



**SUPPLEMENTAL EXPLANATION
ON THE PROPOSED CODE AMENDMENTS FOR HEMP AND MARIJUANA
IN RESPONSE TO COMMENTS RECEIVED FROM THE PUBLIC**

Why is the County proposing Code amendments for Hemp and Marijuana?

There are three main reasons as follows.

First, starting in 2016, planning staff received approximately a dozen citizen complaints about impacts from adjacent medical marijuana grow sites. At the time of the 2016 Listening Tour public outreach, the County was not certain that they could regulate medical marijuana. However, between 2016 and 2019, there have been developments that make it clear that the County can regulate this use.

Second, and also in 2016, after the Board of County Commissioners decided to leave recreational marijuana as a prohibited use in the Rural Residential (RR) zone, they asked staff to return to them in two or three years with an update on how the code was working. Staff is upholding the pledge made to the public and the commissioners to review the code and propose regulation of medical marijuana.

Third, in 2018, hemp was made federally legal through the 2018 Farm Bill and, as a farm crop, is an allowed use in all zones. Since the impacts to adjacent residential uses from this crop are similar to those experienced through marijuana, staff asked the commissioners, and received their permission, to include hemp in this process.

The Commissioners have not yet been officially apprised of any of the proposed revisions. This is typical of proposed Code amendments at the stage when staff is asking for public review of the changes. The Commissioners are officially apprised of the amendments when the information is sent to them for the first public meeting. However, they have received regular updates on the amendment process and are able to view the same information that staff has made available to the public.

Timeline

The following is a timeline of the marijuana and hemp topic in Benton County from 2015 through 2020.

2015: Benton County approved an ordinance to allow the growing and processing of recreational marijuana in Resource and Industrial zones, while prohibiting it in all other zones.

2016: A Listening Tour was held to provide information to the public about the new marijuana industry and state laws, answer questions and gain general feedback about where recreational marijuana should

or should not be allowed in the county. Some participants in the listening tour expressed a desire to be able to grow recreational marijuana in the Rural Residential zone.

Fall 2016: Staff sent out a mailer to all property owners with land in the Rural Residential zone and held public meetings to understand whether or not the county should allow the growing of recreational marijuana in the Rural Residential zone. As a result of the outreach, the prohibition on growing in the Rural Residential zone was maintained. The Board of County Commissioners directed planning staff not to move forward with any revisions to the code.

2018: Staff brought updates to the Commissioners regarding complaints received about medical marijuana grow sites in the RR zone. Hemp was legalized. The Commissioners gave staff approval to move forward with revisions to the Code.

January – April 2019: Staff decided to utilize a neutral, third-party consultant to facilitate a collaborative working group discussion regarding the proposed code amendments and gain input on how to revise the code to align with the group's members recommendations. The consultant was hired and the consultant and staff worked conscientiously to develop an inclusive Working Group made up of persons with diverse points of view.

The representation of the Working Group was as follows:

4 residential neighbors of marijuana/hemp operations

3 government agency representatives

- Benton County Soil and Water Conservation District
- Corvallis/Benton Economic Development Office
- Benton County Health Department

1 Alesia Citizen Advisory Committee member (South County and Wren Advisory Committees were also invited to add a member but no one was able to attend)

2 hemp and/or recreational marijuana producers

1 hemp processor

1 hemp testing facility owner

1 rural farm advocate/rural resident

1 farm lessor (Alesia Farm Zone)

1 OSU hemp researcher

May - June 2019: The Working Group met four times for two hours each with two planning staff members present to take notes, answer questions, present information, engage in dialogue, and receive feedback. These meetings were open to the public to attend as observers.

July - August 2019: Staff made changes to the proposed revisions based on input from the Working Group.

September 2019: The redrafted revisions were placed on-line for public comment. On-line commenting through the new Konveio site was concluded on September 30, 2019.

October 9, 2019: A public workshop is scheduled.

Subsequent to the Workshop: Based on suggestions from on-line comments and the public workshop, changes to the revisions will be drafted and placed on-line for more public comment. Notice of the public hearings will be mailed to all property owners affected by the changes, which will be almost all property owners in the unincorporated areas of the County.

Early 2020: Public hearings will be held on the Code amendment. At least one will occur with the Planning Commission, although they can decide to have more than one, and two with the Board of County Commissioners. Public comment will be allowed at all of these hearings.

The Code Amendments Presented to the Working Group

The initial draft code presented to the Working Group members was the following:

In the Rural Residential and Urban Residential zones

- Maintain the prohibition on growing, harvesting, processing and selling¹ recreational marijuana
- Prohibit the growing, harvesting, processing and selling of medical marijuana
- Prohibit the growing, harvesting, processing and selling (production) of hemp
- Require legally established existing medical marijuana and hemp operations who qualify for legal non-conforming status to conform to siting standards where they contain off-site impacts on-site and provide evidence of an agricultural water right.

The Working Group Meetings Held in April and May

The County teamed with a neutral, third-party facilitator to recruit and convene a Working Group to help staff review the proposed revisions before they were released for public comment. Fifteen people volunteered their time to prepare for, attend, and engage in the four Working Group meetings. These meetings were not meant to solicit public comment but to provide staff with a sample of the diverse set of opinions regarding this topic. The meetings were two hours to ensure that volunteers were not overburdened with the commitment and to balance for enough time to hear concerns and feedback. Each meeting had an agenda sent out to Working Group members in advance and all meetings were facilitated by a neutral-third party. The minutes of the meetings are on the County's website for you to review. <https://www.co.benton.or.us/cd/page/2019-marijuana-and-hemp-code-update-process>

At the conclusion of the Working Group process, the majority (11 of 12) of the members present recommended that the County utilize a Conditional Use Permit (CUP) process to conditionally allow the production of recreational marijuana and to restrict the production of medical marijuana and hemp to the same Conditional Use Permit process in the RR zone. They also recommended that these uses be prohibited in the UR zone. As part of the CUP process, the Working Group members recommended numerous regulations to conditionally allow these uses in the RR zone. The objective of the recommended

¹ In the proposed Code amendments the word "production" is used to refer to the entire process of raising, harvesting, processing and selling. The processing part of this process refers to the farm crop being minimally processed for use or sale, such as sorting, drying, baling, etc. The selling part of this process refers to the wholesale sale of the farm crop to user or retail seller.

CUP process was based on numerous interests at the table, coming together, and despite their differences coming up with a solution that was acceptable by as many stakeholders as possible.

The Conditional Use criteria recommended by the Group were intended to address impacts to neighbors, with the hope to minimize or eliminate the impacts. Note that many of the recommended criteria are included in the current version of the Chapter 91 of the Proposed Code. Staff made changes to proposed code to reflect the majority recommendation of the Working Group members and then placed the code on-line for public comment.

What Does the County gain by these Proposed Code amendments?

As with other state and federal statute updates, the County is expected to adopt code amendments to accommodate the uses occurring in the County. The County proposes an updated Code that reflects the current state and federal laws and addresses the concerns of residents.

These amendments are **not** being proposed as a desire to capitalize on increased revenue generated by more agricultural businesses. Commercial agriculture (and preserved land) have the lowest taxable values in Benton County compared to residential, commercial and industrial.

How was the public notified about the proposed Code amendments?

The County began marketing the request for public comment on the proposed Code amendments on September 4 as follows.

- An email was sent to everyone who had signed up on the Hemp and the Marijuana list serves, which includes 318 people.
- A day or two later, the county's Public Information Officer placed this information up on the County's homepage as a bullet point under News & Announcements.
- It was also placed on the County's Facebook page, sent out via twitter, and sent out via the County's newsletter.
- It was sent out to everyone subscribed to the Neighborhood app.
- It was posted in the Town News portion of the Gazette-Times.

Public Comment Opportunities

Public comment on the proposed Code amendments can be submitted to the Community Development Department at any time during this process.

You can mail a letter to:

Inga Williams
Community Development Department
360 SW Avery Avenue
Corvallis, OR 97333

You can email: inga.williams@co.benton.or.us

Farm Uses that are Currently Permitted in the Rural Residential (RR) and Urban Residential (UR) Zones

- Employment of land for the primary purpose of obtaining a profit in money by:
 - raising, harvesting and selling crops
 - the feeding, breeding, management and sale of, or produce of, livestock, poultry, fur-bearing animals, or honeybees
 - dairying and the sale of dairy products
 - any other agricultural or horticultural use (a wholesale or retail plant nursery is considered horticultural use and therefore is allowed under this definition)
 - animal husbandry
 - any combination thereof.
- The preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use.
- The propagation, cultivation, maintenance and harvesting of aquatic animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the Commission.
- Growing cultured Christmas trees.

Hemp and Marijuana

Raising, harvesting, processing and selling crops in the RR and UR zones does not include raising, harvesting, processing, and selling recreational marijuana². It does include medical marijuana and hemp. The production of medical marijuana is legal, subject to a state license and with no county oversight. The production of hemp is legal with no county oversight.

Greenhouses

These are allowed in the RR and UR zones for any permitted farm use or for any personal use. There is no limit on the size of the structure. A setback from a side property line for a greenhouse 500 square feet or less, but larger than 120 square feet, is 3 feet. For a greenhouse over 500 square feet, the setback is 8 feet. There is no height limit. There is no limit on the number of greenhouses.

What will not change by these Code amendments?

Commercial farm uses will still be allowed in the Rural Residential and Urban Residential zones. Greenhouses for personal and commercial uses will still be allowed in these zones.

The production of hemp and recreational and medical marijuana will still be allowed in the Exclusive Farm Use and Forest Conservation zones. Those persons living in areas that are adjacent to these zones could still be affected by impacts from these uses.

² “marijuana, grown commercially pursuant to a license issued by the State of Oregon,” is specifically excluded from the RR and UR zones. The intent of the County’s Code language at the time of adoption (2015) was to exclude only recreational marijuana. It did not regulate, and does not regulate, medical marijuana.