

July 14, 2003

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
July 22, 2003**

SUBJECT: TEXT AMENDMENT TO THE ZONING ORDINANCE REGARDING LARGE
DAY CARE HOMES

Recommendation:

Waive first reading and adopt the attached ordinance amending Sections 17.04.040 and 17.08.020, Chapter 17.40, and Section 17.40.100 of the Zoning Ordinance.

Background:

The City's zoning provisions regulating large day care homes, that is, single family residences where day care is provided for 7 to 14 children, are not consistent with current provisions of state law. (Small day care homes, providing care for up to 8 children, are classified as a residential use of property by state law and are not regulated in the Zoning Ordinance.) The purpose of this code amendment is to overhaul the regulations for large day care homes and make them consistent with applicable state law.

Analysis:

From time to time, changes in state law require corresponding changes to City zoning regulations. In the present case, there have been changes in the California Health and Safety Code aimed at encouraging the establishment of day care homes in residential neighborhoods to provide day care for children. Highlighting the need to update the current regulations, an application was recently submitted to relocate a large day care home from one location to another in the City.

The following is a comparison of the resulting state law provisions with current and proposed City zoning regulations regarding large day care homes:

COMPARISON BETWEEN STATE LAW AND CITY ZONING ORDINANCE		
Provision	Current State Law	Current and Proposed Zoning Ordinance
Definitions	<p>"Large Family Day Care Home" means a home that provides family day care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 of the California Health and Safety Code.</p> <p>"Small Family Day Care Home" means a home that provides family day care for 8 or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 of the California Health and Safety Code."</p>	<p>Current: "Large day care home" means day care provided within a home for a minimum of seven children and a maximum of twelve (12) children, including children who reside in the home.</p> <p>"Small day care home" means day care provided within a home for one to six children, maximum, including children who reside in the home.</p> <p><i>Amendment: Closely follows the state law definitions at left.</i></p>

COMPARISON BETWEEN STATE LAW AND CITY ZONING ORDINANCE		
Provision	Current State Law	Current and Proposed Zoning Ordinance
Requirements to be met to increase number of children from 12 to 14	<p>1. At least two of the children are at least six years of age.</p> <p>2. No more than three infants are cared for during any time when more than 12 children are cared for.</p> <p>3. The licensee notifies each parent that the facility is caring for two additional school age children and that there may be up to 13 or 14 children in the home at one time.</p> <p>4. The licensee obtains the written consent of the property owner when the day care home is operated on property that is leased or rented.</p>	<p>Current: No provision, except that number of children is limited to 12 only.</p> <p><i>Amendment: Allows up to 14 children if the conditions at left are met.</i></p>
Parking	<p>“The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to such homes...”</p>	<p>Current: Minimum 6 onsite spaces in addition to the two required on-site resident spaces.</p> <p><i>Amendment: Reduces parking requirement to as required by the Zoning Ordinance for the primary residential use of the property.</i></p>
Noise	See above	<p>Current: No provision</p> <p><i>Amendment: Restrictions to ensure compliance with City noise regulations (Municipal Code Chapter 8.24) may be placed on the operation of the day care home, including but not limited to the time and location of outdoor activities.</i></p>
Findings for approval	See above	<p>Current: No provision</p> <p><i>Amendment: Allows imposition of conditions of approval and requires approval of the permit if the Director finds that all standards have been met and that: “Approval of the application will not create conditions materially detrimental to the public health, safety and general welfare or injurious to or incompatible</i></p>

COMPARISON BETWEEN STATE LAW AND CITY ZONING ORDINANCE		
Provision	Current State Law	Current and Proposed Zoning Ordinance
		<i>with other properties or land uses in the vicinity in terms of traffic, parking, noise, concentration of similar uses, or other impacts.</i>
Procedures and Required Permit	Mailed notice to be given to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the boundaries of the proposed large day care home. No hearing on the application for a permit shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision.	Current: Same as for CUP's <i>Amendment: Hearing by Community Development Director on request, appeal to Planning Commission. Provides for Day Care Permit consistent with state law provisions at left: 100-foot notification radius and no hearing unless requested by the applicant or affected person. Appeals of CD Director's decision to Planning Commission allowed within 10 days of decision.</i>
Change of Occupancy	Use of a single family dwelling for a day care home shall not constitute a change of occupancy under the State Housing Law or City building and fire codes.	Current: No provision <i>Amendment: Restates state law provision at left.</i>
Environmental Review	the establishment and operation of large day care homes shall not be subject to the provisions of the California Environmental Quality Act (Division 13 of the Public Resources Code)	Current: No provision <i>Amendment: Restates state law provision at left.</i>

The attached draft code amendment provides new regulations for large family day care homes which reflect those of state law as described in the middle column above.

It should be noted that the amendment changes the district regulations for the R-1 zone. Because of the organization of the Zoning Ordinance, all uses which are permitted in the R-1 zone are also permitted in all other residential districts in the City. Thus, large day care homes are presently allowed as an accessory use in all residential districts.

State law also provides specific exemption of these facilities from environmental review, providing no latitude for more extensive City review. The attached amendment will still provide for reasonable City review and control of these day care facilities consistent with state law, in order to mitigate any impacts on surrounding neighborhoods. Staff therefore recommends approval of the amendment.

Environmental Review:

This code amendment is categorically exempt from environmental review pursuant to the California Environmental Quality Act Guidelines, Section 15305, Class 5: Minor Changes in Land Use Limitations, because the amendment would make minor changes in the regulation of an accessory land use.

Sol Blumenfeld, Director
Community Development Department

Concur:

Stephen R. Burrell,
City Manager

Attachments:

1. Planning Commission Draft Resolution

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH AMENDING THE
HERMOSA BEACH ZONING ORDINANCE RELATING TO THE
REGULATION OF DAY CARE HOMES IN THE CITY**

The City Council of the City of Hermosa Beach does ordain as follows:

SECTION 1. Sections 17.04.040 and 17.08.020, Chapter 17.40, and Section 17.40.100, of the City's Zoning Ordinance are being amended in order to bring the Ordinance into consistency with state law with regard to the regulation of large day care homes.

SECTION 2. The Planning Commission conducted a duly noticed public hearing to consider the subject code amendment on July 15, 2003, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission, and the Planning Commission recommended approval of the code amendment.

SECTION 3 The City Council conducted a duly noticed public hearing to consider and review the code amendment and the recommendation of the Planning Commission on July 22, 2003, at which testimony and evidence, both written and oral, and the record of the Planning Commission's recommendation was presented to and considered by the City Council.

SECTION 4 Based on the foregoing, the City Council hereby ordains that the Hermosa Beach Municipal Code be amended as follows:

1. The definitions for "Day Care Homes" in Section 17.04.040 of Title 17 of the Hermosa Beach Municipal Code are hereby amended to read as follows:

" 'Day Care Home' or 'Family Day Care Home' means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a 'large day care home' or a 'small day care home'.

" 'Day Care Home, Large' means a home that provides family day care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 of the California Health and Safety Code.

" 'Day Care Home, Small' means a home that provides family day care for 8 or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 of the California Health and Safety Code."

2. Subsection 17.08.020-D of Title 17 of the Hermosa Beach Municipal Code, pertaining to permitted uses in the R-1 Zone, is hereby amended to read as follows:

“D. Day care homes, large, as an accessory use to a single family detached dwelling if a Day Care Permit is approved pursuant to Section 17.40.100.”

3. The title of Chapter 17.40 is hereby amended to read as follows: “CONDITIONAL USE PERMIT AND OTHER PERMIT STANDARDS”. Also, Section 17.40.100 is hereby amended to read as follows:

“17.40.100 Large day care homes.

“A. Number of children. Large day care homes are permitted as an accessory use to a single family detached dwelling if a Day Care Permit is approved pursuant to this Section. Such day care homes provide care for seven to 12 children, but may also provide care for up to 14 children if all of the following conditions are met:

- “1. At least two of the children are at least six years of age.
- “2. No more than three infants are cared for during any time when more than 12 children are cared for.
- “3. The licensee notifies each parent that the facility is caring for two additional school age children and that there may be up to 13 or 14 children in the home at one time.
- “4. The licensee obtains the written consent of the property owner when the day care home is operated on property that is leased or rented.

“B. Requirements for large day care homes. Large day care homes shall conform to the following requirements:

- “1. All facilities shall comply with this section and with any additional requirements imposed as part of the Day Care Permit or of any other applicable permit.
- “2. All facilities shall comply with the development standards of the residential district in which they are located.
- “3. Parking shall be provided in accordance with the applicable requirements of the primary residential use of the property.
- “4. Restrictions to ensure compliance with City noise regulations (Municipal Code Chapter 8.24) may be placed on the operation of the day care home, including but not limited to the time and location of outdoor activities.

“C. Findings for approval of large day care homes. Large day care homes shall be permitted by the Director of Community Development. The Director shall approve the Day Care Permit if the following findings are met:

- “1. The requirements set out in Paragraph B of this Section, preceding, have been satisfied.
- “2. Approval of the application will not create conditions materially detrimental to the public health, safety and general welfare or injurious to or incompatible with other properties or land uses in the vicinity in terms of traffic, parking, noise, or other impacts.

“D. Procedures for review of day care permits. Day Care Permits shall be reviewed in accordance with the following procedures:

- “1. Application for a day care permit shall be made to the Director of Community Development on forms provided by the Director and shall include such information as may be reasonably required by the Director for a complete understanding of the day care home proposal.
- “2. The application shall include a listing of the name and address of all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large day care home property. Notification of the proposal shall be mailed to such owners not less than ten days prior to the date on which review of the application is scheduled.
- “3. No hearing on the application for a permit issued pursuant to this Section shall be held unless a hearing is requested by the applicant or other affected person. If a hearing is requested, the Director shall conduct the hearing.
- “4. The Director shall take action on the application in accordance with the provisions of Paragraph C of this Section. Within 10 calendar days of the decision, the applicant or other affected person may appeal the decision to the Planning Commission. The appellant shall pay the cost of the appeal, as set by the City. Appeals shall be made in writing on forms provided by the Director. The filing of an appeal shall suspend the Director’s decision until resolution of the appeal by the Planning Commission. In hearing the appeal, the Planning Commission shall conduct a duly advertised public hearing, public notice of which shall be given at least ten calendar days prior to said hearing. After considering the appeal, the Planning Commission may confirm, reverse, or modify the decision of the Director. The Planning Commission’s decision shall be final unless appealed to the City Council.

“E. No change of occupancy. Use of a single family dwelling for a day care home shall not constitute a change of occupancy under the State Housing Law or City building and fire codes.

“F. No environmental review. In accordance with in Section 1597.46 of the California Health and Safety Code, the establishment and operation of large day care homes shall not be subject to the provisions of the California Environmental Quality Act (Division 13 of the Public Resources Code).”

SECTION 5. This code amendment is categorically exempt from environmental review pursuant to the California Environmental Quality Act Guidelines, Section 15305, Class 5: Minor Changes in Land Use Limitations, because the amendment would make minor changes in the regulation of an accessory land use.

PASSED, APPROVED, and ADOPTED this 22nd day of July 2003 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY