



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

July 13, 2006



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Hillsboro Plan Amendment
DLCD File Number 002-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 31, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Jennifer Wells, City of Hillsboro

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FORM 2

DLCD NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18.

DEPT OF

JUL 11 2006

LAND CONSERVATION AND DEVELOPMENT

Jursidiction: HILLSBORO Local File No.: ZOA 2-06 (incorrectly listed as ZOA 1-06)
on proposed amendment form mailed 4/24/06

Date of Adoption: 7/5/06 Date Mailed: 7/7/06

Date the Notice of Proposed Amendment was mailed to DLCD: 10/18/05

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."
Amend maximum number of children from twelve to 16 in a child care facility and delete references to "firearms or munitions" within the Home Occupations Section to reconcile discrepancies between the City of Hillsboro and State of Oregon standards.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

SAME

Plan Map Changed from: N/A To: N/A
 Zone Map Changed from: N/A to N/A
 Location: N/A Acres Involved: N/A
 Specified Density: Previous: N/A New: N/A
 Applicable Statewide Planning Goals: NONE
 Was an Exception Proposed? Yes: _____ No: X

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing?** Yes X No _____

If no, do the Statewide Planning Goals apply? Yes _____ No _____

If no, did the Emergency Circumstances Require immediate adoption? Yes _____ No _____

Affected State or Federal Agencies, Local Governments or Special Districts: NONE

Local Contact: Jennifer Wells Phone: 503-681-6214

Address: 150 E MAIN STREET City: HILLSBORO Zip Code + 4: 97123-4028

DLCD No. 002-06 (15171)

ORDINANCE NO. 5053

ZOA 2-06: AMENDMENT TO THE REQUIREMENT FOR THE MAXIMUM NUMBER OF CHILDREN ALLOWED WITHIN EXEMPT CHILD CARE FACILITIES AND DELETION OF THE TERMS FIREARMS OR MUNITIONS ASSOCIATED WITH HOME OCCUPATIONS

AN ORDINANCE, AMENDING HILLSBORO ZONING ORDINANCE NO. 1945, AS AMENDED, AMENDING THE MAXIMUM NUMBER OF CHILDREN ALLOWED WITHIN EXEMPT CHILD CARE FACILITIES, AND DELETING THE TERMS FIREARMS OR MUNITIONS ASSOCIATED WITH HOME OCCUPATIONS.

WHEREAS, Hillsboro Zoning Ordinance No. 1945 standards for the maximum number of children allowed within child care facilities that are exempt from the home occupations section differ from the State of Oregon standards for the maximum number of children in a registered or certified family child care home, and

WHEREAS, Hillsboro Zoning Ordinance No. 1945 does not conform to the Oregon Revised Statutes regarding the prohibition of the storage and/or sale of firearms or munitions, and

WHEREAS, at their regular meeting of May 19, 2006, the Planning Commission therefore initiated amendments to Zoning Ordinance No. 1945 amending the maximum number of children allowed within exempt child care facilities; and deleting the terms firearms or munitions associated with home occupations to reconcile discrepancies with the State of Oregon standards in Section 128A, and

WHEREAS, the Planning Commission held a public hearing on the proposed amendments on June 14, 2006, received testimony in support of the proposed amendments, and no testimony in opposition, and

WHEREAS, after receiving testimony, the Planning Commission voted to recommend to the City Council approval of the proposed amendments, adopting the May 19, 2006 staff report on this matter as findings in support of the proposed amendments, attached hereto as Attachment A, and

WHEREAS, the City Council considered the proposed amendments on July 5, 2006, and voted to adopt the Planning Commission's recommendation on this matter.

NOW, THEREFORE, THE CITY OF HILLSBORO DOES ORDAIN AS FOLLOWS:

Section 1. Zoning Ordinance No. 1945, as amended, is hereby amended in Section 128A, Home Occupations, subsection II.B(2) to read as follows:

- (2) Child care facilities for up to 16 children or adult day care for up to 12 adults, as exempt from the provisions of this Section by ORS 657A.440 and ORS 657A.250;

Section 2. Zoning Ordinance No. 1945, as amended, is hereby further amended in Section 128A, Home Occupations, subsection V(4) to read as follows:

- (4) Storage and/or sale of fireworks;

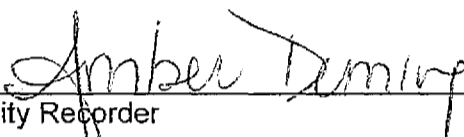
Section 3. Except as herein amended, Zoning Ordinance No. 1945, as amended, shall remain in full force and effect.

Passed by the Council this 5th day of July, 2006.

Approved by the Mayor this 5th day of July, 2006.



Mayor

ATTEST: 
City Recorder

CITY OF HILLSBORO



May 19, 2006

STAFF REPORT

TO: Planning Commission

FROM: Planning Department

RE: ZOA 2-06: Amendments to the Zoning Ordinance No. 1945, Regarding the Maximum Number of Children Allowed within Child Care Facilities in Applicability and Exemptions and the Deletion of "Firearms or Munitions" in Uses Prohibited as Home Occupations, within Section 128A Home Occupations

BACKGROUND

At the April 26, 2006 Planning Commission meeting, Resolution 1559-P was adopted initiating amendments to the Zoning Ordinance regarding the requirements for maximum number of children allowed within exempt child care facilities and deletion of the terms firearms or munitions associated with home occupations. One initiated amendment proposes that the City of Hillsboro standards for maximum number of children allowed within exempt child care facilities, in Section 128A of the Zoning Ordinance be increased from twelve to 16. The second amendment proposes the deletion of the terms firearms or munitions also to Section 128A of the Zoning Ordinance. The requests are intended to create consistency between the City of Hillsboro and State of Oregon standards. Specifically, the two proposed Zoning Ordinance Amendments are as follows:

1. Amend the City of Hillsboro requirements for maximum number of children allowed within exempt child care facilities in Section 128A.II.B(2) of the Zoning Ordinance to reflect the State of Oregon Revised Statutes for Application of Zoning Ordinances to Registered or Certified Family Child Care Homes located in ORS 657A.440(4) and to read as follows:

Child care facilities for up to 16 children or adult day care for up to 12 adults, as exempt from the provisions of this Section by ORS 657A.440 and ORS 657A.250;

2. Delete the terms "firearms or munitions" to Section 128A.V(4) of the Zoning Ordinance, matching the standards to the State of Oregon Revised Statutes located in ORS 166.170(1) and (2). The proposed amendment to the uses prohibited as home occupations is proposed as follows:

Storage and/or sale of fireworks;

DISCUSSION OF REQUESTED AMENDMENTS**Maximum Number of Children in Registered or Certified Family Child Care Homes**

The State of Oregon's regulations governing registered or certified child care homes have changed, effective January 1, 2006. The City of Hillsboro exemptions for child care facilities can be found in Section 128A of the Zoning Ordinance and presently reads as follows:

Section 128A. Home Occupations

II. Applicability and Exemptions

B. Exemptions. The following activities are exempted from the provisions of this Section:

- (2) Child care facilities or adult day care for up to 12 children or adults, as exempt from the provisions of the Section ORS 657A.440 and ORS 657A.250;

The State of Oregon standard for maximum number of children in a registered or certified family child care home can be located in Section 657A.440(4) in the Oregon Revised Statutes:

657A.440(4) Application of Zoning Ordinances to Registered or Certified Family Child Care Homes

- (4) This section applies only to a registered or certified family child care home where child care is offered in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status.

The requested amendment would increase the City's standard of up to twelve children in child care facilities that are exempt from the provisions of the home occupation section, to the State of Oregon standard of up to 16 children in child care facilities through the application of zoning ordinances to registered or certified family child care homes. The amendment in effect proposes to increase the maximum number of children from twelve to 16 children allowed in child care facilities from the applicability and exemptions home occupation section. This amendment does not change the maximum number of adults who could receive services in an adult day care.

Deletion of "Firearms or Munitions"

The Hillsboro Zoning Ordinance is preempted by state statute from prohibiting or otherwise regulating the sale of firearms as it has done in its home occupations zoning ordinance. The City of Hillsboro standards on the sale of firearms and munitions can be found in Section 128A of the Zoning Ordinance and presently reads as follows:

Section 128A. Home Occupations

V. Uses Prohibited as Home Occupations

- (4) Storage and/or sale of fireworks, firearms or munitions.

The State of Oregon standard for firearms or any element relating to firearms or components, including ammunition, can be located in Section 166.170(1) and (2) in the Oregon Revised Statutes:

- (1) Except as expressly authorized by state statute, the authority to regulate in any matter whatsoever the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition, is vested solely in the Legislative Assembly.
- (2) Except as expressly authorized by state statute, no county, city or other municipal corporation or district may enact civil or criminal ordinances, including but not limited to zoning ordinances, to regulate, restrict or prohibit the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition. Ordinances that are contrary to this subsection are void.

The requested amendment would only delete the words "firearms or munitions" included in this subsection. The storage and/or sale of fireworks would continue to be prohibited.

TESTIMONY RELATED TO PROPOSED AMENDMENT

No written or oral testimony, in support of or in opposition to this proposal, has been submitted by parties of interest.

RECOMMENDATION

If the Planning Commission supports the proposed Zoning Ordinance Amendments, the Commission may consider the attached draft resolution recommending approval to the City Council of the proposed amendments. If no testimony is received, this staff report could be cited as supporting findings.

Respectfully submitted,

CITY OF HILLSBORO PLANNING DEPARTMENT



Marty Stockton
Urban Planner II

Attachment: Draft Resolution

RESOLUTION NO. 1563-P
AMENDMENT OF THE REQUIREMENT FOR MAXIMUM NUMBER OF CHILDREN
ALLOWED WITHIN EXEMPT CHILD CARE FACILITIES AND
DELETION OF THE TERMS FIREARMS OR MUNITIONS ASSOCIATED WITH HOME
OCCUPATIONS

A RESOLUTION TO THE HILLSBORO CITY COUNCIL RECOMMENDING APPROVAL OF AMENDMENTS TO THE HILLSBORO ZONING ORDINANCE NO. 1945 AMENDING THE MAXIMUM NUMBER OF CHILDREN ALLOWED WITHIN EXEMPT CHILD CARE FACILITIES, AND DELETING THE TERMS FIREARMS AND MUNITIONS ASSOCIATED WITH HOME OCCUPATIONS.

WHEREAS, Hillsboro Zoning Ordinance No. 1945 standards for the maximum number of children allowed within child care facilities that are exempt from the home occupations section differ from the State of Oregon standards for the maximum number of children in a registered or certified family child care home, and

WHEREAS, Hillsboro Zoning Ordinance No. 1945 does not conform to the Oregon Revised Statutes regarding the prohibition of the storage and/or sale of firearms or munitions, and

WHEREAS, at their regular meeting of April 26, 2006, the Planning Commission therefore initiated amendments to Zoning Ordinance No. 1945 Section 128A Home Occupations II.B(2) and V(4), to amend those sections to correspond to State of Oregon standards.

WHEREAS, the Planning Commission held a public hearing on the proposed amendments on June 14, 2006, received no testimony in support of the proposed amendments, and no testimony in opposition, and

WHEREAS, THE Planning Commission hereby adopts the May 19, 2006 staff report on this matter as findings in support of the proposed amendments, which staff report is attached hereto as Attachment A.

NOW THEREFORE BE IT RESOLVED by the Hillsboro Planning Commission, that the Commission by and through this resolution does hereby recommend to the City Council that the Council approve amendments to Zoning Ordinance No. 1945 as described below:

Section 1. Section 128A.II.B(2) is recommended to be amended as follows, with the new language shown in italicized boldface type and the deleted language struck through:

Section 128A. Home Occupations

II. Applicability and Exemptions

B. Exemptions. The following activities are exempt from the provisions of this Section:

- (2) Child care facilities ***for up to 16 children*** or adult day care for up to 12 ~~children or~~ adults, as exempt from the

provisions of this Section by ORS 657A.440 and ORS 657A.250;

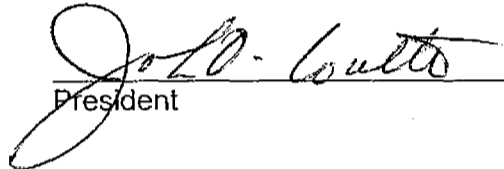
Section 2. Section 128A.V(4) is recommended to be amended to read as follows, with the new language shown in italicized boldface type and the deleted language struck through:

Section 128A. Home Occupations

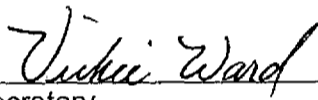
V. Uses Prohibited as Home Occupations

(4) Storage and/or sale of fireworks; ~~firearms or munitions.~~

Introduced and passed this 14th day of June, 2006.



President

ATTEST: 

Secretary