

ATTACHMENT D to Planning Commission Resolution

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

ORDINANCE NO. 1074

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO TO AMEND AND RESTATE IN ITS ENTIRETY CHAPTER 7.02 (CANNABIS BUSINESSES) OF TITLE 7 (BUSINESS REGULATIONS), SECTION 7.04.003 (PROHIBITIONS) OF CHAPTER 7.04 (HEMP ENTITIES) OF TITLE 7 (BUSINESS REGULATIONS), AND CHAPTER 19.43 (CANNABIS BUSINESS LAND USE REGULATIONS) OF TITLE 19 (LAND USE AND ENVIRONMENTAL REGULATIONS) OF THE SAN BENITO COUNTY CODE.

WHEREAS, the Board of Supervisors recognized that portions of the San Benito County Commercial Cannabis Code required updates since the last comprehensive cannabis business code update was in 2021, to conform with recently enacted provisions of state law, implement the 2035 General Plan, make the code more clear, concise, and user friendly, modernize land uses and regulations, and to streamline development review; and

WHEREAS, work on the updated cannabis business code commenced in June 2024; and

WHEREAS, the amended Commercial Cannabis Code updates and revises the text of San Benito County Code Chapter 7.02 (Cannabis Businesses), Section 1.04.003 (Prohibitions) of Chapter 7.04 (Hemp Entities), and Chapter 19.43 (Cannabis Business Land Use Regulations); and

WHEREAS, the amended Commercial Cannabis Code to be codified in Title 19 and 7 reduces cumbersome application and operating requirements for commercial cannabis business, establishes maximum canopy limits for San Benito County, and allows for certain cannabis business activities in various zoning districts; and

WHEREAS, the proposed amendments seek to enhance economic development in San Benito County and to achieve parity with the state and surrounding jurisdictions that have adopted less restrictive commercial cannabis regulations; and

WHEREAS, the Cannabis Businesses Code amendments repeals and replaces in its entirety the text of the San Benito County Code Chapter 7.02, proposed amendments include, but are not limited to, re-organization of sections related to operating requirements for cannabis business types, updated definitions, updated sensitive uses, and inclusion of large cannabis cultivation license; and

WHEREAS, the Hemp Entities Code amendments repeals and replaces Section 7.04.003 (Prohibitions) of the San Benito County Code in Chapter 7.04, proposed amendments include, but are not limited to, reducing the hemp exclusion zone buffer from one (1) mile to one half (1/2) mile of a Sphere of Influence or wine hospitality site, reducing the state roads buffer to from 500 feet to 100 feet, and removing County Service Area's (CSA's), Tres Pinos Water District, and public roads from the exclusion zones; and

WHEREAS, the Cannabis Business Land Use Regulations Code amendments repeals and replaces in its entirety the text of the San Benito County Code Chapter 19.43, proposed amendments include, but are not limited to, updated section titles, re-organization of sections related to operating requirements for cannabis business types, established principally permitted cannabis business types in various zoning districts, expansion of eligible activities to include large cannabis business licenses, updated application requirements for cannabis business types, reduced setback requirements for sensitive uses in compliance with California Business and Professions Code §26054, reduction of cumbersome security requirements, establishes a maximum canopy limit of 500 acres, to increase by 500 acres every year for a total of three (3) years, includes additional operating requirements for all cannabis businesses, allows for various cannabis business types to be principally permitted in various zoning districts if located in an existing structure; and

WHEREAS, the draft updated Commercial Cannabis Code (7.02, 7.04, and 19.43) was made available for public review in November 2024; and

WHEREAS, the Planning Commission, at a duly noticed public hearing on November 6, 2024, reviewed the draft updated Commercial Cannabis Code and voted to recommend that the Board of Supervisors adopt the updated Commercial Cannabis Code; and

WHEREAS, the environmental impacts of the Commercial Cannabis Code Update have generally been addressed in the Final General Plan EIR prepared for the most recent update of the San Benito County General Plan (as more fully expressed in Exhibit “A”); and

WHEREAS, the Board of Supervisors finds that the foregoing recitals and findings are true and correct, and adopts this Ordinance based on the entirety of the record;

THEREFORE, the Board of Supervisors of the County of San Benito hereby ordains as follows:

Section 1. Findings. The Board of Supervisors hereby makes the findings and declarations, as more fully set forth in Exhibit “A” attached hereto, with regard to the following:

- A. Consistency with 2035 San Benito County General Plan.
- B. Protection of the public health, safety, and welfare.
- C. Amendments not subject to the California Environmental Quality Act (CEQA).

Section 2. Delete and repeal the following from the San Benito County Code:

- A. Section 7.04.003 (Prohibitions) of Chapter 7.04 (Hemp Entities) of Title 7 (Business Regulations); and
- B. Chapter 7.02 (Cannabis Businesses) of Title 7 (Business Regulations); and
- C. Chapter 19.43 (Cannabis Business Land Use Regulations) of Title 19 (Land Use and Environmental Regulations).

Section 3. Amend and restate the San Benito County Code to add, as attached in attachment “A, B, and C,” the following:

- A. **(Attachment A)** Section 7.04.003 (Prohibitions) or Chapter 7.04 (Hemp Entities) of Title 7 (Business Regulations); and
- B. **(Attachment B)** the entirety of Chapter 7.02 (Cannabis Businesses) of Title 7 (Business Regulations); and
- C. **(Attachment C)** the entirety of Chapter 19.43 (Cannabis Business Land Use

Regulations) of Title 19 (Land Use and Environmental Regulations).

Section 4. Effective Date and Codification. This ordinance shall take effect and be in full force and effect thirty (30) days after its passage, and, before expiration of fifteen (15) days after passage of this ordinance, a post-adoption summary shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the *Hollister Free Lance*, a newspaper of general circulation published in the County of San Benito, State of California.

In regular session of the Board of Supervisors of the County of San Benito, adopted this 10th day of December 2024, on regular roll call of the members of said Board by the following vote:

YES: Supervisor(s) 5 - Curro, Sotelo, Zanger, Kosmicki, Gonzlaes

NOES: Supervisor(s) 0 - None

ABSENT OR NOT VOTING: Supervisor(s) 0 - None

DocuSigned by:

Angela Curro

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Angela Curro, Chair, Board of Supervisors

ATTEST:

Vanessa Delgado, Clerk of the Board

APPROVED AS TO LEGAL FORM:

Sean Cameron, Assistant County Counsel

DocuSigned by:

Vanessa Delgado

By:

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Clerk of the Board

By:

[Signature]

Assistant County Counsel

EXHIBIT "A" FINDINGS AND DETERMINATIONS

(A) **Consistency with 2035 San Benito County General Plan.** Local zoning and land use regulatory ordinances must be consistent with the general plan. (Gov. Code § 65860 (a).) The 2035 San Benito County General Plan establishes Guiding Principles, Goals, Policies, Standards, Programs, and Implementation Measures, including the following:

1. Principles:

- a. Ensure that agriculture and agriculture-related industries remain a major economic sector by protecting productive agriculture lands and industries, promoting new and profitable agricultural sectors, and supporting new technologies that increase the efficiency and productivity of commodity farming.
- b. Encourage agriculture that is locally-produced, profitable, and attracts related businesses.
- c. Expand and diversify the local economy by supporting businesses, supporting jobs for the diverse population, and capitalizing on the county's natural and human resources.
- d. Support existing and establish new local businesses that are based on industries that are innovative, technology-based, and sustainable.
- e. Support programs that educate the local workforce on conventional, productive, sustainable, and organic agriculture concepts; water conservation strategies; high-tech industries; and alternative energy production.
- f. Support the county's growing tourism industry.
- g. Protect natural resources and open space areas from incompatible uses.
- h. Preserve the county's environmental quality and diverse natural habitats.

2. Goals and Policies:

- a. Goal LU-3: To ensure the long-term preservation of the agricultural industry, agricultural support services, and rangeland resources by protecting these areas from incompatible urban uses and allowing farmers to manage their land and operations in an efficient, economically viable manner.
- b. Policy LU-3.1: Agricultural Diversification. The County shall support existing farms, vineyards, and other agricultural operations and encourage the agricultural industry to continue diversification that includes organic, value-added, small-scale, sustainable, and community-supported agricultural practices throughout the county.
- c. Policy LU-3.2: Agricultural Integrity and Flexibility. The County shall protect the integrity of existing agricultural resources, and provide for flexibility and economic viability of farming and ranching operations.
- d. Policy LU-3.4: Lower-Impact Agricultural Practices. The County shall encourage and support farms, vineyards, and ranches that use lower-impact agricultural and/or organic practices and shall recognize the benefits that a flourishing organic sector industry can provide.

- e. Policy LU-3.6: Agricultural Support Services. The County shall encourage services such as trucking, warehousing, and distribution centers in appropriate locations, to provide support for the economic viability of commercial agriculture.
- f. Policy LU-3.9: Right to Farm and Ranch. The County shall protect the rights of operators of productive agricultural properties and ranching properties to commence and continue their agricultural and ranching practices (a “right to farm and ranch”) even though established urban uses in the general area may foster complaints against those agricultural and ranching practices. The “right to farm and ranch” shall encompass the processing of agricultural and ranching products and other activities inherent in the definition of productive agriculture and in ranching activities. The County shall require all parcel maps approved for locations in or adjacent to productive agricultural areas and ranching areas to indicate the “right to farm and ranch” policy. The County shall require the program to be disclosed to buyers of property in San Benito County.
- g. Goal LU-6: To promote the development of new industrial and employment uses in the unincorporated parts of the county that are compatible with surrounding land uses and meet the present and future needs of the county residents.
- h. Policy LU-6.3: Industrial Uses. The County shall encourage industrial land uses to locate in areas that would not pose significant land use conflicts and in a manner appropriate to the type of industrial activity proposed, such as industry in direct support of agricultural operations in agricultural areas and general light industrial services nodes near existing and proposed major transportation infrastructure.
- i. Goal ED-1: To sustain the long-term economic wellbeing of the county by promoting economic sustainability and diversification.
- j. Policy ED-1.6 Agricultural Base Diversification. The County shall diversify the existing agricultural base by encouraging strong relationships between traditional agricultural industries and emerging agricultural-related industries, and emphasizing the expansion of value-added agricultural products in the county.
- k. Policy ED-1.7 Sustainable Business Development. The County shall encourage the development of environmentally-sustainable businesses that capitalize on green industry sector strengths, particularly new emerging green technologies such as solar energy
- l. Goal ED-3. To attract new high quality businesses and investments that complement the county’s rural character and provide high wage jobs for local residents.
- m. Policy ED-3.1 New Business Development. The County shall encourage entrepreneurial development and business incubators to grow and support start-up businesses, including those in high growth sectors, emerging technologies, and green industries.
- n. Goal AD-1: To ensure that the development review process and the decisions made by the Board Supervisors are efficient, fair, and to the greatest extent feasible, predictable.

- o. Policy AD-1.1: Equal Public Participation. The County shall ensure that all community residents, business owners, works, and other stakeholders have meaningful opportunities to participate in the decision-making process.
- p. Policy AD-1.4 Development Review and Permitting Streamlining Process. The County shall maintain a development review and permit process that is cost and time efficient. The County shall ensure that permitting procedures and regulations are applied consistent manner to all project applicants.
- q. Goal AD-3: To provide a clear framework for the ongoing administration, maintenance, and implementation of the San Benito County 2035 Geneal Plan
- r. Policy AD-3.5: Ordinance Consistency. The County shall maintain all applicable County ordinances and regulations to ensure their consistency with the adopted 2035 General Plan.

3. Implementation Programs

- a. Program LU-K: Zoning Consistency: The County shall review its zoning ordinance to ensure consistency with the goals and policies set forth in the Land Use Element of the General Plan.
- b. Program AD-A: Development Review and Permit Streamlining: The County shall review its existing development review and permitting process in order to improve the efficiency for both the County and project applicants. This may include, as necessary, the following components:
 - a. Use a triage system to minimize permit backlog during periods of high development demand. This can include identifying projects that will need considerable staff resource to review early in the process in order for them to be efficiently managed.
 - b. Provide regular status reports on project review schedules to the Planning Commission and Board of Supervisors during public meetings.
 - c. Use consistent processing procedures for all projects.
 - d. Provide pre-application meetings to coordinate review of large or complex projects.
- c. Program AD-H: Ordinance Consistency: The County shall review and amend, as necessary, applicable ordinances and regulations to ensure consistency with the 2035 General Plan. These shall include at a minimum the following: Zoning Ordinance, Subdivision Ordinance, Building and Engineering Regulations, Land Use and Environmental Regulations, and Traffic Regulations.

(B) **Protection of the public health, safety, and welfare.** Pursuant to Article XI, section 7, of the California Constitution, the County of San Benito ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens. Pursuant to the Planning and Zoning Law, Government Code section 65800, the Board of Supervisors may adopt ordinances to regulate the

use of land as between industry, business, residences, open space, including agriculture and other uses, and for other purposes (Gov. Code § 65850). As set forth in San Benito County Code section 25.01.002, the purpose of county land use regulation is to promote and protect the public health, safety, peace, moral, comfort, convenience and general welfare, to protect the character and the social and economic stability of agricultural, residential, commercial, industrial and other areas within the county, and to obviate the menace to public safety resulting from the location and use of land adjacent to the highways.

The Board of Supervisors finds and determines that adoption of amendments to Title 25 Zoning Code are necessary and appropriate for the protection and promotion of the public health, safety, and welfare and quality of life, while allowing for additional economic development that would not be in conflict with existing land uses. All existing land uses will function in a manner that continues to protect the natural environment and community safety, within the different zone districts to benefit the San Benito County economy.

(C) Compliance with the California Environmental Quality Act (CEQA).

The Board of Supervisors hereby finds that the adoption of amendments Title 25 of the San Benito County Code does not require additional analysis under the California Environmental Quality Act (CEQA) on the basis of the following:

1. On July 21, 2015 the San Benito County Board of Supervisors certified the adoption of a programmatic Environmental Impact Report (EIR) for the adoption of the 2035 San Benito County 2035 General Plan by the adoption of Resolution No. 2015-58.
2. No subsequent EIR shall be prepared for a project unless there is substantial evidence in light of the whole record that one or more of the circumstances set forth in CEQA Guidelines, 14 C.C.R. § 15162 (a)(1) – (3) have been determined to have occurred.
3. The 2035 San Benito County 2035 General Plan includes Principles, Goals, Policies, Standards, Programs, and Implementation Measures, including but not limited to those listed in Section (A), above, giving direction for the review and amendment of the zoning ordinance for consistency with the General Plan. The General Plan Land Use Element established development densities for different land use designations that are identified in the corresponding zoning districts for each land use designation.
4. This zoning ordinance update is intended as a programmatic level implementation measure to be consistent with and effectuate the Principles, Goals, Policies, Standards, Programs and Implementation measures set forth in the 2035 San Benito County General Plan, the potential significant environmental effects of which are fully analyzed and evaluated in the EIR certified for its adoption. The zoning ordinance update is not for any location-specific property or project, nor would have any impacts peculiar to any specific parcel or project.
5. The revision, reorganization, and recodification of the San Benito County Zoning Code, San Benito County Code Title 25 as adopted in this Ordinance does not change the use or intensity of any zoning district designated as applied to any parcel of land in the County of San Benito, except as mandated by state law with respect to accessory dwelling units, Government Code section 65282.2.

6. Amendment of a zoning ordinance to implement Government Code section 65282.2 is statutorily exempt from CEQA, as provided by Public Resources Code section 21080.17, CEQA Guidelines 14 C.C.R. § 15282 (h);
7. In accordance with CEQA Guidelines 14 C.C.R. § 15183, projects that are consistent with development density established by general plan policies for which an EIR has been certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. In this regard, the Board of Supervisors finds:
 - a. There are no environmental effects that are peculiar to a specific project or the parcel on which a project would be located.
 - b. Amendment of the zoning ordinance on a programmatic level to implement the Principles, Goals, Policies, Standards, Programs, and Implementation Measures has no significant effects that were not analyzed in the prior EIR certified for the adoption of the General Plan.
 - c. There are no potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan.
 - d. There is no substantial new information which was not known at the time the EIR was certified that previously identified significant effects would have a more severe adverse impact than discussed in the prior General Plan EIR.
 - e. All feasible mitigation measures identified in the prior General Plan EIR will be undertaken.
8. The ordinance amendments in 7.02, 7.03, and 19.43, which are the subject of this action, are consistent with the 2035 San Benito County General Plan, for which an EIR was certified, and are therefore subject to the provisions of 14 C.C.R. § 15183, in that no additional environmental review shall be required.
9. The revision, reorganization, and recodification of the San Benito County Code, San Benito County Code Title 7 and Title 19 as adopted in this Ordinance does not have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA, as provided in the “common sense” exemption set forth in CEQA Guidelines, 14 C.C.R. § 15061 (b)(3).