

**UMATILLA COUNTY BOARD OF COMMISSIONERS  
FINAL FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FU-10 ZONE LEGISLATIVE TEXT AMENDMENT, #T-18-076  
HERMISTON URBAN GROWTH BOUNDARY**

**1. Introduction**

The Hermiston Joint Management Agreement (JMA) provides that “[a]mendments to the Comprehensive Plan and sections of the implementing ordinances applicable to the Hermiston Urban Growth Area (UGA) may be initiated by the City, the County or an affected person. The JMA further provides as follows: “County Planning Commission and Board of Commissioners will hold public hearings on all proposed amendments following receipt of City recommendations or co-adoption referrals.” (JMA Section E. Areas within the UGB, Overall Provisions, paragraph 10, pages 6 and 7.)

Based upon the County agreement with the City, the County has responsibility to maintain and implement the FU-10 Zoning Ordinance for the Hermiston Urban Growth Area. The County coordinates with the City on this proposed text amendment and the procedure is consistent with the purpose and intent of the JMA, including Section E. Therefore, the County has the authority to consider and approve the text amendment.

**2. Procedural Matters**

**A. Categorization of this Matter**

This matter is a legislative matter because it proposes to amend the text of the County Zoning Ordinance in a manner that will affect all County properties located in the FU-10 zoning within the Hermiston Urban Growth Area.

**B. Post-Acknowledgment Amendment**

This legislative amendment is an amendment to the County's acknowledged 1983 Zoning Ordinance. ORS 197.610(1) and OAR 660-018-0020(1) require that the County provide notice to the Director of the Oregon Department of Land Conservation and Development ("DLCD") at least 35 days prior to the initial evidentiary hearing. The County provided the 35-day notice to DLCD on DLCD's Form 1, June 21, 2018. The County has satisfied ORS 197.610(1) and OAR 660-018-0020(1) by mailing the post-acknowledgement amendment notice so that it arrived at the office of the Director of DLCD at least 35 days prior to the initial evidentiary hearing.

UCDC 152.771(B) requires the County provide a legal notice for the Planning Commission hearing July 26, 2018 and Board of Commissioners August 22, 2018 hearing by publication in a newspaper of general circulation in the County at least ten (10) days prior to the date of the first hearing. The notice was published in the *East Oregonian* newspaper on July 14, 2018.

The County has satisfied the post-acknowledgement amendment notice required by ORS 197.610(1) and OAR Chapter 660-018-0020(1) and the legal notice of hearing publication in UCDC 152.771(B).

### **C. Procedure**

UCDC 152.752 is entitled "Public Hearings on Amendments." This section provides, in relevant part:

"The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures in section 152.771 of this Chapter at its earliest practicable meeting after it is proposed. The decision of the Planning Commission shall be final unless appealed, except in the case where the amendment is to the text of this Chapter, then the Planning Commission shall forward its recommendation to the Board of Commissioners for final action."

Notwithstanding, the JMA requires a public hearing before the Planning Commission and the Board of Commissioners. Therefore, the County will hold two (2) hearings for this legislative amendment, one (1) before the Planning Commission and another before the Board of Commissioners.

Additionally, UCDC 152.771(A)(1) provides that a public hearing is required for legislative amendments. The procedures and requirements for a quasi-judicial hearing are not applicable to this hearing. Therefore, UCDC 152.772, which applies to quasi-judicial hearings, is not applicable to this legislative proceeding.

### **3. Description of Amendment**

The City of Hermiston, Oregon ("City") is an Oregon municipality. The City's municipal services include the provision of domestic water service to city residents and businesses. The City's water services require a new water tower for water storage. The location of the water tower requires that it be located outside of the City's boundary and in an area zoned FU-10, "Future Urban Zone" ("FU-10"). However, the FU-10 zone prohibits parcels or lots smaller than 10 acres in size and the City does not require a 10-acre parcel/lot for the new water tower.

The City intends to enter into a Purchase and Sale Agreement with a property owner in the FU-10 zone to sell a one-acre lot to the City for the construction of a water tower. Pursuant to UCDC 152.750 (A), the City, as a property owner, is authorized to initiate this amendment to the FU-10 zone to allow the creation of a one-acre parcel or lot for the installation of the City ~~or other public or private~~ utility provider-owned water tower on a one-acre parcel or lot. Pursuant to the FU-10 Zone Section 152.339 (E), attached.

#### 4. Approval Criteria

UCDC 152.751 requires that an amendment to the text of the UCDC shall comply with provisions of the Umatilla County Comprehensive Plan (the "Plan"), the Oregon Transportation Planning Rule (the "TPR"), OAR Chapter 660, division 12, and the Umatilla County Transportation Plan ("Transportation Plan"). The County also finds that because this text amendment is a post-acknowledgment amendment, ORS 197.175(1) requires that the Plan and Map amendment satisfy applicable Statewide Planning Goals (the "Goals") and other applicable administrative rules. The County finds that the UCDC does not contain substantive standards for an amendment to the UCDC text. The remainder of this section addresses the applicable approval criteria.

This UCDC provision sets forth the approval requirements for amendment to the text of the UCDC. This section requires that an amendment satisfy the Plan and the Oregon Transportation Planning Rule (the "TPR"), OAR 660, Division 12, as well as the Umatilla County Transportation Plan.

The County finds the TPR, OAR 660-012-0060 (1)-(3), is not implicated by this text amendment. The text amendment will not create any more vehicle trips than would a development of a 10-acre parcel or lot for residential purposes in the FU-10 zone and a water tower does not require daily vehicle trips. Because the TPR is not implicated, the County finds the Umatilla County Transportation Plan is not implicated by the amendment.

The County finds that UCDC 152.751 is satisfied.

##### A. Applicable Statewide Planning Goals

There are 19 Goals. The Board of Commissioners finds that Goal 1, "Citizen Involvement," Goal 2, "Land Use Planning," and Goal 14 "Urbanization" are relevant to this application.

(a) ***Goal 1. "Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."***

**Finding:** The County has an acknowledged citizen involvement program. The citizen involvement program is implemented through UCDC Chapter 152. The public has two (2) *de novo* opportunities to testify on this text amendment. By following the post-acknowledgement amendment process, the County will satisfy Goal 1.

The County finds that Goal 1 is satisfied.

(b) ***Goal 2. "Land Use Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to ensure an adequate factual basis for such decisions and actions."***

**Finding:** Goal 2 requires that County land use actions be consistent with the County's comprehensive plan. Goal 2 also requires that the County's action on this text amendment be coordinated with affected governmental entities, as coordination is defined in ORS 197.015(5). Further, Goal 2, Guideline C.1 requires that the County have an adequate factual base for its decision adopting the text amendment.

The County finds as follows on each requirement of Goal 2. The County has given notice of the application to affected governmental entities including, but not limited to, the City and County Public Works Department. Coordination requires that the affected governmental entities be provided with the proposed text amendment, given a reasonable opportunity to comment, and that the County incorporate comments as much as is reasonable. The County has followed coordination requirements.

The County finds that Goal 2 is satisfied.

(c) **Goal 14. Urbanization.** *“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”*

The County finds that the City and County have mutually agreed to plan for growth inside the Urban Growth Area by the terms set forth in the JMA, updated and signed on April, 2017. This proposed adoption of the text amendment is consistent with the terms of the JMA.

The County finds that this Goal is satisfied.

(d) **Conclusion.**

The other sixteen Goals are not applicable to this application request. The County finds the three applicable Goals are satisfied.

## **B. Applicable Oregon Administrative Rules**

The County finds that there are no administrative rules implementing Goals applicable to the application.

## **C. Applicable Plan Policies**

The County finds there are three (3) relevant plan chapters, Chapter 4, "The Planning Process", Chapter 5, "Citizen Involvement," and Chapter 17 "Urbanization."

(a) **Chapter 4, "The Planning Process"**

**Finding 2:** *“Under present laws County jurisdiction over unincorporated urbanizing lands cannot be transferred to cities.”*

***Policy 2: "Cities' plans for unincorporated urbanizable areas are by reference part of this plan."***

**Finding:** The County finds this policy is satisfied where the County and City have mutually agreed to the JMA and this legislative amendment is consistent with the JMA for plan and map amendments within the Urban Growth Area.

The County finds that this policy is satisfied.

**(b) Chapter 5, "Citizen Involvement"**

**(1) Policy 1: "Provide information to the public on planning issues and programs, and encourage citizen input to planning efforts."**

**Finding:** The County finds Chapter 5, Policy 1, is satisfied because notice of the Planning Commission and Board of Commissioners' hearings are in a newspaper of County-wide circulation and there are two (2) *de novo* hearings where the public may testify on the proposed text amendment.

The County finds that this policy is satisfied.

**(2) Policy 5: "Through appropriate media, encourage those County residents' participation during both city and County deliberation proceedings."**

**Finding:** The County finds, as explained above, the publication of notice of the Planning Commission hearing and the Board of Commissioners' hearing in a newspaper of County-wide circulation fulfills this requirement.

The County finds that this policy is satisfied.

**(c) Chapter 17, "Urbanization"**

**Policy 1. "Adopt and enforce city plans and substantive standards for unincorporated areas within urban growth boundaries."**

**Finding:** The County finds the proposed text amendment has the effect of upholding the substantive standards for zoning and development of FU-10 Zoned parcels in the Hermiston Urban Growth Area.

The County finds that this policy is satisfied.

**Policy 3. Specify by agreement with the cities the processes for amendments to unincorporated urban growth plans.**

**Finding:** The County finds the legislative action is consistent with the JMA.

The County finds that this policy is satisfied.

## 5. CONCLUSION

For the reasons contained herein, the County finds the applicable approval criteria for the text amendment have been satisfied and the proposed text amendment to the FU-10 zone to allow creation of a one-acre parcel/lot to establish a City utility provider-owned water tower can be approved.

### UMATILLA COUNTY BOARD OF COMMISSIONERS

  
W. Lawrence Givens, Commissioner

  
William J. Elfering, Commissioner

**ABSENT**  
George L. Murdock, Commissioner

Date: August 22, 2018