

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING  
ORDINANCE NUMBER 1712, THE ZONING ORDINANCE (ZA-94-02).**

**WHEREAS**, ORS 197.667 sets standards for residential homes and residential facilities which must be implemented by cities and counties within the State of Oregon, and

**WHEREAS**, the Federal Fair Housing Act requires residential homes and residential facilities to be evaluated by standards no different for single family residences, and

**WHEREAS**, the City Comprehensive Plan promotes housing choice and diversity in order to meet all housing needs within the City of Milwaukie, and

**WHEREAS**, the City Zoning Ordinance must be amended to comply with ORS 197.667 and the Federal Fair Housing Act, and

**WHEREAS**, public hearings were held on this matter by the City Planning Commission on February 22, 1994, and by the City Council on March 15, 1994,

**NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS  
FOLLOWS:**

Section 1. Findings. Findings of fact in support of the proposed amendments are as follows:

1. Zoning text amendments must meet the criteria of Sections 904 and 905 of the City Zoning Ordinance. These criteria are addressed in the subsequent findings.
2. Section 904.1A. requires:

**Applicable requirements of Section 1003.**

Section 1003 requires a completed application and site plan. An application is included in File ZA-94-02, however, since this is a legislative text amendment, no site plan is required.

3. Section 904.1B. requires:

**Reasons for requesting the proposed text amendments.**

The Milwaukie City Planning Commission initiated the process to revise the Zoning Ordinance because the current definitions for Residential Home and Residential Care Facility were discovered to not meet the requirements of ORS 197.660-.670 and the provisions of the federal Fair Housing Act as per the City Attorneys.

4. Section 904.1C. requires:

**Explanation of how the proposed text amendment is consistent with other provisions of this Ordinance.**

The proposed text amendments to Sections 103, 401.1A., and 501.1H. provide more clear and complete descriptions of the facilities and uses involved. Cross referencing has been included where needed to insure consistency within the overall text of the Zoning Ordinance.

5. Section 904.1D. requires the following be satisfied.

**The approval criteria of Section 905.**

These criteria are satisfied in subsequent findings.

6. Section 905.1A. requires:

**The proposed amendment must conform to applicable Comprehensive Plan goals, policies, and objectives and be consistent with the provision of City ordinances.**

Objective 2 of the Plan Review and Amendment Process Chapter within the Comprehensive Plan requires the Comprehensive Plan be implemented through appropriate ordinances and action.

Modifications to these sections of the Zoning Ordinance will have the effect of making the review process for residential uses both easier to implement because of the use of clear language and in compliance with state and federal statutes.

Objective 6 of the Residential Land Use and Housing Element also requires the city encourage provisions for handicapped and assisted housing.

The modifications proposed will facilitate Residential Home location in all residentially zoned areas and will allow a new category of assisted care facility, Congregate Housing Facility, within areas currently allowed for multifamily residences.

7. Section 905.1B. requires:

**The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The Planning Commission and City Council shall use its discretion to weight these factors in determining the intent of the proposed zone.**

The factors mentioned relate to a physical development proposal and are not applicable in regards to a legislative zoning text amendment.

8. Section 905.1C. requires:

**The proposed amendment will meet or can be determined to reasonably meet applicable regional, State, or federal regulations.**

Proposed new and revised zoning definitions in Exhibit 1 have been determined by the City Attorney to meet the provisions of ORS 660-670 and the federal Fair Housing Act. In addition, the language provided is intended to be clear and objective in compliance with various court case resolutions.

9. Section 905.1D. requires:

**The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.**

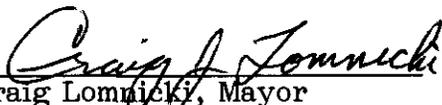
This criterion is not applicable as it relates to a specific development proposal rather than to a text amendment.

Section 2. Zoning Ordinance Text Amendment. The Zoning Ordinance text of Ordinance Number 1712 is amended as described in Exhibit A.

Read the first time on March 15, 1994 and moved to a second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council on March 15, 1994.

Signed by the Mayor on March 15, 1994.

  
Craig Lomnicki, Mayor

ATTEST:

  
Pat Duval, City Recorder

Approved as to form:

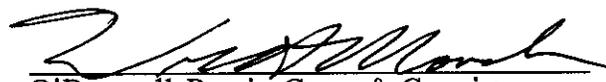
  
O'Donnell Ramis Crew & Corrigan  
City Attorney

EXHIBIT A.

City Council Hearing: March 15, 1994  
Bold and Underline: New Text  
Strikeover: Deleted Text

A. Amend Section 103 as follows:

Family: Means ~~one~~ any person or ~~two or more~~ group of persons related by blood, marriage, legal adoption, or guardianship; ~~or a group of not more than five persons (excluding servants) all or part of whom are not related by blood, marriage, legal adoption, or guardianship living together as~~ within a single housekeeping unit as defined in this section in a dwelling unit.

Housekeeping unit: Means a living arrangement within a dwelling unit in which a single common kitchen facility, laundry facility, living and dining rooms and other general living areas of the dwelling, and the duties, rights and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

~~Residential home: Means a residence for five or fewer physically or mentally handicapped persons and for not more than two staff persons who need not be related to each other or to any other home resident. Residential homes may be permitted as a home occupation in all areas zoned for residential or commercial purposes.~~ dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services and care, on a permanent basis, for the elderly, disabled, handicapped, or others requiring such a residence as defined by the Federal Fair Housing Amendments Act of 1988.

~~Residential care facility: Means a facility that provides, for six or more physically handicapped or socially dependent individuals, residential care in one or more buildings or contiguous properties. Residential care facilities may be allowed in all areas subject to Community Service Overlay review.~~

Congregate housing facility: Means a multi-dwelling unit permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single family residential housing. These facilities may provide regular on-premise supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing

**Amendments Act of 1988. Congregate housing facilities are permitted outright in all R-Zones which permit multifamily apartments and require conditional use approval in those R-Zones which allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.**

**Temporary or transitional facility: Means a facility which may provide temporary or transitional services to families or individuals including lodging where the average stay is 60 days or less. Such facilities shall be classified as Community Service Uses and may include shelters, community counseling centers, rehabilitation centers, and detention and detoxification facilities.**

B. Add to Section 501.1H.

**Residential employees, staff, caregivers, and caretakers. One space per each fulltime equivalent (FTE) employee or fraction thereof over .5 FTE in addition to the normal residential space requirements.**