



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: November 30, 2015

Jurisdiction: City of Hermiston

Local file no.: HB 3400

DLCD file no.: 002-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 11/24/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 43 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 002-15 {23997}
Received: 11/24/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: City of Hermiston

Local file no.: **HB 3400**

Date of adoption: 11-23-2015

Date sent: 11/24/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 09-01-2015

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Clinton Spencer, City Planner

Phone: 541-567-5521

E-mail: cspencer@hermiston.or.us

Street address: 180 NE 2nd Street

City: Hermiston

Zip: 97838-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|------------------------|----|--------|--|
| Change from
change. | to | acres. | A goal exception was required for this |
| Change from
change. | to | acres. | A goal exception was required for this |
| Change from
change. | to | acres. | A goal exception was required for this |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Title XV Land Usage, Chapter 157 Zoning, Section 157.151 Prohibited Activities. The adopted amendment prohibits marijuana related activities in commercial and industrial zones pursuant to House Bill 3400.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: Oregon Health Authority, Oregon Liquor Control Commission

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

ORDINANCE NO. 2234

AN ORDINANCE AMENDING TITLE XV, CHAPTER 157 OF THE HERMISTON CODE OF ORDINANCES TO PROHIBIT THE SALE, WAREHOUSING, PROCESSING, AND DISTRIBUTION OF MARIJUANA IN THE CITY'S COMMERCIAL ZONES AND REFERRING THE ORDINANCE TO THE VOTERS

WHEREAS, the State of Oregon through the adoption of House Bill 3400 has authorized eligible cities and counties to enact prohibitions on the sale, warehousing, production, and processing of marijuana; and

WHEREAS, the Hermiston City Council passed resolution 1997 on August 24, 2015, said resolution initiating the process to amend the city's zoning ordinance to prohibit commercial marijuana activities; and

WHEREAS, the Hermiston Planning Commission held a public hearing on October 14, 2015 to receive public testimony and consider the amendment of Title XV, Chapter 157 of the Hermiston Code of Ordinances; and

WHEREAS, the Hermiston City Council held a public hearing on October 26, 2015 to receive public testimony and consider the amendment of Title XV, Chapter 157 of the Hermiston Code of Ordinances; and

WHEREAS, notice of the planning commission and city council hearings was provided to the Department of Land Conservation and Development and published in a newspaper of general circulation in accordance with statutory requirements and local ordinance requirements for notice of legislative amendments; and

WHEREAS, a staff report on the proposed amendments was available seven days prior to the August 12 public hearing and seven days prior to the October 14 and October 26 public hearings and included findings in support of the amendment to the code of ordinances; NOW THEREFORE

THE CITY OF HERMISTON ORDAINS AS FOLLOWS:

SECTION 1. Title XV, Chapter 157 of the Hermiston Code of Ordinances is hereby amended by adding Section 157.151(B) (*Prohibited Activities*) to read as follows:

(B) *Marijuana Related Activities.* The following activities shall be prohibited activities in the R-3, R-4, C-1, C-2, DCO, M-1, and M-2 zones:

1. Marijuana processing sites;
2. Medical marijuana dispensaries registered under ORS 475.314;
3. Marijuana producers licensed under section 19, chapter 1, Oregon Laws 2015;
4. Marijuana processors licensed under section 20, chapter 1, Oregon Laws 2015;
5. Marijuana wholesalers licensed under section 21, chapter 1, Oregon Laws 2015;
6. Marijuana retailers licensed under section 22, chapter 1, Oregon Laws 2015; or

7. Any combination of the entities described in this section.

SECTION 2. The findings of fact as adopted by the city council on October 26, 2015 are incorporated herein by reference.

SECTION 3. The city council shall submit the measure of this ordinance to the electors of the City of Hermiston for approval at the next statewide general election to be held on November 8, 2016.

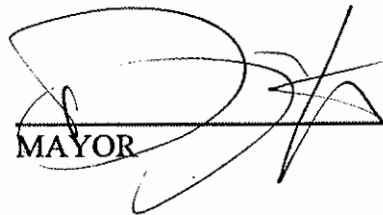
SECTION 4. Upon approval of the electors of the City of Hermiston, the text of this ordinance shall be provided to:

- a) The Oregon Health Authority; and
- b) The Oregon Liquor Control Commission; and
- c) The Oregon Department of Land Conservation and Development


SECTION 5. The effective date of this ordinance shall be thirty days after certification of the election results by the city council of the City of Hermiston.

PASSED by the Common Council this 23rd day of November, 2015.

SIGNED by the Mayor this 23rd day of November, 2015.


MAYOR

ATTEST:


CITY RECORDER

FINDINGS OF FACT

ORDINANCE NO 2234

OCTOBER 26, 2015

Statewide Planning Goals and Comprehensive Plan Policies.

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 20 days prior to the hearing on September 23, 2015 in accordance with §157.226 of the Hermiston Code of Ordinances.
2. Notice of the planning commission and city council hearing was provided by direct mail to 1,723 property owners. The 1,723 mailed notices were provided to all property owners in the R-3, R-4, C-1, C-2, DCO, M-1, and M-2 zones (with duplicated owners at duplicated addresses filtered). The mailed notice complied with the requirements for public notices established by the voters of Oregon through the passage of Ballot Measure 56 which requires notice be mailed to affected property owners when a change in a zoning regulation would limit a use previously allowed.
3. The Planning Commission held a public hearing on October 14, 2015 in accordance with §157.226(F).
4. The City Council held a public hearing on October 26, 2015 in accordance with §157.226(F)

Goal 1 and Policy 2. Planning Process. The City of Hermiston will monitor and update periodically its comprehensive plan and implementing ordinances to respond to changing conditions.

5. Policy 2 requires the City to annually review development activity and its impacts.
6. The City Council directed staff to prepare a code amendment to implement the prohibition of marijuana related activities as permitted by the State of Oregon in HB 3400.

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.

7. The notice of proposed amendment was sent to the Department of Land Conservation and Development on September 1, 2015, more than 35 days prior to the first evidentiary hearing in accord with Oregon Administrative Rules, Chapter 660, Division 18.

Goal 3 Agricultural Lands.

8. The adoption of the prohibition will not impact or prohibit the growth of marijuana for personal use on personal property as authorized under Measure 91. Under Measure 91, up to four plants may be cultivated for personal use.
9. Agricultural growth or large production of marijuana plants on existing agricultural land within the city limits or urban growth boundary is not currently permitted per §157.002 which states that all land uses must be in compliance with federal law and cultivation of marijuana is not permitted under federal law.
10. Use of existing agricultural land for cultivation of legal crops such as alfalfa, potatoes, corn, and other crops is not affected.

Goal 4 Forest Lands, Goal 15 Willamette River Greenway, Goal 16 Estuarine Resources, Goal 17 Coastal Shorelands, Goal 18 Beaches and Dunes, Goal 19 Ocean Resources.

11. There are no tracts of lands subject to Goals 4, 15, 16, 17, 18, or 19 anywhere within the city limits or UGB. These goals are not applicable.

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Space, Goal 6 Air, Water and Land Resource Quality, Goal 7 Areas Subject to Natural Hazards, Goal 8 Recreation Needs, Goal 9 Economic Development, Goal 10 Housing, Goal 11 Public Facilities and Services, Goal 13 Energy Conservation, Goal 14 Urbanization.

12. The City's acknowledged comprehensive plan has policies established to for compliance with Goals 5, 6, 7, 8, 9, 10, 11, 13, and 14. No new uses are being permitted through the amendments. No additional findings must be made demonstrating compliance with these Goals.

Goal 12 Transportation and OAR 660, Division 012

13. The proposed amendment does not permit any new uses. Therefore no new trips will be created and no transportation facility will be significantly affected as a result of the amendment.

Hermiston Zoning Ordinance §157.226

14. The City Council initiated the proposed amendment to the zoning ordinance through the adoption of Resolution 1997 on August 24, 2015 in compliance with §157.226(A).
15. The proposed amendment amends the text of the zoning ordinance, has a widespread impact on the city as a whole, and does not involve an amendment to the zoning map. Therefore, the proposed amendment is a legislative amendment as defined by §157.226(B)(1) and §157.226(C)(1) and (2).
16. Based upon Finding #15, the proposed amendment is not a quasi-judicial action and the approval criteria in §157.226(E)(1) are not applicable.
17. Notice of the proposed amendment was provided to the Oregon Department of Land Conservation and Development on September 1, 2015, more than 35 days in advance of the first evidentiary hearing as required by §157.226(F) and modified by ORS 197.610.
18. A notice of public hearing for the planning commission hearing was published on September 23, 2015 and the city council notice was published on October 7, 2015. Each notice was published in the Hermiston Herald at least 20 days in advance of the hearing as required by §157.229(D).
19. Based upon Finding #15, the proposed amendment is legislative and mailed notice to property owners is not required per §157.229(D). However, Measure 56 as passed by the voters of the State of Oregon requires mailed notice to all property owners within a zone when a change in a land use regulation may limit a use previously allowed on a property. In compliance with Measure 56, the city mailed notice to all property owners in the R-3, R-4, C-1, C-2, DCO, M-1, and M-2 zones on September 23, 2015.



Planning Department

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To: All participants in hearings regarding adoption of Hermiston Ordinance No. 2234
From: Clinton Spencer, City Planner
Subject: Notice of City Adoption of Ordinance No. 2234
Date: November 24, 2015

This is the city's official notification to you that on November 23, 2015, the Hermiston City Council adopted Ordinance No. 2234 amending the Hermiston Zoning Ordinance. The city council's decision was based upon the planning commission recommendation, public testimony and findings of fact. A copy of the findings of fact adopted by the city council is enclosed.

Enclosed you will find a copy of the City's official notice of this decision to the Department of Land Conservation and Development (DLCD). Under state law, the City's decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days of the date the notice was mailed. This notice was mailed on November 24, 2015. The appeal must clearly identify any alleged deficiency in the decision, must suggest specific revisions that would resolve the objection and demonstrate that the objecting party participated at the local level orally or in writing during the local process. An appeal is filed by mailing or delivering a Notice of Intent to Appeal to LUBA that meets LUBA's rules. The Notice must be served on all persons receiving this notice. A filing fee of \$200.00 and a deposit of \$200.00 must be included. You may call LUBA at (503)373-1265 for information concerning the requirements for an appeal.

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