



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

February 8, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Gates Plan Amendment
DLCD File Number 001-06



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: February 21, 2007

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: Doug White, DLCD Community Services Specialist
Jason Locke, DLCD Regional Representative
Suzanne Dufner, City of Gates

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DEPT OF

FEB 01 2007

LAND CONSERVATION
AND DEVELOPMENT

NOTICE OF ADOPTION

Must be filed within 5 working days
See OAR 660-18-040

Jurisdiction: City of Gates Local File Number: LA 06-1
Date of Adoption: January 18, 2007 Date Mailed: January 30, 2007
Date Proposal was Provided to DLCD: August 25, 2006

Type of Adopted Action: (Check all that apply)

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment

Land Use Regulation Amendment Zoning Map Amendment

New Land Use Regulation Other: _____
(Please Specify Type of Action)

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

This amendment revised Section 15.020(L) of the Gates Zoning Ordinance, which previously allowed domestic farm animals on lots two (2) acres in size or greater as a permitted use in the Residential (R) Zone District. The adopted amendment prohibits keeping of domestic farm animals in the R Zone after December 14, 2006; with the exception of allowing no more than ten (10) chickens, other fowl or rabbits on property at least 1/4 acre in size for noncommercial purposes.

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."

The proposed amendment deleted all domestic farm animals in the R Zone and did not include any provisions for properties that currently have legally established farm animals. The revised amendment allows properties with domestic farm animals legally established prior to December 14, 2006 to continue keeping animals provided they obtain a permit from the City Recorder by February 14, 2007.

Plan Map Changed from: _____ to _____

Zone Map Changed from: _____ to _____

Location: _____

Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: _____

Was an Exception Adopted? Yes: _____ No:

DLCD File Number: 001-06 (15494)

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: _____

Local Contact: Suzanne Dufner Area Code + Phone Number: 503) 588-6177
Address: MWVCOG, 105 High St SE
City: Salem Zip Code+4: 97301-3667

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 (2) Copies 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. Submit **TWO (2) copies** of the adopted material, if copies are bound please submit **TWO (2) complete copies** of documents and maps.
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 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 copy this form onto 8 1/2 x11 green paper only; or call the DLCD office at (503) 373-0050; or fax your request to: (503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 180

An ordinance amending Ordinance No. 173, the City of Gates Zoning Ordinance.

WHEREAS, on October 19, 2006, the City Council of the City of Gates conducted a public hearing to consider action to amend the City of Gates Zoning Ordinance; and

WHEREAS, notice of the said public hearing was duly given to the public pursuant to the of the State's public notice requirements;

NOW, THEREFORE, The City of Gates, Oregon ordains as follows:

Section 1. PURPOSE. To adopt an amendment to the City of Gates Zoning Ordinance No. 173.

Section 2. CHAPTER 15 - R Zone (Residential). Chapter 15: R Zone is hereby revised by the following:

Subsection 15.020(K) Accessory structures and uses, provided the requirements in Chapter 11 of this Ordinance are satisfied. Accessory uses and structures may include:

1. Customary residential accessory buildings and structures for private use, such as a pergola, greenhouse, hot house, hobby shop, summer house, patio, enclosed or covered porch, deck, woodshed, shelter for domestic animals maintained as pets of the residents.
2. Fallout shelters.
3. Fences.
4. A private garage for each single-family dwelling on the same lot with or within the dwelling to which it is accessory and in which no garage business or industry is conducted.
5. Sleeping quarters in the main building or detached structure for domestic employees of the resident of the main building.
6. Guest houses and guest quarters not in the main building provided such houses and quarters are and remain dependent upon the main building for kitchen facilities; and, the guest facilities are not used for residential purposes.
7. Swimming pools for private use;
8. Gardens, orchards or crop cultivation provided that only the occasional sale or trading of plants and produce grown on the premises shall be permitted.
9. Chickens and other fowl, and rabbits may be maintained on any property containing at least one-quarter of an acre (10,890 square

feet), provided the number of animals does not exceed ten (10), no sales or retail business is conducted and said animals are maintained in pens or cages at all times. No roosters are permitted at any time.

Subsection 15.020(L) Keeping of Domestic farm animals not permitted under Section 15.020(K)(9) that were legally established prior to December 14, 2006 that are kept by residents of the premises for their own private, noncommercial use, may continue, but may not be expanded provided the animals are kept in accordance with the requirements found in Section 15.020(L)(1 through 6) below. Keeping of domestic farm animals does not include animal boarding facilities or leasing property for grazing purposes. on lots having an area not less than two (2) acres of unencumbered land. Property is considered encumbered if the property contains a residential home, apartment or other human living quarters, or if existing or future sanitary sewer (septic) or septic drainfields are located within the property. The area allocated to domestic farm animals may contain a stable, barn, pen or other accessory buildings or structures for raising and keeping of animals. Such structures shall be set back at least 40 feet from the rear and side property lines, and 60 feet from the front property line.

1. A permit to continue to keep the animals is obtained from the City Recorder prior to February 14, 2007. No person shall cause or allow the keeping of any livestock on real property without a current, valid livestock (e.g., cattle, goats, horses, sheep) permit.

(a) Permit Exemption. If any real property where livestock is kept is within the city limits prior to the adoption of this Ordinance, provided that no corrals, stables or other structures housing the livestock, other than fences, are located within two hundred (200) feet of a dwelling owned or occupied by another person, that real property containing livestock shall be allowed to maintain the livestock on such property without purchasing a livestock permit for a time not to exceed five (5) years from the date of adoption of this Ordinance or until the property is sold, whichever occurs first. After such period of exemption, the person owning the livestock must apply for the required permit.

(a)(b) Permit Issuance. The City Recorder shall issue a permit for keeping livestock **domestic farm animals** upon application on a form prescribed by the City of Gates and payment of the permit fee as set by City Council resolution, if the City Recorder finds that:

- i. The premises where the livestock **domestic farm animals** will be kept are sanitary and adequately enclosed from other persons' property.
- ii. The premises lie not less than two hundred (200) feet from any structure used for human occupancy or, in the alternative, the occupant and owner of such structure have agreed in writing to the applicant's keeping of the livestock **domestic farm animals**.

- iii. As a condition of the issuance of a permit, the premises shall remain open for inspection at reasonable times by the City Recorder or their designee for compliance with this Ordinance.

~~(b)(c)~~ Permit Revocation. A livestock domestic farm animal permit shall be revoked if the City Recorder finds that the premises are no longer sanitary or adequately enclosed, or reasonably open to inspection, or that fifty (50) percent or more of the owners of abutting property now object in writing to the permittee's keeping of livestock domestic farm animals, or that the livestock domestic farm animals present an unreasonable risk of danger to other persons or property. Any permittee whose permit is revoked shall have 30 days to relocate or otherwise dispose of the livestock domestic farm animals, unless the City Recorder finds that the livestock domestic farm animals pose an unreasonable threat to the health or safety of the public, in which case any revocation shall be effective immediately.

~~(c)(d)~~ Permit - Appeal of Revocation or Denial. Any person whose application for a permit is denied or whose permit is revoked by the City Recorder may seek review of the denial or revocation by filing a written appeal to be heard by the City Council. Such appeal must be filed not more than ten (10) days after receiving notice of denial or revocation. The appellant shall have the burden of proving the error in the City Recorder's determination.

- 2. Animal-related structures must be maintained in a condition as to not create a nuisance for neighbors. No excessive odors, noise, piles of animal waste or other nuisance that deprives a neighbor, or other person, or residential livability, peace, and quiet are allowed. Proper sanitation shall be maintained in conformance with applicable health standards for all farm animals. Proper sanitation includes:

- (a) Not allowing animal waste to accumulate.
- (b) Not allowing animal waste to contaminate groundwater or drainageways.
- (c) Taking the necessary steps to insure odors resulting from farm animals is not detectable beyond the property line.
- (d) Storing all farm animal food in metal or other rodent-proof containers.

~~3. The total area needed for horses, cows or sheep is two unencumbered acres per single animal. Each additional animal requires an additional 15,000 square feet. The total number of horses, cows and/or sheep on one parcel shall not exceed ten (10) total animals.~~

~~4. Chickens and other fowl, and rabbits may be maintained on any property containing at least one quarter of an acre (10,890 square feet) as long as said animals are not for resale and are maintained in pens or cages at all times. No roosters are permitted at any time.~~

- ~~3.5.~~ No hay or feed deliveries are allowed before 8:00 a.m. or after 6:00 p.m.
- ~~4.6.~~ All domestic farm animals must be under the control of the property owner or lessee by the resident of the premises at all times. All domestic farm animals must be fenced by double fencing in an area that is first fenced at the actual or general area of the actual property line and second (buffer) fencing ten (10) feet inside of that property line. No domestic farm animal shall be allowed in the ~~twenty~~ten (10)-foot buffer area. All fencing must be maintained in a condition that keeps the domestic farm animal within the property. The ten (10) foot buffer area shall be kept maintained and mowed at all times.
- ~~7.~~ Domestic farm animals on properties prior to the adoption of this Ordinance may continue but may not be expanded except in conformance with the standards contained herein.
5. The area allocated to domestic farm animals may contain a stable, barn, pen, or other accessory buildings or structures for raising and keeping of animals. Such structures shall be set back at least 40 feet from the rear and side property lines, and 60 feet from the front property line. Exceptions to this requirement may be reviewed and approved through the conditional use permit process as provided for in Chapter 6 of the Gates Zoning Ordinance.
6. Cessation of Use. If a property keeping domestic farm animals under this Section (15.020(L)) is discontinued for a period of ninety days or more, or if the property comes under different ownership, the keeping of farm animals shall cease and may not be resumed (Ord No.180).

Section 15.030. TRANSITIONAL USES. In addition to the uses identified as Permitted Uses in the R zone, the following transitional uses shall be permitted where the side of a lot abuts any commercial zone or industrial zone; provided, that such transitional use does not extend across a street or alley, and, in no case shall the transitional use be located more than 165 feet from the boundary of the less-restrictive zone it adjoins. Permitted transitional uses shall include:

- (A) Outdoors plant nursery, including wholesale and retail commercial activities.
- (B) Privately operated kindergarten, or, day care facilities containing thirteen (13) or more children; provided, the residential character of the building is unchanged.

Section 15.045. PROHIBITED USES. Within the R Zone, the following uses are prohibited:

- (A) Commercial enterprises as defined in Section 2.020 (DEFINITIONS).

- (B) The keeping, raising or breeding of any livestock (e.g., cattle, goats, horses, sheep) swine, roosters, bee hives or stands of bees, or geese.
- (C) Exotic, wild or dangerous animals. "Exotic, wild, or dangerous animals" means and includes any animal which, because of its size, vicious nature, poisonous bite or sting, or other characteristics, would constitute a danger to human life or property if not kept or maintained under the immediate control of the owner. Exotic animals include but are not limited to lions, tigers, leopards, cheetahs, ocelots or other cats not indigenous to Oregon as well as mountain lions (also known as cougars, pumas, panther, *Felis concolor*); monkeys, apes, gorillas, or other non-human primate; wolves, or any other canine except the domestic dog; fowl of the ratite group such as ostrich, peacock, emus; and bears (Subfamily Ursinae).

Section 3. SEVERABILITY. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared invalid, such declaration shall not affect the validity of any other section, subsection, paragraph, sentence, clause or phrase. If this ordinance or any portion thereof should be held to be invalid on one ground but valid on another it shall be constructed that the valid ground is the one upon which the ordinance or such portion was enacted.

Section 4: Except as amended herein the remainder of Ordinance No. 173 shall remain in full force and effect.

Section 5: Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

ADOPTED by the Common Council of the City of Gates this ¹⁸ ~~14th~~ day of ^{Jan} ~~December~~ 2006: 2007.

AYES: Kathy Sherman Jerry Stevens *M. McQuinn Mary Flunder Joanna Cook*

NAYS: _____

ABSENT: T. Que Denver

Signed by the Mayor this 14th day of December 2006.

Kathy A. Sherman
Kathy Sherman, Mayor

Attest:

City of Gates
By: Judy Downer
Judy Downer, City Recorder

*15 Dec 14 2006
2nd Jan 18 2007*

*ATTEST:
Suzanne Dufrenoy
503
508-6177*

ORDINANCE NO 180.doc

Memorandum

MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS
105 HIGH STREET S. E. SALEM, OREGON 97301-3667
TELEPHONE: 503-588-6177 FAX: 503-588-6094

TO: City of Gates Planning Commission and City Council
FROM: Suzanne Dufner, City Planner
COPY: Judy Downer, City Recorder; City Attorney
RE: Legislative Amendment 06-01 – Amendment to delete farm animals in R Zone
DATE: October 3, 2006

Proposal

At the August 2006, City Council meeting, the City Council passed a resolution to initiate an amendment to the City of Gates Zoning Ordinance to delete Section 15.020(L) which permits domestic farm animals on lots having an area not less than two (2) acres of unencumbered land in the City's Residential (R) Zone District.

A copy of the draft amendment to the Gates Zoning Ordinance, Section 15.020(L), is attached to this memorandum for Planning Commission and City Council review. The proposed amendment would eliminate the ability to keep domestic farm animals on lots having an area not less than two (2) acres of unencumbered land. The amendment would allow domestic farm animals on properties legally established prior to December 30, 2006, to continue but may not be expanded unless, allowed through conditional use approval.

Legislative Amendment Approval Process

The Gates Zoning Ordinance classifies an amendment to the Zoning Ordinance as a Type IV, legislative land use actions which, requires a public hearing before the Planning Commission and the City Council. Upon close of the Planning Commission Public Hearing, the Planning Commission shall make a recommendation to the City Council regarding the proposed amendment. The City Council may approve or dismiss an amendment to the text of the Zoning Ordinance based upon the criteria found in the Gates Zoning Ordinance Section 4.050.

Findings

The proposed amendment is consistent with the criteria for approving an amendment to the text of the Gates Zoning Ordinance (GZO Section 4.050) as demonstrated by the following findings:

1. Criterion 4.050(A) requires the proposed amendment comply with the Statewide Land Use goals and related Administrative Rules. The proposal is consistent with Statewide Planning Goal 10 (Housing) by reinforcing the use of the residential zone for urban residential uses. The proposal is also consistent with Statewide Planning Goal 14 (Urbanization) because it provides for a more orderly and efficient transition from rural

to urban land use, accommodates urban population inside the city's urban growth boundary, promotes efficient use of land, and provides for a more livable community.

2. Criterion 4.050(B) requires the proposed amendment to conform to the City's Comprehensive Plan. The proposed change is consistent with the City of Gates Comprehensive Plan as demonstrated by the following applicable residential policy:

Residential Policy 2: Residential development shall be encouraged in a compact and efficient manner to provide the needed housing units for varying income levels, reduce the amount of land used for residences, conserve energy supplies, and facilitate the provision of public facilities and services in an efficient and economic manner.

The proposed change is consistent with Residential Policy 2 because it no longer requires that parcels be tied up as 2-acre minimum sites to allow keeping of domestic farm animals. Eliminating this need allows parcels to be smaller and to encourage more compact and efficient use of the city's residential lands.

3. Criterion 4.050(C) requires that the public need is best satisfied by the proposed change. The public need may be construed to be that which is consistent with the City's comprehensive plan. The proposed change is consistent with the City's Comprehensive Plan as demonstrated in Finding #2 above. For this reason, the proposed amendment is in the public interest.
4. Criterion 4.050(D) requires that the change will not adversely affect the health, safety and welfare of the community. The proposed change will not adversely affect the public health, safety and welfare. The proposed amendment is likely to have a positive affect on the public health, welfare and safety by reducing potential health hazards associated with keeping of farm animals in more densely populated areas and reducing nuisances associated with keeping farm animals in urban areas.

Recommendation

The City Planner recommends that the Planning Commission and City Council approve the proposed amendment to the Gates Zoning Ordinance as attached. Sample Planning Commission and City Council motions are as follows.

SAMPLE PLANNING COMMISSION MOTIONS

1. Motion to recommend **approval**:

I MOVE TO RECOMMEND THAT THE CITY COUNCIL ADOPT THE PROPOSED ZONING ORDINANCE AMENDMENT, ADOPTING FINDINGS IN FAVOR DEVELOPED BY STAFF.

OR

I MOVE TO RECOMMEND THAT THE CITY COUNCIL ADOPT THE PROPOSED ZONING ORDINANCE AMENDMENT, AS FURTHER AMENDED BY THE PLANNING COMMISSION AND ADOPTING THE FINDINGS IN FAVOR DEVELOPED AT THE PLANNING COMMISSION'S PUBLIC HEARING.

2. Motion to recommend **denial**:

I MOVE TO RECOMMEND THAT THE CITY COUNCIL DENY THE PROPOSED ZONING ORDINANCE AMENDMENT, ADOPTING FINDINGS DEVELOPED AT THE PLANNING COMMISSION'S PUBLIC HEARING.

SAMPLE CITY COUNCIL MOTIONS

1. Motion to recommend **approval**:

I MOVE TO ADOPT THE PROPOSED ZONING ORDINANCE AMENDMENT, ADOPTING FINDINGS IN FAVOR DEVELOPED BY THE PLANNING COMMISSION.

OR

I MOVE TO ADOPT THE PROPOSED ZONING ORDINANCE AMENDMENT, ADOPTING THE FINDINGS IN FAVOR DEVELOPED BY THE PLANNING COMMISSION AND AS FURTHER AMENDED BY THE CITY COUNCIL.

2. Motion to recommend **denial**:

I MOVE TO DENY THE PROPOSED ZONING ORDINANCE AMENDMENT, ADOPTING FINDINGS DEVELOPED AT THE CITY COUNCIL'S PUBLIC HEARING.

Attachment: Proposed Amendment to the Gates Zoning Ordinance Section 15.020(L).