

MEETING MINUTES
Benton County's Proposed Code Amendments
Industrial Performance Standards and Marijuana & Hemp
Public Workshop
Wednesday, October 9, 2019; 5:30 – 8:00 p.m.

Benton County's Proposed Code Amendments Industrial Performance Standards and Marijuana & Hemp Public Workshop was called to order at 5:30 p.m. at the Benton County Sunset Building, 4077 SW Research Way, Corvallis, OR 97333.

BENTON COUNTY STAFF:

Greg Verrett, Community Development Director
Linsey Godwin, Associate Planner
Inga Williams, Associate Planner
Linda Ray, Administrative Specialist
Rebecca Taylor, Code Compliance Specialist

FACILITATORS:

Annie Kilburg, Triangle Associates – Lead Facilitator, Facilitator - Marijuana and Hemp Breakout Group
Joy Juelson, Triangle Associates - Facilitator - Industrial Performance Standards (IPS) Breakout Group

Introductions & Workshop Objectives

The facilitator welcomed attendees to Benton County's Proposed Code Amendments Public Workshop regarding Industrial Performance Standards and Marijuana & Hemp and thanked them for their participation. She stated that Triangle Associates operates as neutral facilitators on natural resource issues. The facilitator introduced Benton County (county) staff Greg Verret - Benton County Community Development Director, Linsey Godwin – Associate Planner, and Inga Williams - Associate Planner.

The facilitator identified the primary objectives for the meeting: for Benton County to have the opportunity to share information and for the attendees to ask clarifying questions and provide input. The facilitator reviewed the timeline for the code amendment process and stated that opportunities for comments will remain available from now until early 2020. They noted there is a comment box for general comments about the meeting. The facilitator discussed the workshop format, timing for evening, and materials. She clarified that this is not a public hearing and the comments are not being recorded and that Triangle and county staff were taking high-level summary notes. The facilitator went through some ground rules and requested participants engage in respectful dialogue with one another to achieve an effective workshop where the county can share information and the audience members can get their questions answered and provide input.

Welcome & Overview

Greg welcomed the attendees and provided opening remarks about the workshop. He stated that the county will be presenting information on the proposed code amendments regarding Industrial Performance Standards and Marijuana and Hemp. He explained the county convened two working groups on these two topics. The proposed code amendments being presented during this workshop include the majority recommendations from those working groups. He explained that the county is looking for assistance to explore and find solutions for the proposed code amendments through this workshop. He explained that amending the code is a complex process that staff take very seriously.

As follow-up to this workshop, county staff will use the input provided and draft potential solutions that will go to public hearing. This is a long process and the public workshop is just one part of a longer public process.

Greg closed with three key points about the draft proposed code amendments and the workshop as follows:

- The proposed code amendments presented are based on recommendations from the two working groups.
- No decisions have been made about whether the county will adopt the proposed code amendments.
- This is one opportunity to have a voice in the process. We want to hear from the public about the draft recommendation and about potential solutions.

The facilitator then provided information on the county proposed code amendment process. The facilitator described that as a neutral third party, they helped to convene two working groups on the following topics:

- Industrial Performance Standards Working Group
- Marijuana and Hemp Working Group

They discussed the process of identifying and convening the participants. The working groups met four times between May – June 2019. The working groups came to majority recommendations on the proposed code amendment details. The county took the input from the working groups on the revised proposed code amendments and put them online for public comment in early September.

Industrial Standards Proposed Code Amendments Presentation

Presentations are available on the Benton County website.

Linsey provided a presentation on the Industrial Performance Standards (IPS) proposed code amendments. The presentation included an overview and history of industrial zoning, including the four industrial zones: flexible, urban, rural and agricultural. She discussed the intent of these zones as to support economic development while mitigating off site impacts for neighbors; the allowed uses in some zones that have smells or noise; and the standards that mitigate those impacts. She also presented on the primary impacts identified by the working group including: noise, smell, vibrations, glare, and dust and explained that this is not an exhaustive list. She invited participants to offer additional impacts.

Linsey shared the draft recommendations from the IPS working group as follows:

- Keep industrial use categories broad.
- Rural industrial – minimal changes, primarily clarifying uses and terminology to be consistent.
- Flexible industrial – update to more closely reflect Corvallis comprehensive plan designations.
- Urban industrial – 1) require industrial uses to contain off-site impacts on-site; 2) show compliance prior to operation or go through a land use approval process.

The facilitator opened the discussion for clarifying questions and asked that the group save their comments and requested revisions to the code for the breakout groups.

Public Participants Questions:

- Q: Participant would like to see the primary impacts list.
 - A: The list is included in the handout of the presentation
- Q: Participant asked about code enforcement in residential.
 - A: County can put liens on property and take to court though they work with the owners to comply first.

- Q: Question asking about people enforcing these codes. Do neighbors need to take neighbors to court?
 - A: If it is a code compliance issue then the county will enforce. The first step is to identify the code and then contact the responsible person.
- Q: Regarding Chap 91 250. No fumes or emissions. Which zones does that apply to?
 - A: The Industrial Performance Standards.
- Q: Will you align county zoning with city?
 - A: Yes, where appropriate. Within city limits + city urban growth boundary (UGB). The UGB is a hybrid and would be an agreement between city and county.
- Q: Participant had a question about understanding the zoning of a potential property.
 - A: Response was that the property is Urban Industrial.

Marijuana and Hemp Proposed Code Amendments Presentation

Presentation available on Benton County website.

Inga Williams provided a presentation on the marijuana and hemp proposed code amendments. She discussed the county's objectives, including the review of compatibility of uses. After listening to the recommendations from the working group, the county would like to put forth a state compliant proposal that balances the varied perspectives.

The presentation included the following topics:

- An overview of the county's objectives and authority (land use regulations only).
- Past outreach efforts.
- Existing code language and why the county is amending the code.
- History of marijuana and hemp codes.
- Working Group recommendations.
- Proposed Code and Conditional Use Permit (CUP) process.

Inga displayed the current codes and the proposed changes recommended by the Marijuana and Hemp Working Group as follows.

Current code in the Rural Residential (RR) and Urban Residential (UR) zones:

- Recreation marijuana is prohibited.
- Medical marijuana is not regulated.
- Industrial hemp is a permitted use as a farm crop.

Proposed code recommendations by the Marijuana and Hemp working Group in the Rural Residential (RR) Zone:

- Restrict medical marijuana and industrial hemp to a Conditional Use.
- Permit recreational marijuana as a Conditional Use.

Conditional Use: Would allow the use only if there are no off-site impacts. The Conditional Use process would include: (1) consent of residents within 1000 ft; (2) setbacks to dwellings/schools; (3) proof of water if required by state law; (4) odor control; (5) controls on lighting, noise and fencing; and (6) an annual review of the use.

Urban Residential Zones:

- Prohibit medical marijuana.
- Prohibit industrial hemp.
- Retain prohibition on recreational marijuana.

The facilitator opened the discussion for clarifying questions and asked that the group save their comments and requested revisions to the code for the breakout groups.

Public Participants Questions:

- Q: Participant asked if county complied with federal laws?
 - A: Our authority is of a land use regulatory agency. If we comply with state laws, we are compliant. It is the state's role to comply with federal laws.
- Q: Participant asked for a clarification on the meaning of "Time, Manner & Place".
 - A: State allows counties to regulate marijuana in the exclusive farm use zone (agriculture), which means it is the only agricultural crop that does not have right-to-farm protections.
- Q: Participant asked the difference between RR & UR that make the outcomes so different (proposal).
 - A: UR can be much denser than RR and they are areas that will be annexed into the city and can get denser. RR has minimum lot size of two acres although there are smaller parcels than that because they were created before zoning.
- Q: Participant asked on what percentage of Benton County are hemp & marijuana already allowed?
 - A: In Forest and Farms zones, which constitute the vast majority of the county (roughly 80%).
 - Another participant stated that RR is 5%.
- Q: Participant asked the county to explain why medical marijuana and hemp are lumped into the same category.
 - A: They are grouped together based on impacts to adjacent uses including smell, hemp can be larger area of growth and have a similar or larger impact.
- Q: Participant asked county to describe nature of complaints.
 - A: County gave examples of traffic issues, lights (grow houses lit up at night), work without permits, and smell issues.
- Q: Participant asked how many complaints were made?
 - A: Less than 10.
- Q: Participant asked whether it normally takes less than 10 complaints to call for an amendment?
 - A: County responded that the Board of Commissioners asked county staff evaluate and move forward on potential amendments based on the past few years' input and experience.
- Q: Participant inquired regarding the Forest Conservation area – how much marijuana and hemp can be grown and why is it allowed in Forest Conservation?
 - A: Forest Conservation allows farm use and marijuana and hemp are considered farm crops. There are no county size limits on these crops although the State limits the size of marijuana crops. Farm zones allow farming and forestry; forest zones allow forestry and farming.
- Q: Participant inquired whether the use of water was discussed as an off-site impact during the working group process.
 - A: We have had new complaints about water scarcity. The state regulates water use permits and the county does not have authority over water use permits and cannot regulate.
- Q: Participant asked if there is an overlay (FBB) (example, Fender's blue butterfly protection (FBB) and you have the use permitted for marijuana/hemp – which takes precedence?

- A: The FBB overlay, allows agriculture practices to continue.
- A: In the Corvallis Urban Growth Boundary, we have natural features overlay areas and those have specific regulations. Existing farmed areas are allowed but new areas for farming are generally prohibited.
- Q: Participant inquired regarding safety: How do they keep these places safe for the neighbors? (i.e., with dogs and guns)
 - A: Security is required for recreational Marijuana which is overseen by the state and as part of the registration process the producer has to indicate how they will secure premises. The county has no control over guns/dogs if it is an allowed use.
- Q: Participant inquired regarding the Conditional Use: Will those be codified (carry the weight of law)?
 - A: Yes.
- Q: Participant inquired whether the intent for getting feedback of residents within 1000' feet for a Conditional Use Permit is supposed to be unanimous?
 - A: Yes.
- Q: Participant inquired whether medical marijuana will be pinpointed on a map; will these Conditional Use permits become public knowledge?
 - A: Documents that are submitted to the county are public records and preview will be available. Certain personal information will be redacted, like social security numbers.
- Q: Participant asked whether the public comment submitted to the county on this topic is accessible to read and who in the county staff is reading what is submitted.
 - A: Inga and other county staff.
 - **Action Item:** Inga offered to scan letters/emails and add onto the county website on Marijuana.
- Q: Participant talked about setbacks for schools/parks and asked about what they were and why setback was necessary.
 - A: setback to existing dwelling not on same property (300') or 50' from property line. No closer than 1000' from park or school.
- Q: Participant asked why the setbacks are deemed necessary.
 - A: Safety.
- Q: Participant inquired whether it would be the same setback as grass field or any other farming situation?
 - A: No, permitted farm uses can be up to property line. Residential has a setback of 300' from EFU and FC zoning.
- Q: Participant asked if comments submitted by the public is made public?
 - A: Yes.
- Q: Participant asked whether the county has run the proposed amendments by an attorney and whether it can stand up on an appeal?
 - A: The county's attorney knows of the amendments.
- Q: Participant asked if you implement conditional uses – are you referring to just RR or also Exclusive Farm Use?
 - A: Just RR.
- Q: Participant asked about medical marijuana: Is there a size for commercial growing?
 - A: Medical marijuana can grow for six people.
- Q: Participant asked whether medical marijuana would have the same regulations in the County code?

- A: Yes.
- Q: Participant asked about regulating lighting at night.
 - A: Through Conditional Use, lighting cannot be visible at night.

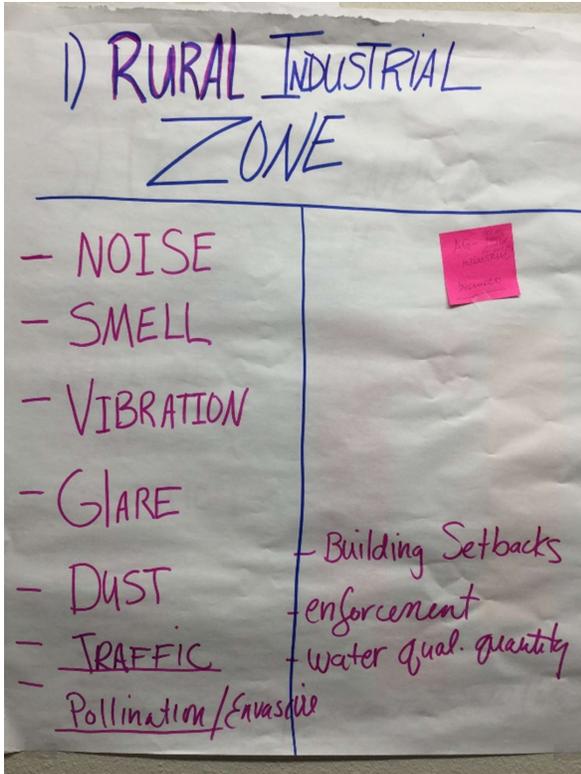
The facilitator thanked participants for their clarifying questions and explained that the meeting would now break out into two groups for attendees to provide further comment and input regarding: (1) Industrial Performance Standards; and (2) Marijuana and Hemp. Discussed the breakout groups and highlighted the opportunity to provide input for each of the zones on the primary impacts.

Industrial Performance Standards Breakout Group

The facilitator for the Industrial Performance Standards breakout group provided instructions to participants as follows:

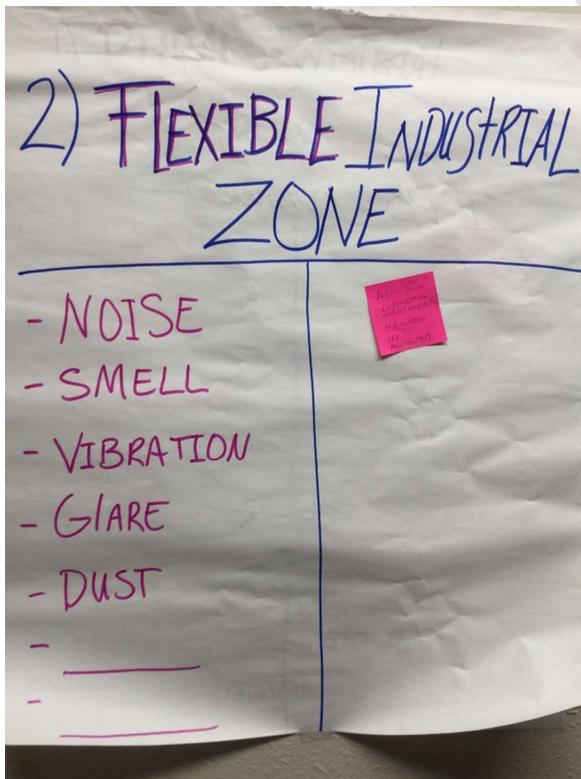
- Sit quietly and think about the off-site impacts for each zone on the flip charts in the room. If the off-site impact that you are concerned with is not on the flip charts, ask the facilitator to add it.
- Use quiet time and strive to categorize your level of concern for each of the off-site impacts that comes to mind for you. Using colored post-its, label your level of concern as follows:
 - Green: You are okay with it; no revisions needed.
 - Yellow: Means that you are neutral, that you do not have an opinion, or can live with the impact as written.
 - Red: Major heartburn concern and needs revision to gain support.
- For any green and yellow post-its there is no need to write an explanation unless you prefer to. For red post-its, write down what needs to be changed so that you can live with this impact (if possible).
- Ask the county staff clarifying questions (if needed) and place your post-it notes under each off-site impact in the appropriate zone.

The IPS breakout group wrote down their concerns, categorized them, and placed them on flip charts as follows.



Post-it note transcribed:

- Red: AG – Let ag indust added to zones
INDUSTRIAL
INCLUDED



Post-it note transcribed:

- Red: AG – Same as other
INDUSTRIAL
(Residential en _____)
INCLUDED
IN
ALLOWED”



Post-it notes transcribed:

1 st Column	2 nd Column	3 rd Column
<ul style="list-style-type: none"> Red: Cumulative impact of ~340 acres zoned UI along and within the far north and east side of the Philomath UGB 	<ul style="list-style-type: none"> Red: From what I've heard tonight (so far) enforcement isn't executed/future plans? Esp with asphalt batching 	<ul style="list-style-type: none"> Yellow: Noise standards proposes exceptions to "temporary construction" Define temporary and if conditional
<ul style="list-style-type: none"> Red: What new industries in this region will impact traffic esp. west hills/reservoir I hear there will be! 		<ul style="list-style-type: none"> Yellow: Noise standards: measured at what point? (ambient) One mile? Half mile?
<ul style="list-style-type: none"> Red: I heard there will be truck traffic/RV traffic increasing Do they need to perform a traffic impact study 		<ul style="list-style-type: none"> Yellow: Does state need to be called in to measure DBA? Does county have protocol
		<ul style="list-style-type: none"> Yellow: OAR 340-035-0035 Noise standards – Why were new levels increased
	<ul style="list-style-type: none"> Red: AG Industrial 	

Marijuana and Hemp Breakout Group

The facilitator for the Marijuana and Hemp breakout group asked participants to raise their hand if they had a comment, question, or input to share - their names were taken down. The facilitator divided the remaining time by the number of individuals with comments and asked attendees to keep their comments to two minutes or less to ensure that everyone had the chance to provide their thoughts. The following is a list of the comments made.

Public Participants Comments & Questions:

- C: Participant wanted to emphasize the point that if rural residential is only 5% of the county zoning and 80% is designated as “other” zoning, then why the need to burden rural residential property owners with additional issues?
- C: Several participants stated that water scarcity is an issue and a concern with marijuana and hemp growers.
- C: Participant wanted to share opposition to the proposed code amendments and the working group process; there was a need for more rural residential property owners. They shared concern that the county is still proceeding to allow hemp and marijuana crops in rural residential areas despite the opposition.
- Q: Participant asked if it was possible as a neighbor to decipher whether his neighboring crop is medical or recreational. He also asked what would happen to the existing crops when it comes to “grandfathering”.
 - A: If marijuana/hemp is grown in a land use area that is then re-zoned, the property becomes a non-conforming land use property. In most instances (by State law), those are allowed to continue.
 - A: If that is the case under the proposed code the land use owner would be given two years to comply with the new county standards or get vested on what they are currently doing. Vesting is a review process which would make sure it was originally legal to grow marijuana/hemp on that property and that the owner is meeting county requirements.
 - A: Recreational marijuana growth cannot to be grandfathered in the RR zone because it is currently illegal.
- C: Participant stated that an adjacent property built two greenhouses. They appreciate that there is information on recreational marijuana crops; however, is curious about information on the medical marijuana growers. There are no regulations on medical marijuana growers and their neighbors have talked to the county. They understand that no enforcement can take place unless these growers break a county law. They understand that marijuana is important to our economy; however, as a property owner, they would like to see regulations and enforcements.
- C: Participant stated that they have a vested interest in the peace and security of their neighborhood.
- C: Participant stated that they found this public workshop very educational. They stated that there are reasons we as a county have zoning and used the example of a dairy farm that is zoned a distance away from residential areas (because it can be a “smelly operation”). They are curious why this cannot have the same standard set for marijuana/hemp growers? Stated that they should not be allowed to grow near neighbors either, as rural residential areas have high density. Does not see a need to allow marijuana/hemp growers in their area since there are other ways to accommodate them.
- C: Participant stated that they purchased their properties to raise families and grow gardens. They do not appreciate that a new crop like marijuana and/or hemp can come into their neighborhood, next to schools, and children.

- C: Participant stated that they are concerned about contamination, air quality, and the fans that are running on the marijuana and/or hemp farms. Some of their neighbors are dealing with asthma and the air quality in their area is an issue.
- C: Participant stated that there is concern about excessive traffic that happens at all hours of the night.
- C: Participant stated that there is a concern about property value going down due to impacts and water scarcity.
- C: Participant stated that until recently, marijuana growing was done secretly and there does not seem to be enough science yet to enable the County to evaluate the Conditional Use criteria. They do not think that the county should issue permits until we have the knowledge to evaluate impacts.
- C: Participant stated that RR is for homes and small businesses; they see marijuana/hemp growers as another small business. They believe 1000 ft is an excessive setback. Their only objection is the light from the greenhouses at night. They see the growth of marijuana/hemp as a larger cultural issue. They believe that marijuana reduces domestic violence and does not think a conditional use should allow one person to cast aside other people from approving it. They have a 40' well on their property and has had no issues with water.

There was a brief discussion amongst the group on Home Occupation and Inga clarified that a Home Occupation is allowed in a house or accessory structure in this zone; however, there are limits on what is allowed (i.e. size, traffic).

- C: Participant stated that the working group recommendations were not part of a well-advertised public process. They stated that the working group had two spots representing rural residential property owners. They attended the working group meetings as an observer and heard issues being raised about current growers being grandfathered in. Why cannot the rights of rural residential property owners be “grandfathered in”? They stated that the food that they are growing is being contaminated and opposes the proposition for all three: marijuana, hemp and medical marijuana be allowed to grow in RR zones.
- C: Participant shared that they own a small business. In their opinion, the issue with marijuana makes this a hot topic as opposed to if it were another agricultural product. They would like to know who the other beneficial users are. They said that it would be beneficial for the county to look at who will be impacted by these code amendments in a more constructive framework than just marijuana and hemp growers.
- C: Participant is wondering if the county considers Conditional Use Permits for other zones. They asked if there is a limit to growth in those zones.
 - A: Yes, medical marijuana, hemp and recreational marijuana are already permitted in Forest Conservation and Farm Use and Industrial zones.
 - A: The State of Oregon regulates recreational marijuana to one-acre, medical marijuana crops are limited by the number of medical card holders and there is no limit to hemp crops. Hemp can be planted on the entire property – up to the property lines.
- C: Participant expressed concern about water and that most properties are hillside and notoriously spotty when it comes to water.
- C: Participant expressed concern because most of her residents have auto-immune issues and when there is burning in the area it can be a serious problem. They feel like allowing these code amendments is unfair to people that are already unhealthy.

- Q: Participant would like to know if the county is getting a percentage of the money produced through the crops and asked how much a permit costs to grow marijuana.
 - A: The county does not make a profit off marijuana growers or permitting. This effort that the county is engaged in, evaluating existing zoning and considering code amendments, is not considered for revenue in any way.
- C: Participant stated that they do not want marijuana/hemp allowed in their area due to the odors and feels it is offensive to morals and raising kids/grandkids.

Next Steps and Summary

The facilitator thanked attendees for their thoughtful comments and questions and their time and energy at the workshop.

Greg provided closing comments; thanking the community members for expressing their knowledge, concerns, opinions, and facts - as they are helpful to this process. He encouraged the participants to leave additional comments on the comment cards or use the contact form on the website. The next step will be communicated to the listserv and on the county website. He encouraged the group to stay involved because the county values their input.

Meeting adjourned at 8:05 p.m.