

ORDINANCE NO. 1222

**AN ORDINANCE AMENDING ORDINANCE NO. 1215 REGARDING
RECREATIONAL MARIJUANA**

WHEREAS, the U.S. government through its Drug Enforcement Agency (“DEA”) has classified marijuana as a Schedule 1 drug; and

WHEREAS, Prineville City Council passed Ordinance No. 1215, which allows certain recreational marijuana activities to become legal within the City upon the DEA reducing the classification of marijuana to less than a Schedule 1 drug; and

WHEREAS, the Prineville City Council has reconsidered when certain provisions of Ordinance No. 1215 should go into effect;

NOW, THEREFORE, the people of the City of Prineville ordain that Section 9 of Ordinance No. 1215 shall be amended to read as follows:

9. Effective Date. Section 6 of this Ordinance shall become effective on the 30th day after adoption of this Ordinance. The other sections of this Ordinance shall become effective the day after marijuana is removed from the DEA’s controlled substance schedule.

Dated: July _____, 2016

Betty J. Roppe, Mayor

ATTEST:

Lisa Morgan, City Recorder



City of Prineville
DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
STAFF REPORT

Prineville City Council Staff Report

Date: August 23, 2016
File No.: AM-2016-102
Applicant/Owner: City of Prineville
Notice to DLCD: 7/17/2016
Newspaper Notice: Planning Commission Notice – 8/5/16 and 8/12/16.
Council Notice – 8/12/16 and 8/19/16.
Public Hearing: Planning Commission - 8/16/16.
City Council – 8/23/16.
Staff: Phil Stenbeck, Planning Director
Criteria: City of Prineville Land Use Code Chapter 153, Section 153.230 through Section 153.236.
Proposal: The City of Prineville proposes to amend Ordinance 1215 via Ordinance 1222. The proposed amendment would change language in Section 9 of Ordinance 1215 requiring Marijuana to be completely removed from the DEA's Controlled Substance Schedule list (1 through 5) before Recreational Marijuana businesses would be allowed in the City of Prineville.

Background:

Ordinance 1222 flows from discussions with the City Council about Section 9 of Ordinance 1215. Section 9 of Ordinance 1215 requires Marijuana to be removed from the DEA Schedule 1 List of controlled substances prior to Recreational Marijuana businesses being allowed in Prineville. Planning Staff believed the intent of the Ordinance based on the City Council workshop discussions on Marijuana, the Planning Commission public hearings on Marijuana and recommendation to the Council, and City Council public hearings on Ordinance 1215, was directed at allowing Recreational Marijuana businesses in Prineville when it became completely legal at the federal level. Staff believes this type of change to Ordinance 1215 would be a scrivener's error commonly known as a typo if the City Council concurred.

At the City Council meeting where this was discussed, the Council asked staff to do research and provide options for modifying Ordinance 1215 other than what was asked by staff. The request included an option other than being completely legal at the federal level. Staff did the research and provided the choices to the Council.

What staff believes based on what Oregon law says [ORS 197.015(10)] and a discussion with Department of Land Conservation and Development staff is that the discussion about changing Ordinance 1215 became a land use decision. The City Council agreed and asked staff to follow the land use process found in law.

Per Council's direction, Planning staff have followed the land use process which amongst other requirements, required a review and recommendation by the City Planning Commission prior to the City Council making a decision on Ordinance 1222.

The City Planning Commission held a public hearing on AM-2016-102 on August 16, 2016. At the Planning Commission public hearing, testimony was taken from Andrew Anderson, owner of the Plantae Medical Marijuana business here in Prineville. Andrew spoke in opposition to changing Ordinance 1215 and also talked about how he believes the industry will change in the future. The Planning Commission indicated in the public hearing that they believed the intent of their discussion about Ordinance 1215 was for Recreational Marijuana to be completely legal prior to allowing Recreational Marijuana businesses in Prineville. After hearing the staff report, taking public testimony and considering evidence, the Planning Commission deliberated and made the following unanimous recommendation to the City Council (4 in favor - 0 opposed - 3 absent).

Planning Commission Recommendation – Change Ordinance 1215 as it is written to require being off of the DEA Controlled Substance Lists 1, 2, 3, 4 and 5. (Recreational Marijuana Business would be legal when off of DEA Controlled Substance Schedule Lists 1, 2, 3, 4 and 5.)

Finding 1: The Prineville City Council finds that the City Planning Commission believes the intent of their recommendation to the City Council on Ordinance 1215 and Ordinance 1222 was for Marijuana to be completely legal prior to allowing Recreational Marijuana Businesses in Prineville.

Finding 2: The Prineville City Council finds that evidence of the intent of the Prineville Planning Commission recommendation is found in the Planning Commission public hearing staff report, testimony and deliberation found in the record for the August 16, 2016 Planning Commission public hearing on AM-2016-102.

City Council decision:

The City Council meeting this evening is the second hearing on Ordinance 1222. This is a continuation of the City Council public hearing on July 12, 2016. The July 12, 2016 public hearing was continued to this evening to allow time for land use processing requirements. At tonight's meeting, the City Council will decide whether to change Ordinance 1215 via Ordinance 1222, making Recreational Marijuana businesses legal in Prineville upon complete removal from the DEA's Schedule of Controlled Substance Lists 1, 2, 3, 4 and 5 or leave Ordinance 1215 as it is currently written which would require removal from the DEA's Schedule 1 Controlled Substance list prior to Recreational Marijuana businesses being allowed.

Respectfully submitted,



Phil Stenbeck, CFM
Planning Director

Exhibit A – Ordinance 1222