

DETERMINATION OF NONSIGNIFICANCE

Description of proposal: An ordinance to amend BCC 11.16A.030. Relating to adopting an immediate emergency interim zoning amendment to prohibit the production of marijuana in the Rural Lands Five Acre District; establishing a termination date for the interim zoning amendment; declaring an emergency necessitating immediate adoption of this ordinance; and temporarily amending Ordinance 488, Section 4 and BCC 11.16.030.

Proponent Benton County Planning Department
P.O. Box 910
Prosser WA 99350

File No. **EA 2015-011**

Location of proposal, including street address, if any: The proposed amendments are development regulations that will apply to applications for Comprehensive Plan Amendments of industrial purposes only within a City's Urban Growth Area.

Lead agency **BENTON COUNTY**

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under WAC197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by June 4, 2015.

Responsible Official

Michael Shuttleworth, Planning Manager
Benton County Planning Dept.
Post Office Box 910 PHONE: (509) 786-5612
Prosser, WA 99350-0910 (509) 736-3086

Date May 21, 2015

Signature 
Michael Shuttleworth

THERE IS NO AGENCY APPEAL.

DISTRIBUTION:

- | | |
|--|-------------------------------------|
| Applicant | City of Richland |
| News Media (Encl. map or plot plan) | City of Benton City |
| Benton County Building Office | City of Prosser |
| Dept. of Natural Resources-Olympia | City of West Richland |
| Dept. of Natural Resources -Ellensburg | Benton-Franklin Dist. Health Dept. |
| Benton Clean Air Authority | Kennewick Irrigation District |
| Bureau of Reclamation | Kiona Irrigation District |
| Benton County Public Works | Benton Irrigation District |
| City of Kennewick | Badger Mountain Irrigation District |

Columbia Irrigation District
Sunnyside Valley Irrigation District
Roza Irrigation District
Department of Transportation
Port of Benton
Port of Kennewick
Washington State Department of Health
Department of Ecology - Olympia
Department of Ecology - Yakima
Corps of Engineers
Yakama Indian Nation
Fire District 1
Fire District 2
Fire District 3
Fire District 4
Fire District 5
Fire District 6
Fire Marshal
Prosser School District No. 116
Bureau of Land Management
Department of Fish and Wildlife
Office of Arch. & Historic Preservation
Futurewise
Dept. of Commerce

ENVIRONMENTAL CHECKLIST

A. BACKGROUND

1. Name of proposed project, if applicable:
An ordinance to amend BCC 11.16A.030. relating to adopting an immediate emergency interim zoning amendment to prohibit the production of marijuana in the Rural Lands Five Acre District; establishing a termination date for the interim zoning amendment; declaring an emergency necessitating immediate adoption of this ordinance; and temporarily amending Ordinance 488, Section 4 and BCC 11.16A.030.
2. Name of applicant:
Benton County
3. Address and phone number of applicant and contact person:
Steve Donovan , Senior Planner
Benton County Planning Department
P.O. Box 910
Prosser, WA 99350 (509) 786-5612 or (509) 736-3086
4. Date checklist prepared:
May 20, 2015
5. Agency requesting checklist:
Benton County
6. Proposed timing or schedule (including phasing, if applicable):
Adopted May 12, 2015 and Public Hearing scheduled for June 2, 2015
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal?
Yes, consideration of a permamant ordinance
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
None
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
None
10. List any government approvals or permits that will be needed for your proposal, if known.
The approval of the ordinance amendments was completed by the Board of County Commissioners.
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The purpose of this interim zoning ordinance is to allow the County to continue to analyze the issue of the compatibility of marijuana production with the prevalent uses within the RL5 District, including but not limited to residential uses, without the possibility that additional marijuana production operations will commence or that operators will flood the County with applications for permits for marijuana production buildings allowed under the County's existing zoning. The County will be examining whether marijuana production should be permitted outright, allowed as a conditional use or prohibited in the RL5 District, and additional time is needed to fully explore the issue.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposed amendment is a interim regulation that will apply to the areas within the Rural Lands 5 Zoning Districts.

B. ENVIRONMENTAL ELEMENTS

1. Earth

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other:
General topographic characteristics vary greatly within Benton County and environmental evaluations for future site-specific projects will need to be conducted if a site-specific project is proposed.
- b. What is the steepest slope on the site (approximate percent slope)?
Not applicable, this is not a site-specific project.
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.
Not applicable, this is not a site-specific project.
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.
Not applicable, this is not a site-specific project.
- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.
Not applicable, this is not a site-specific project.
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
Not applicable, this is not a site-specific project.
- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?
Not applicable, this is not a site-specific project.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:
Not applicable, this is not a site-specific project.

2. **Air**

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if know.
Not applicable, this is not a site-specific project.
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.
Not applicable, this is not a site-specific project.
- c. Proposed measures to reduce or control emissions or other impacts to air, if any:
Not applicable, this is not a site-specific project

3. **Water**

a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.
Not applicable, this is not a site-specific project.
- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.
Not applicable, this is not a site-specific project.
- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water, or wetlands, and indicate the area of the site that would be affected. Indicate the source of fill material.
Not applicable, this is not a site-specific project.
- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if know.
Not applicable, this is not a site-specific project.
- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.
Not applicable, this is not a site-specific project.
- 6) Does the proposal involve any discharge of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.
Not applicable, this is not a site-specific project.

b. Ground:

- 1) Will ground water be withdrawn, or will water be discharge to ground water? Give

general description, purpose, and approximate quantities if know.

Not applicable, this is not a site-specific project

- 2) Describe waster material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage, industrial, containing the following chemicals . . . agricultural, etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable, this is not a site-specific project.

c. Water Runoff (including storm water):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable, this is not a site-specific project.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable, this is not a site-specific project.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Not applicable, this is not a site-specific project.

4. **Plants**

- a. Circle types of vegetation found on the site: deciduous tree: alder, maple, aspen, other; evergreen tree: fir, cedar, pine, other; shrubs; grass; pasture' crop or grain; wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other; water plants: water lily, eelgrass, milfoil, other; other types of vegetation.

Not applicable, this is not a site-specific project

- b. What kind and amount of vegetation will be removed or altered?

Not applicable, this is not a site-specific project.

- c. List threatened or endangered species known to be on or near the site.

Not applicable, this is not a site-specific project.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable, this is not a site-specific project.

5. **Animals**

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site: Birds: hawk, heron, eagle, songbirds, other: Mammals: deer, bear, elk, beaver, other: Fish: bass, salmon, trout, herring, shellfish, other:

Not applicable, this is not a site-specific project.

- b. List any threatened or endangered species known to be on or near the site.
Not applicable, this is not a site-specific project.
- c. Is the site part of a migration route? If so, explain.
If any threatened or endangered species are found for site-specific projects, compliance with Benton County Code Title 15 (Protection of Critical Areas and Resources) will be required.
- d. Proposed measures to preserve or enhance wildlife, if any:
Not applicable, this is not a site-specific project.

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
Not applicable, this is not a site-specific project.
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
Not applicable, this is not a site-specific project.
- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:
Not applicable, this is not a site-specific project.

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, which could occur as a result of this proposal? If so, describe.
Not applicable, this is not a site-specific project.
 - 1) Describe special emergency services that might be required.
Not applicable, this is not a site-specific project.
 - 2) Proposed measures to reduce or control environmental health hazards, if any:
Not applicable, this is not a site-specific project.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
Not applicable, this is not a site-specific project.
- 2) What types and levels of noise would be created by or associate with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
Not applicable, this is not a site-specific project.
- 3) Proposed measures to reduce or control noise impacts, if any:

Not applicable, this is not a site-specific project.

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?
Not applicable, this is not a site-specific project.
- b. Has the site been used for agriculture? If so, describe.
Not applicable, this is not a site-specific project.
- c. Describe any structures on the site.
Not applicable, this is not a site-specific project.
- d. Will any structures be demolished? If so, what?
Not applicable, this is not a site-specific project.
- e. What is the current zoning classification of the site?
This interim ordinance will apply to those areas zoned Rural Land 5.
- f. What is the current comprehensive plan designation for the site?
This interim ordinance will apply to those areas designated Rural Land 5..
- g. If applicable, what is the current shoreline master program designation of the site?
Not applicable, this is not a site-specific project.
- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.
Not applicable, this is not a site-specific project.
- i. Approximately how many people would reside or work in the completed project?
Not applicable, this is not a site-specific project.
- j. Approximately how many people would the completed project displace?
Not applicable, this is not a site-specific project.
- k. Proposed measures to avoid or reduce displacement impacts, if any:
Not applicable, this is not a site-specific project.
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
The regulations is consistent with the Benton County Comprehensive Plan policies and guidelines.

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
None
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

None

- c. Proposed measures to reduce or control housing impacts, if any:
Not applicable, this is not a site-specific project.

10. **Aesthetics**

- a. What is the tallest height of any proposed structures(s) not including antennas; what is the principal exterior building material(s) proposed?
Not applicable, this is not a site-specific project.
- b. What views in the immediate vicinity would be altered or obstructed?
Not applicable, this is not a site-specific project.
- c. Proposed measures to reduce or control aesthetic impacts, if any:
Not applicable, this is not a site-specific project.

11. **Lights and Glare**

- a. What type of light or glare will be the proposal produce? What time of day would it mainly occur?
Not applicable, this is not a site-specific project.
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
Not applicable, this is not a site-specific project.
- c. What existing off-site sources of light or glare may affect your proposal?
Not applicable, this is not a site-specific project.
- d. Proposed measures to reduce or control light and glare impacts, if any:
Not applicable, this is not a site-specific project.

12. **Recreation**

- a. What designated and informal recreational opportunities are in the immediate vicinity?
Not applicable, this is not a site-specific project.
- b. Would the proposed project displace any existing recreational uses? If so, describe.
Not applicable, this is not a site-specific project.
- c. Proposed measures to reduce or control impacts or recreation, including recreation opportunities to be provided by the project or applicant, if any:
Not applicable, this is not a site-specific project.

13. **Historic and Cultural Preservation**

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
Not applicable, this is not a site-specific project.
- b. Generally describe any landmarks or evidence of historic, archeological, scientific, or

cultural importance known to be on or next to the site.

Not applicable, this is not a site-specific project.

- c. Proposed measures to reduce or control impacts, if any:

Not applicable, this is not a site-specific project.

14. **Transportation**

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plan, if any.

Not applicable, this is not a site-specific project.

- b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

Not applicable, this is not a site-specific project.

- c. How many parking spaces would the completed project have? How many would the project eliminate?

Not applicable, this is not a site-specific project.

- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable, this is not a site-specific project.

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Not applicable, this is not a site-specific project.

- f. How many vehicular trips per day would be generated by the completed project? If know, indicate when peak volumes would occur.

Not applicable, this is not a site-specific project.

- g. Proposed measures to reduce or control transportation impacts, if any:

Not applicable, this is not a site-specific project.

15. **Public Services**

- a. Would the project result in an increased need for public services (for example, fire protection, police protection, health care, schools, etc.)? If so, generally describe.

Not applicable, this is not a site-specific project.

- b. Proposed measures to reduce or control direct impacts on public services, if any.

Not applicable, this is not a site-specific project.

16. **Utilities**

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

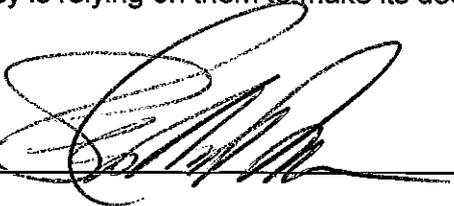
Not applicable, this is not a site-specific project.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable, this is not a site-specific project.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:  _____

Print Name: Steve Donovan, Senior Planner
Benton County Planning Department

Date Submitted: May 20, 2015

D. SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS
(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?
Not applicable, this is not a site-specific project.

Proposed measures to avoid or reduce such increases are:
None.

2. How would the proposal be likely to affect plants, animals, fish or marine life?
Not applicable, this is not a site-specific project.

Proposed measures to protect or conserve plants, animals, fish or marine life are:
None.

3. How would the proposal be likely to deplete energy or natural resources?
Not applicable, this is not a site-specific project.

Proposed measures to protect or conserve energy and natural resources are:
None.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?
Not applicable, this is not a site-specific project.

Proposed measures to protect such resources or to avoid or reduce impacts are:
None.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?
Not applicable, this is not a site-specific project.

Proposed measures to avoid or reduce shoreline and land use impacts are:
Not applicable, this is not a site-specific project.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?
Not applicable, this is not a site-specific project.

Proposed measures to reduce or respond to such demands(s) are:

Not applicable, this is not a site-specific project.

7. Identify, if possible, whether the proposal may conflict with local, state or federal laws or requirements for the protection of the environment.

None.

ESA LISTED SALMONIDS CHECKLIST

The Listed Salmonids Checklist is provided in order that the county may initially identify a project's potential impacts (if any) on salmonids that have been listed as "threatened" or "endangered" under the Federal Endangered Species Act (ESA). A salmonid is any fish species that spends part of its life cycle in the ocean and returns to fresh water. Potential project impacts that may result in a "taking" of listed salmonids must be avoided, or mitigated to insignificant levels. Generally, under ESA, a "taking" is broadly defined as any action that causes the death of, or harm to, the listed species. such actions include those that affect the environmental in ways that interfere with or reduce the level of reproduction of the species.

If ESA listed species are present or ever were present in the watershed where your project will be located, your project has the potential for affecting them, and you need to comply with the ESA. The questions in this section will help determine if the ESA listing will impact your project. The Fish Program Manager at the appropriate Department of Fish and Wildlife (DFW) regional office can provide information for the following two questions. Please contact the Dept. of Fish and Wildlife at 1701 S. 24th, Yakima WA 98902-5720, Phone No. 509-575-2740.

1. Are ESA listed salmonids currently present in the watershed in which your project will be? YES____ NO____
Please Describe.
Not applicable, this is not a site-specific project.

2. Has there ever been an ESA listed salmonid stock present in this watershed? YES____ NO____
Please Describe.
Not applicable, this is not a site-specific project.

If you answered "yes" to either of the above questions, you should complete the remainder of this checklist.

PROJECT SPECIFIC: The questions in this section are specific to the project and vicinity.

- A1. Name of watershed _____
- A2. Name of nearest waterbody _____
- A3. What is the distance from this project to the nearest body of water? _____

Often a buffer between the project and a stream can reduce the chance of a negative impact to fish.
- A4. What is the current land use between the project and the potentially affected water body (parking lots, farmland, etc.)
- A5. Is the project above a:
Natural permanent barrier (waterfall) YES____ NO____

Natural temporary barrier (beaver pond) YES_____ NO_____

Man-made barrier (culvert, dam) YES_____ NO_____

Other (explain)

A6 If yes, are there any resident salmonid populations above the blockage? YES_____

NO_____ Don't Know _____

A7. What percentage of the project will be impervious surface (including pavement & roof area)?

FISH MIGRATION: The following questions will help determine if this project could interfere with migration of adult and juvenile fish. Both increases and decreases in water flows can affect fish migration.

B1. Does the project require the withdrawal of

a. Surface water? Yes_____ No_____

Amount_____

Name of surface water body_____

b. Ground water? Yes_____ No_____

Amount_____

From Where_____

Depth of well _____

B2. Will any water be rerouted? YES_____ NO_____

If yes, will this require a channel change?

B3. Will there be retention ponds? YES_____ NO_____

If yes, will this be an infiltration pond or a surface discharge to either a municipal storm water system or a surface water body?

If to a surface water discharge, please give the name of the waterbody.

B4. Will this project require the building of new roads? Increased road mileage may affect the timing of water reaching a stream and may, thus, impact fish habitat.

B5. Are culverts proposed as part of this project?

Yes_____ No_____

B6. Will topography changes affect the duration/direction of runoff flows?

Yes_____ No_____

If yes describe the changes.

- B7. Will the project involve any reduction of the floodway or floodplain by filling or other partial blockage of flows? Yes_____ No_____

If yes, how will the loss of flood storage be mitigated by your project?

WATER QUALITY: The following questions will help determine if this project could adversely impact water quality. Such impacts can cause problems for listed species. Water quality can be made worse by runoff from impervious surfaces, altering water temperature, discharging contaminants, etc.

- C1. Do you know of any problems with water quality in any of the streams within this watershed? YES_____ NO_____

If yes please describe.

- C2. Will your project either reduce or increase shade along or over a waterbody?
YES_____ NO_____ Removal of shading vegetation or the building of structures such as docks or floats often result in a change in shade.

- C3. Will the project increase nutrient loading or have the potential to increase nutrient loading or contaminants (fertilizers, other waste discharges, or runoff) to the waterbody?
YES_____ NO_____

- C4. Will turbidity be increased because of construction of the project or during operation of the project? In-water or near water work will often increase turbidity.
YES_____ NO_____

- C5. Will your project require long term maintenance, i.e., bridge cleaning, highway salting, chemical sprays for vegetation management, clearing of parking lots?
YES_____ NO_____
Please Describe.

Vegetation: The following questions are designed to determine if the project will affect riparian vegetation, thereby, adversely impacting salmon.

D1. Will the project involve the removal of any vegetation from the stream banks?
YES_____ NO_____

If yes, please describe the existing conditions and the amount and type of vegetation to be removed.

D2. If any vegetation is removed, do you plan to re-plant? YES_____ NO_____
If yes, what types of plants will you use?

ORDINANCE NO. 561

AN ORDINANCE relating to zoning; adopting an immediate emergency interim zoning amendment to prohibit the production of marijuana in the Rural Lands Five Acre District; setting a date for a public hearing; establishing a termination date for the interim zoning amendment; declaring an emergency necessitating immediate adoption of this ordinance; and temporarily amending Ordinance 488, Section 4 and BCC 11.16A.030.

WHEREAS, Initiative Measure No. 502, approved in November of 2012, modified the State Controlled Substances Act to establish a system for lawful production, processing, and retail sales of recreational marijuana under state law; and,

WHEREAS, the Washington State Liquor Control Board adopted rules thereunder and established a licensing system for producers, processors, and retailers of recreational marijuana (collectively "marijuana businesses"); and,

WHEREAS, the County understands that marijuana production, i.e., growing, is allowed both indoors and outdoors by the State; and,

WHEREAS, the State Liquor Control Board does not consider local zoning regulations in deciding whether to issue licenses for marijuana businesses, but marijuana businesses are required to comply with local zoning requirements; and,

WHEREAS, on February 11, 2014, and prior to the State Liquor Control Board issuing any permits for marijuana businesses, the Benton County ("County") Board of Commissioners adopted Ordinance 534 to disallow Agricultural Related Industry uses, which includes marijuana processing and sales, as conditional uses in the Rural Lands Five Acre ("RL5") District ; and,

WHEREAS, during that process the County was not informed of any concerns about negative effects of allowing marijuana production, i.e. growing, in the RL5 District; and,

WHEREAS, the County also adopted Resolution 2014-167, which summarized where marijuana production, processing and sales were allowed under the County's then existing zoning districts; and,

WHEREAS, the County recently has received a great number of comments expressing concerns related to marijuana production in the proximity of the many residential areas within the RL5 District; and,

WHEREAS, in particular some of the concerns raised relate to the pungent aroma of a marijuana crop, the nature and use of pesticides in connection with growing marijuana, the possible attraction of criminal activity to areas where marijuana is grown, and aesthetic concerns regarding lighting and other security measures either required by a State license or electively installed by growers of marijuana; and

WHEREAS, based on the above it appears that marijuana production may not be compatible with the allowed uses in the RL5 District and may result in an increased risk to health and safety of residents of those areas as well as increased code enforcement and law enforcement activities; and,

WHEREAS, Article XI, Section 11 of the Washington Constitution provides that any county may "make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws"; and,

WHEREAS, Benton County has the expressed statutory authority, pursuant to RCW 36.70.795 and 36.70A.390, to adopt moratoria, interim zoning ordinances, interim zoning maps, and/or interim official controls without holding a public hearing prior to adoption; and,

WHEREAS, moratoria, interim zoning ordinances, and interim official controls enacted under RCW 36.70.795 and RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new regulations will not be rendered ineffective or moot by intervening development while permanent regulations are considered and adopted; and,

WHEREAS, RCW 36.70.795 and RCW 36.70A.390 provide that a moratorium, interim zoning ordinance and interim official control may be effective for up to six months so long as a public hearing on the moratorium or interim zoning ordinance is held within sixty days after adoption; and,

WHEREAS, the County has decided that it is appropriate to prevent additional marijuana growing operations in the RL5 District that allegedly are incompatible with surrounding uses during the period of time necessary for the County to consider permanent zoning amendments; and,

WHEREAS, to accomplish that objective and prevent new growing operations from vesting or commencing in areas where they are incompatible with surrounding uses while the County completes its investigation, the County desires to adopt an immediate interim zoning ordinance in the form of an amendment to BCC 11.16A.030 to disallow the growing of marijuana, i.e. marijuana production, in the RL5 District; and,

WHEREAS, such interim regulation is consistent with the County's Comprehensive Plan; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON;

SECTION 1. Findings. The Benton County Board of Commissioners makes the following findings and conclusions:

(a) The Board adopts and incorporates the foregoing recitals as findings as if fully set forth herein.

(b) A number of marijuana growing operations have been established since Initiative 502 was passed, and the increased level of such operations has generated significant citizen concerns about the impact that such operations can have in a residential neighborhood and on uses in general allowed in the RL5 District. Additional growing operations in residential neighborhoods in the RL5 District would exacerbate any valid concerns about the incompatibility of the use.

(c) This interim zoning ordinance to amend BCC 11.16A.030 will prohibit new marijuana production operations, i.e. growing operations, from commencing in the RL5 District while regulations to promote compatibility are considered.

(d) It is in the best interest of Benton County to prohibit new marijuana production operations in the RL5 zone at this time, pending further consideration and public engagement on potential long-term regulatory changes.

(e) The proposed interim official control will promote the public health, safety, morals and general welfare, and it is consistent with the goals and policies of the County's Comprehensive Plan.

(f) This Ordinance satisfies the procedural and substantive requirements of and is consistent with the Growth Management Act.

(g) Pursuant to WAC 197-11-880 and BCC 6.35.050, the adoption of this Ordinance is exempt from the requirements for a threshold determination under the State Environmental Policy Act.

(h) The intent of this Ordinance is to temporarily prevent potential new marijuana production operations and has no effect on marijuana growing operations already located within the RL5 District at the time this Ordinance is adopted

SECTION 2. Purpose. The purpose of this interim zoning ordinance is to allow the County to continue to analyze the issue of the compatibility of marijuana production with the prevalent uses within the RL5 District, including but not limited to residential uses, without the possibility that additional marijuana production operations will commence or that operators will flood the County with applications for permits for marijuana production buildings allowed under the County's existing zoning. The County will be examining whether marijuana production should be permitted outright, allowed as a conditional use or prohibited in the RL5 District, and additional time is needed to fully explore the issue.

SECTION 3. Interim Zoning. Ordinance 488, Section 4, and BCC 11.16A.030 are hereby amended to read as follows:

ALLOWABLE USES. Provided all applicable code provisions are satisfied, the following uses are allowed within the Rural Lands Five Acre District (RL-5) on a single parcel of record:

- (a) Single Family Dwelling (SFD).
- (b) Manufactured home if constructed after June 15, 1976.
- (c) Manufactured home placed in a manufactured home/FAS park.
- (d) Duplex.
- (e) One or more accessory buildings and uses commonly appurtenant to a single family dwelling.
- (f) Agricultural uses, except for commercial dairies, commercial hog ranches, commercial poultry/rabbit operations, ((and)) animal feedlots, and marijuana production (as each those terms is currently defined in RCW 69.50.101(t) and (gg), respectively); provided on any tract of land having an area of less than five (5) acres, agricultural uses may not include the keeping of more than one animal unit per equivalent per one-half acre of ground, exclusive of suckling animals.
- (g) One or more agricultural buildings.
- (h) Agricultural stand.
- (i) Adult family home.
- (j) Crisis residential center.
- k) Nursery/greenhouse.
- (l) Utility substation facility.
- (m) Yard sales occurring for no more than three (3) consecutive days on two (2) different occasions during a calendar year.
- (n) Kennel, private.
- (o) Fire department facility, law enforcement facility, and/or medical facility.

(p) Wineries/Breweries; provided structures used as part of the operation of the winery/brewery collectively do not exceed three thousand (3,000) square feet in size.

(q) Hiking and non-motorized biking trail.

(r) Equestrian trails.

(s) Church, provided structures used as part of the operation of the church collectively shall not exceed three thousand five hundred (3,500) square feet in size.

(t) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided:

(1) the wind turbine height must be less than sixty (60) feet;

(2) the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine; and

(3) the wind turbine tower base shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all aircraft runways which are identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO).

SECTION 4. Expiration of Interim Zoning. The interim zoning amendment set forth in Section 3 of this Ordinance shall commence upon adoption and automatically expire and be deemed to have been repealed six months from the date of adoption unless repealed, renewed or otherwise extended prior to such date in accordance with RCW 36.70A.390 and RCW 36.70.795.

SECTION 5. Public Hearing. Pursuant to RCW 36.70A.390 and RCW 36.70.795, the Board of County Commissioners will hold a public hearing on this Ordinance on June 2, 2014, at 9:00 a.m. at the Benton County Courthouse, Commissioner Hearing Room, Third Floor, 620 Market St., Prosser, Washington for the purpose of hearing public testimony regarding this Ordinance. Promptly following such hearing, the Board shall adopt additional findings of fact on this issue and either justify its continued imposition of the interim zoning amendment or repeal this Ordinance.

SECTION 6. Renewal. In accordance with RCW 36.70A.390 and RCW 36.70.795, this Ordinance may be renewed for one or more six month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

SECTION 7. Declaration of Emergency. The Board of County Commissioners hereby finds, concludes and declares that an emergency exists necessitating that this Ordinance takes effect immediately upon passage by the Board of County Commissioners in order to preserve the public peace, health and safety. Non-emergent options would not be adequate to prevent new marijuana production operations from commencing in neighborhoods where they may be detrimental to the public peace, health and safety. Without this immediate interim zoning amendment to BCC 11.16A.030, marijuana production operations could commence and/or building applications for structures in which marijuana production would operate could vest, leading to development that could be incompatible with the code provisions eventually adopted by the County. Therefore, the interim zoning must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the possibility that operators will commence production operations or flood the County with applications for permits for production buildings under the County's existing zoning.

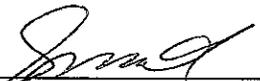
SECTION 8. Work Plan. During the effectiveness of this Ordinance, the County will collect information and receive testimony regarding the compatibility of marijuana production with other allowed uses within the RL5 District.

SECTION 9. Severability. If any provision of this Ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 10. Effective Date. This Ordinance shall take effect and be in full force upon its passage and adoption.

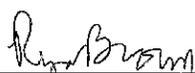
ADOPTED AND PASSED this 12 day of May 2015.


Chairman of the Board.


Chairman Pro-Tem.


Member.

Approved as to Form:


Deputy Prosecuting Attorney

Constituting the Board of
County Commissioners of
Benton County, Washington

Attest: 
Clerk of the Board