



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

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### NOTICE OF ADOPTED AMENDMENT

February 2, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Hermiston Plan Amendment  
DLCD File Number 005-06

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 16, 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: Gloria Gardiner, DLCD Urban Planning Specialist  
Darren Nichols, DLCD Regional Representative  
Clinton Spencer, City of Hermiston

<paa> ya

# FORM 2

DEPT OF

## 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

(See reverse side for submittal requirements)

JAN 29 2007  
LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: City of Hermiston Local File No.: Airport Zone Text Amendment  
(If no number, use none)

Date of Adoption: January 22, 2007 Date Mailed: January 26, 2007  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: November 26, 2006

☐ 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.]  
Amend uses permitted in Airport zone from a use permitted in a C-1 zone to a use permitted in a C-2 zone. This corrects a typographical error in the Airport zone, which historically permitted C-2 uses. When the current zoning ordinance was adopted, a typographical error changed the outright permitted uses in the airport zone. This error was not noted for several years.

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  
Specify Density: Previous: N/A New: N/A  
Applicable Statewide Planning Goals: 1, 2, 9  
Was an Exception Adopted? Yes: ☐ No: ☒

DLCD File No.: 005-06(15707)





**ORDINANCE NO. 2128**

AN ORDINANCE AMENDING CHAPTER 157 OF THE CITY OF HERMISTON CODE OF ORDINANCES TO AMEND USES PERMITTED IN THE AIRPORT ZONE.

THE CITY OF HERMISTON DOES ORDAIN AS FOLLOWS:

**SECTION 1.** §157.070 of the Hermiston Code of Ordinances is hereby amended as follows (*italicized text to be added*):

**§157.070 Permitted Uses**

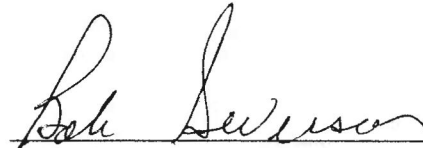
In an A zone, the following uses and their accessory uses are allowed outright:

- (A) A use permitted outright in a ~~C-1~~ C-2 zone; and
- (B) A use permitted outright in a M-1 zone.

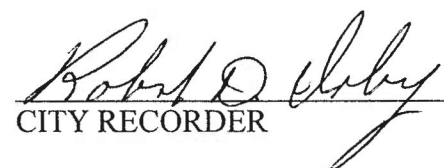
**SECTION 2.** The findings of fact as adopted by the City Council on January 22, 2007 are incorporated herein by reference.

**SECTION 3.** The effective date of this ordinance shall be the thirtieth day after enactment.

PASSED by the Common Council this 22nd day of January, 2007.  
SIGNED by the Mayor this 22nd day of January, 2007.

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY RECORDER





## Planning Department

180 NE 2<sup>nd</sup> Street

Hermiston, OR 97838

Phone: (541)567-5521

Fax: (541)567-5530

[planning@hermiston.or.us](mailto:planning@hermiston.or.us)

**To:** Mayor and City Council  
**From:** Clinton Spencer, City Planner *CS*  
**Subject:** Proposed Airport Zone Text Amendment  
**Date:** January 17, 2006

A recent commercial development proposal for property located in the Airport Zone revealed an apparent error in the text of the Airport Zone. The city was approached about the possibility of constructing a small car dealership on property zoned "A." Research by staff showed that the current text of the A zone allows uses permitted in the C-1 zone, but not uses permitted in the C-2 zone. Additionally, the zone conditionally allows uses permitted conditionally in the C-2 zone but not uses permitted conditionally in the C-1 zone. This peculiar combination of C-1 and C-2 uses effectively prohibits many commercial uses because uses permitted outright in the C-2 zone are also permitted conditionally in the C-1 zone.

Research by staff revealed that the Airport zone historically has allowed outright uses permitted in the C-2 zone and conditionally permitted uses permitted conditionally in the C-2 zone. This is a much more sensible zoning configuration for airport land. C-1 uses are typically very low impact, small commercial uses such as offices, restaurants and retail stores. An airport by its very nature is a high impact, land intensive area and support activities for an airport are generally land intensive uses as well. It is not unusual to see aircraft maintenance facilities, light manufacturing, car rental yards and other open land uses around an airport. A downtown commercial designation does not permit the types of uses associated with airport activities. However, the outlying commercial C-2 designation does permit exactly the types of uses associated with airport activities.

It appears that every zoning ordinance incorporating the Airport designation allowed C-2 uses until the adoption of Ordinance 1691 in 1990. When Ordinance 1691 was adopted, the allowed uses in the airport zone changed from C-2 to C-1 uses, but still allowed M-1 uses outright. All subsequent zoning ordinances continue the C-1 use allowance. The planning commission minutes from the adoption of Ordinance 1691 contain heavy summaries of the discussion surrounding all proposed changes in the ordinance. However, there is zero discussion of the change in the A zone from C-2 to C-1 uses. It is staff's belief that the change in permitted uses was a typographical error which went unnoticed during the adoption phase of Ordinance 1691. The error has been carried on through subsequent zoning ordinances unnoticed because there is very little land in the city with an A zoning designation and there has been very little development activity within that zone.

Unfortunately, even though the current designation entered the ordinance through an error, correcting the zone requires a full post-acknowledgement plan amendment as proscribed by DLCDD. Therefore, amending the ordinance requires a full public hearing and notice schedule under §157.226(E) of the Hermiston Code of Ordinances and shall follow the procedures for legislative text amendments. The proposed amendment has been determined to be a legislative amendment because it involves only the text of the ordinance.

The proposed change to the ordinance is as follows:

Amend §157.070 of the Hermiston Code of Ordinances as follows (*italicized text to be added*):

#### **§157.070 Permitted Uses**

In an A zone, the following uses and their accessory uses are allowed outright:

- (A) A use permitted outright in a ~~C-1~~ C-2 zone; and
- (B) A use permitted outright in a M-1 zone.

Notice of the proposed action for a zoning text amendment shall be submitted to the Department of Land Conservation and Development 45 days prior to the date set for the initial hearing.

After the close of the evidentiary hearing, the city council shall make findings of fact and make a decision on the proposed amendment.

#### **Draft Findings**

Subject to the comments and considerations of the public hearing, the following findings are presented:

**Goal 1 and Policy 1. Citizen Involvement.** The City will insure that citizens have an adequate opportunity to be involved in all phases of the planning process.

1. Notice of the planning commission hearing was published in the Hermiston Herald at least 10 days prior to the hearing in accordance with §157.226 of the Hermiston Code of Ordinances.
2. No testimony was received as a result of the publication of the notice.
3. The planning commission held a public hearing on January 10, 2007 in accordance with §157.266(F).

**Goal 2 and Policy 3. Intergovernmental Coordination.** The City of Hermiston will facilitate intergovernmental coordination so that decisions affecting local, state, and federal planning and development actions in the Hermiston area are rendered in an efficient and consistent manner.



4. The notice of proposed amendment was sent to the Department of Land Conservation and Development on April 21, 2005, more than 45 days prior to the first evidentiary hearing in accord with Oregon Administrative Rules, Chapter 660, Division 18. The notice to DLCD listed Umatilla County as an affected agency.
5. A notice of public hearing was provided to all affected agencies by direct mail. Umatilla County requested clarification of the proposed amendment.

**Policy 2. Planning Process.** The City of Hermiston will monitor and update periodically its comprehensive plan and implementing ordinances to respond to changing conditions.

6. Policy 2 requires the City to annually review development activity and its impacts.
7. A recent development proposal revealed that the airport zoning standards were not compatible with activities usually conducted near airports. The City is proposing to update those standards to reflect the reality of development activities in the zone.

**Policy 19. Commercial Development.** The City of Hermiston will assure the availability of a sufficient supply of commercial land to accommodate 20-year projected need and strive to achieve the balanced distribution of commercial activities in neighborhoods, downtown and along outlying highways.

8. The existing C-1 uses permitted in the airport zone inhibits development of airport property with uses compatible with airport activities and instead limits development options to commercial activities more appropriate in a downtown setting.
9. Changing the permitted uses from C-1 to C-2 will allow development on properties on or around the airport in a manner more appropriate to the land and noise intensive airport operations.
10. The proposed correction to C-2 uses will allow greater flexibility in commercial development of properties in the Airport zone and encourage a broader range of commercial activities.

**Policy 31. Rail/Air Transportation.** The City of Hermiston will protect the operation of the Hermiston Airport from conflicting land uses and encourage expansion of air and rail transportation to facilitate economic development.

10. As noted in finding #9 above, C-2 uses are more appropriate and compatible with airport operations. The proposed amendment will protect the airport operations and promote commercial activities compatible with airport activities.

#### **Planning Commission Action**

On January 10, 2007, the planning commission held a public hearing on the question of the proposed amendment. No testimony was received at the hearing. Following the close of the

hearing the planning commission adopted the above listed findings of fact and made a recommendation that the city council adopt the proposed amendment.

**Staff Recommendation**

Staff recommends that the city council consider the proposed amendment and all testimony received at the hearing. Since the proposed amendment is actually a return to the historic Airport zoning, correcting an unnoticed typographical error, staff recommends the city council adopt the proposed amendment.