



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/29/2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of St. Paul Plan Amendment
DLCD File Number 001-08

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: Friday, January 09, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Jim Jacks, City of St. Paul
Doug White, DLCD Community Services Specialist
Steve Oulman, DLCD Regional Representative

<paa> YA/

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

In person electronic mailed

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DEPT OF

DEC 19 2008

**LAND CONSERVATION
AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **St. Paul**

Local file number: **TA 08-01**

Date of Adoption: **10/13/2008**

Date Mailed: **12/19/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 7/18/2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The Home Occupation regulations were amended to address heavy vehicles associated with Home Occupations. If heavy vehicles are not associated with the HO, the HO application can be decided by City staff. If heavy vehicles are associated with the HO, the application will be decided by the Planning Commission.

Does the Adoption differ from proposal? Yes, Please explain below:

Changes were made in the organization of the language. Slight changes in the specific language were made that did not affect the intent of the amendment. The Home Occupation line was changed on Table 3.101.07

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

None.

Local Contact: **Jim Jacks**

Phone: **(503) 593-6856** Extension:

Address: **7165 SW Fir Loop, Ste 204**

Fax Number: - -

City: **Tigard, OR**

Zip: **97223-**

E-mail Address:

ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 2008 – 197

A BILL FOR AN ORDINANCE

AMENDING THE ST. PAUL ZONING AND DEVELOPMENT ORDINANCE
REGARDING HOME OCCUPATIONS

WHEREAS, the St. Paul Zoning and Development Ordinance was adopted by Ordinance No. 2003 – 190 on December 8, 2003; and

WHEREAS, the St. Paul Zoning and Development Ordinance includes provisions regulating Home Occupations and establishes a process to review Home Occupation Applications; and

WHEREAS, the provisions regulating Home Occupations do not adequately address vehicle weight, and the process to review Home Occupation Applications is not clear; and

WHEREAS, the City of St. Paul Planning Commission conducted a public hearing September 2, 2008 and unanimously passed a motion recommending the City Council approve the Home Occupation amendments; and

WHEREAS, the City Council conducted a public hearing September 8, 2008 and continued it to October 13 when the City of St. Paul adopted the findings in Exhibit "A."

NOW THEREFORE, the City of St. Paul ordains as follows:

Section 1. FINDINGS. The City of St. Paul hereby adopts the staff report dated September 8, 2008 set forth in Exhibit "A" attached hereto and by this reference incorporated herein.


Section 2. ADOPTION OF THE AMENDMENTS. The City of St. Paul hereby adopts the Home Occupation amendments to the St. Paul Zoning and Development Ordinance as set forth in Exhibit "B" attached hereto, and by this reference incorporated herein.

Section 3. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after its passage.

PASSED this 13 day of October, 2008.

SIGNED this 13 day of October, 2008.

ATTEST:


Kathy Connor, Mayor

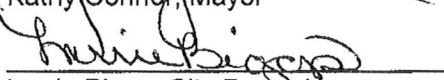

Lorrie Biggs, City Recorder

EXHIBIT "A"

TO: CITY OF ST. PAUL CITY COUNCIL

FROM: JIM JACKS, CITY PLANNER

SUBJ: TEXT AMENDMENT 08-01, AMENDING THE ZONING AND
DEVELOPMENT ORDINANCE REGARDING HOME OCCUPATIONS

DATE: SEPTEMBER 8, 2008

BACKGROUND

The City's regulations regarding Home Occupations (Section 2.304) do not address heavy trucks. The lack of regulations for heavy trucks is problematic because heavy trucks associated with home occupations on City streets that are not paved, or are otherwise unimproved, can damage the streets.

It is in the public interest to require Home Occupation Applications that involve heavy trucks to receive additional review by the Planning Commission with the opportunity to assign conditions to the approval of a Home Occupation.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission hearing was September 2 which was after this report was prepared. Their recommendation will be available to the City Council on September 8.

PROPOSED CHANGES

The proposed amendments require Home Occupation Applications that involve heavy trucks to be reviewed and approved by the Planning Commission through a Type II process (Planning Commission is the decision authority). Currently, such applications are approved administratively by City staff through a Type I process (City Recorder is the decision authority). A heavy truck is a truck that is rated for a carrying capacity over 2-tons or that has dual rear wheels.

The Zone Code is inconsistent because it calls for Home Occupation Permits to be reviewed through the Type I and Type II processes. The proposed amendments ensure the Code is consistent and requires the Type I process is used for typical Home Occupation Permits and the Type II process is used for Home Occupations that involve heavy trucks.

The following shows the proposed amendments with language to be deleted in ~~strikeout~~ and language to be added in ***bold italic***.

Section 2.304 HOME OCCUPATIONS.

2.304.01 Standards.

Home occupations may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:

A. – H. No change.

I. Deliveries and Large Vehicle Storage: Delivery of materials to and from the premises shall not involve the use of vehicles over two (2) ton capacity, except *delivery services such as* parcel post , *Fed-Ex* or United Parcel Service trucks. No vehicle over ~~one (1) two~~ (2) ton capacity *or with dual rear wheels* used in conjunction with a home occupation shall be stored on the property or on public rights-of-way *without first obtaining a Home Occupation Permit through the Type II process. The City shall have the authority to assign conditions of approval to address the potential for damage to the public rights-of-way by vehicles over two (2) ton capacity or with dual rear wheels.*

J. Parking: No change.

K. Storage and Use of Yard Areas: No change.

L. Permitted day care: No change.

2.304.02 Process.

Home occupations are allowed as an accessory use to any residential use in the City of St. Paul, subject to the Type I *and Type II* approval processes listed in Subsection ~~3.103~~ **3.104**. The standards of this section shall govern all home occupations.

3.101 APPLICATION TYPES.

3.101.01 Applications and Procedures. No changes.

3.101.02 Type I Action.

A Type I action is a ministerial review process in which City staff apply clear and objective standards that do not allow much discretion. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

- A. Urban Transition -5 Building Permit Review (per provisions in Section 2.107).
- B. Property Boundary Adjustment (per provisions in Section 3.103.03).
- C. *Home Occupations that do not involve trucks with a capacity greater than two (2) tons or with dual rear wheels.*

3.101.03 Type II Actions.

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing are provided. Section 3.207 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. No change.

B. Home Occupations *that involve trucks with a capacity greater than two (2) tons or with dual rear wheels.*

C. – I. No change.

3.101.07 **Table of Land Use Application Procedures**

In the Home Occupation row, in the first column, no change.

In the second column: change to read, "a. Type I."
"b. Type II."

In the third column: change to read, "a. Final Decision."
"b. Recommendation to Commission."

In the fourth column: change to read, "a. Appeal of Staff Decision."
"b. Final Decision."

In the fifth column: no changes.

3.104 HOME OCCUPATIONS.

3.104.03 **Process.**

A home occupation shall be reviewed in accordance with Type I procedures specified in Section 3.202 *or Type II procedures specified in Section 3.203 when the proposed Home Occupation involves a truck with a capacity greater than two (2) tons or with dual rear wheels.*

End of proposed amendments.

EXHIBIT "B"

Section 2.304 HOME OCCUPATIONS.

2.304.01 Standards.

Home occupations may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:

[A. – H. No change.]

- I. Deliveries and Large Vehicle Storage: Delivery of materials to and from the premises shall not involve the use of vehicles over two (2) ton capacity, except delivery services such as parcel post, Fed-Ex or United Parcel Service trucks. No vehicle over two (2) ton capacity or with dual rear wheels used in conjunction with a home occupation shall be stored on the property or on public rights-of-way without first obtaining a Home Occupation Permit through the Type II process. The City shall have the authority to assign conditions of approval to address the potential for damage to the public rights-of-way by vehicles over two (2) ton capacity or with dual rear wheels.

[J. – L. No change.]

2.304.02 Process.

Home occupations are allowed as an accessory use to any residential use in the City of St. Paul, subject to the Type I and Type II approval processes listed in Subsection 3.104. The standards of this section shall govern all home occupations.

[2.304.03 Non-Compliance. No change.]

3.101 APPLICATION TYPES.

[3.101.01 Applications and Procedures. No changes.]

3.101.02 Type I Action.

A Type I action is a ministerial review process in which City staff apply clear and objective standards that do not allow much discretion. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

- A. Urban Transition -5 Building Permit Review (per provisions in Section 2.107).
- B. Property Boundary Adjustment (per provisions in Section 3.103.03).

- C. Home Occupations that do not involve trucks with a capacity greater than two (2) tons or with dual rear wheels.

3.101.03 Type II Actions.

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing are provided. Section 3.207 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- [A. No change.]
- B. Home Occupations that involve trucks with a capacity greater than two (2) tons or with dual rear wheels.
- [C. – I. No change.]

3.101.04 Type III Actions. No change.]

3.101.05 Type IV Actions. No change.]

3.101.06 Type V Actions. No change.]

3.101.07 Table of Land Use Application Procedures

[see next page]

3.101.07 Table of Land Use Application Procedures

LAND USE APPLICATION PROCEDURES

Land Use Action	Type	Staff	Planning Commission	City Council
Urban Transition – 5 Building Permit Review	Type - I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Property Boundary Adjustment	a. Type - I b. Type - II	a. Final Decision b. Recommendation to Commission	a. Appeal of Staff Decision b. Final Decision	Appeal of Commission Decision
Home Occupation	a. Type - I b. Type - II	a. Final Decision b. Recommendation to Commission	a. Appeal of Staff Decision b. Final Decision	Appeal of Commission Decision
Similar Use	Type - II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Nonconforming Use	Type - II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Partition	Type - II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Variance	Type - II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Site Development Review	Type - II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Conditional Use	Type - II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Subdivision	Type - II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Comp. Plan Map Amendment	Type - III	Recommendation to Commission	Recommendation to Council	Final Decision
Zone Map Amendment	Type - III	Recommendation to Commission	Recommendation to Council	Final Decision