. Casual labor activities performed by minors or others, including, but not limited to, lawn mowing and babysitting services. Childcare facilities are not exempt.
- C. Any activity conducted solely for charitable, religious, community, or public purpose including fairs, festivals, fundraisers, and public entertainment events by nonprofit organizations. A non-profit organization which sells food or liquor on an ongoing basis is not exempt.
- D. Producers of farm products raised in Sweet Home and produced or cultivated exclusively by said producers or their immediate families, shall not be subject to license fees prescribed herein that may apply to the selling of such products if the farm products are sold by themselves or their immediate families exclusively.
- E. Exclusively Licensed Businesses such as those businesses exempt from the payment of municipal license fees pursuant to Oregon or federal law.
- F. Any person involved in the home delivery of newspapers, groceries, or other goods purchased outside the city.

- G. Garage Sales entailing the periodic sale of personal property by an individual or group of individuals at their own personal residence, provided the number of sale days at a particular residence does not exceed 3 days per occurrence and no more than 2 occurrences per calendar year.
- H. Any person, contractor, consultant, firm, company or corporation who do not normally conduct business from or in, or otherwise occupy, a particular site, location or structure within the city limits.
- I. Governmental bodies and their administrative agencies which are engaged in governmental functions.
- J. Other businesses or business related activities that, due to their minimal activities, may be declared exempt by the City Manager.

§ X.XX.040 License Application and Procedure.

- A. All business licenses required under this chapter or any other ordinance shall be issued by the City Manager or designee. Application for all licenses shall be made to the City on forms prescribed by the city. The application for any permit shall contain the following information:
 - 1. The description of the business carried on within the city.
 - 2. The name of the applicant, with a statement of all persons having an interest in the business, either as proprietors or owners of the business.
 - 3. The location at which the business is conducted.
 - 4. Contact information for the owner or manager, including phone number, email address and mailing address.
 - 5. The date of application.
 - 6. The amount of money tendered with the application.
- B. The following additional items may be required at the sole discretion of the City Manager or designee:
 - 1. Proof of the applicant's possession of any permits, certificates, or registrations that are required by city, county, state or federal laws to conduct the type of business listed on the application.
 - 2. Site plan of the area where the structure will be located. The site plan shall clearly show any parking spaces, which may be impacted, any necessary driving lanes, utility pole locations, nearby buildings, and sidewalks.
 - 3. Proof of compliance with all applicable building codes.
 - 4. If food or beverages is to be sold, then the applicant shall provide a copy of proof of the applicable food handler's license from Linn County.
 - 5. Any other information necessary to enable the city to review the application and to determine the appropriate fee as established by resolution of the Council. If on private property, a signed letter of authorization from the property owner, or copy of lease agreement.
- C. The City Manager shall refer each application to the appropriate departments for review. Review of the application shall be based on consideration of all available evidence as to whether the business will meet the requirements of the city charter and ordinances. The permit may not be granted if:
 - 1. The activity to be permitted would not comply with city ordinances or state laws.
 - 2. The permitted activity would endanger property or the public's health or safety.

3. The applicant's violation of law or ordinance represents a reasonable doubt about the applicant's ability to perform the permitted activity without endangering property or the public's health or safety.
 4. The applicant fails to supply the information required, or submits misleading or false information, or submitted misleading or false information on a previous application.
- D. Upon a favorable recommendation from each department, the City Manager or designee shall issue the permit. If it is determined that the application is denied, the City Manager or designee shall notify the applicant of the denial and the reasons for denial.
 - E. Approved business licenses shall remain on file in the City Manager's Office and a copy shall be provided to the Sweet Home Fire District.

§ X.XX.050 Multiple Businesses at Same Location—Branch Office—Professional Offices.

- A. If more than one business takes place at the same location and is operated under the same ownership, but is operated under more than one business name, one application may be filed, provided each business is clearly identified and all relevant information is included in the unified application.
- B. Each branch establishment of a business or location of a business conducted by any person shall, for the purposes hereof, be treated as a separate business subject to the registration provided for in this chapter. Warehouses used incidentally with a duly registered business shall not be deemed to be a separate place of business or branch establishment.

§ X.XX.060 Transfer of Registration.

- A. The license shall be the property of the applicant, and may not be assigned or transferred.
- B. Business licenses shall be void if the name of the business changes, the location of the business changes, ownership changes or the business goes out of business.

§ X.XX.070 False Information

It is unlawful for any person to supply false information in connection with any application required by this chapter with intent to obtain a permit or license required in this chapter.

§ X.XX.080 Denial of License Application.

The denial of any application shall be made in writing, shall specify the reasons for the denial and shall be signed by the City Manager or designee. The application may be denied if it the structure in which the business is located is not in compliance with state, county or city ordinances or fire codes, or if the application is not complete.

§ X.XX.090 Revocation of License.

A business license may be revoked on any one or more of the following grounds:

- A. Approval of the business license was obtained by fraud or misrepresentation;
- B. The use for which approval was granted has ceased to exist;
- C. The use does not meet the conditions specifically established for it at the time of approval of the application;
- D. The business is in violation of any other applicable statute, ordinance or regulation.

§ X.XX.100 Appeals.

- A. Any person whose application for a permit has been denied, or whose permit has been denied renewal, has been suspended or has been revoked, may, within 30 days after the notice of denial, suspension, or revocation is mailed, appeal in writing to the City Council. The appeal shall state:
 - 1. The name and address of the appellant.
 - 2. The nature of the determination being appealed.
 - 3. The reason the determination is incorrect.
 - 4. What the correct determination of the appeal should be.
- B. An appellant who fails to file a statement within the time permitted waives all objections, and relinquishes all rights to appeal. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. At the hearing, the appellant may present testimony and oral argument. The decision of the Council is final.

§ X.XX.110 Expiration and Renewal.

- A. The license year shall commence January 1 in each year and shall terminate at midnight, December 31, of the same year; provided, however, that all businesses required to pay a license fee in the amounts hereinafter prescribed shall apply for a license under the terms of this chapter not later than February 1 of the year for which the license is needed, and failure so to do shall be a violation of this chapter and subject to the penalty provisions herein.
- B. The license fee set by resolution shall be due and payable on January 1 of each year for the calendar year commencing with such date and shall be delinquent on and after the following February 1.
- C. Licenses for persons who first begin engaging in a business after January 1 in any year shall be due and payable prior to such person engaging in business. All license fees shall be delinquent if not paid within 10 days after due.

§ X.XX.120 Violations and Penalties.

- A. Any business which shall be conducted in the city without having first obtained the license as required by this chapter shall be subject to a fine of not to exceed \$750 and, in addition, the city may, by appropriate legal proceeding, enjoin the continued operation of the business.

- B. Each day that any person conducts any business in violation of the provisions of this chapter shall be deemed a separate offense.
- C. The conviction of a person for violation of any provision of this chapter may not serve to relieve the person from paying the fee or penalty for which the person is liable. The payment of any fee may not bar or prevent legal prosecution of a complaint for the violation of any provision of this chapter.

§ X.XX.130 Disclaimers.

- A. The levy or collection of a license fee shall not be construed to be a license or permit to engage in any business which is unlawful, illegal or prohibited by the laws of the State of Oregon, the County of Linn or ordinances or resolutions of the city.
- B. Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the city. Business license fees, as set by City Council resolution, may be increased or decreased at any time by the City Council. No person having paid the fee required, and having made application for a business license, shall be entitled to any refund.

§ X.XX.140 Severability.

If any portion of this chapter shall be held to be invalid for any reason, the same shall be stricken from the ordinance and the remainder shall be regarded as having been adopted by the Council, and shall remain enforceable.

Passed by the Council and approved by the Mayor this ___ day of _____, 2020.

Mayor _____

ATTEST:

City Manager – Ex Officio City Recorder