

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SAN BENITO TO DELETE CHAPTER 25.29,
ARTICLE IV. BUSINESSES IN THE HOME, SECTIONS
25.29.090 TO 25.29.104 OF THE SAN BENITO COUNTY CODE
IN THEIR ENTIRETY AND ADOPT CHAPTER 25.29,
ARTICLE IV. HOME OCCUPATIONS AND RURAL HOME
ENTERPRISES.**

The Board of Supervisors of the County of San Benito 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 San Benito County Code Chapter 25.29, Article IV. Businesses in the Home, Sections 25.29.090 to 25.29.104 in their entirety,

Section 3. Amend the San Benito County Code to add Chapter 25.29, Article IV. Home Occupations and Rural Home Enterprises, as follows:

ARTICLE IV. HOME OCCUPATIONS AND RURAL HOME ENTERPRISES

25.29.090 Home Occupations Defined

A Home Occupation is defined as the operation of a business in a dwelling by an occupant as an accessory use. **For the purpose of this title a Cottage Food Operation will be considered a Home Occupation but will have additional requirements as regulated by the State law and San Benito County Department of Public Health.**

25.29.091 Permitted Zoning Districts for Home Occupations

A home occupation is allowed in the following zoning districts: AR, AP, R, RR, R1 and RM, including where these zones are overlaid by a Combining Zone, unless the standards of the Combining Zone would not permit the use.

25.29.092 No Permit Required for Home Occupation

No permit is required for a Home Occupation.

25.29.093 Home Occupation Regulations

The following regulations apply to all Home Occupations:

- (A) A Home Occupation must be operated entirely inside of the primary dwelling unit or an accessory dwelling unit. Any dwelling which is used for a home occupation must be the primary residence of the person operating the business.
- (B) No persons who are not residents of the primary dwelling or accessory dwelling unit may work onsite as part of the Home Occupation. Any number of on-site residents may work as part of a Home Occupation.
- (C) Any number of Home Occupations may be operated at a single location, provided that the requirements of this section are followed.
- (D) Home Occupations shall not include any of the following:
 - i. Employment of any person not a resident of the dwelling unit.
 - ii. Generation of pedestrian or vehicular traffic beyond that normal to the district.
 - iii. Storage of materials or supplies outdoors.
 - iv. Show windows, window displays or on-site advertising to attract customers, clients or the general public to the premises.
 - v. Any construction feature or alteration not of a residential character.
 - vi. Any operational characteristic or effect, including color, lighting, noise, vibration, electrical disturbance, smoke or odor discernable at the exterior boundaries of the building site which would identify the premises as serving a non-residential purpose.
 - vii. Sale of products to customers at the premises, **but sales to customers off premises or by e-commerce, mail, or telephone order is allowed.**
 - viii. Storage or use of flammable or toxic substances or other materials deemed hazardous, beyond that normal to a residential or agricultural district.

25.29.094 Permitted Home Occupations

Any business not specifically prohibited may be operated as a Home Occupation, so long as all of the limitations in this section are complied with.

25.29.095 Prohibited Home Occupations

The following uses shall not be operated as a Home Occupation:

- (A) Animal hospital or animal clinic.
- (B) Clinic, hospital or facility for the care or treatment of human ills, including medical and non-medical treatments.
- (C) Vehicle repair.
- (D) The sale of vehicles by a Dealer as defined in section 285 of the California Vehicle Code.
- (E) Day Care Center.
- (F) Massage parlors, saunas, Turkish baths or similar uses.
- (G) Uses listed as permitted or conditionally permitted in the zoning district in which

the home occupation is located shall be regulated as provided in that chapter.

- (H) Any Home Occupation working outside the regulations set forth in this code will be subject to code enforcement procedures as outline under Title 1: General Provisions; Code Enforcement.

25.29.096 Home Occupation Signs

- (A) A Home Occupation may display one non-illuminated, single-faced sign for the purposes of advertisement not more than three square feet in area, displaying the name of the person conducting the Home Occupation or rural home enterprise use and/or the street address of the property shall be allowed.
- (B) The sign must be located either flat against the front wall of the dwelling or not closer than 20 feet from the parallel of the front street property line.
- (C) One sign is permitted at one address, regardless of the number of Home Occupations operating at the address.

25.29.097 Business License Tax

All Businesses are subject to Title 5 Article IV Business License Tax.

25.29.098 Cottage Food Operations

All cottage food operations shall comply with the standards and provisions in the Home Occupations section, as well as regulatory standards established by State law (Government Code Section 51035 et seq. and Health and Safety Code Section 114365 et seq.) and the San Benito County Department of Public Health.

25.29.099 Rural Home Enterprise Defined

A Rural Home Enterprise is defined as the operation of a business in a dwelling or accessory structure by an occupant and a limited number of non-resident employees as an accessory use.

25.29.100 Permitted Zoning Districts for Rural Home Enterprises

Rural Home Enterprises are allowed in in the AR, AP and R zones, including where these zones are overlaid by a Combining Zone, unless the standards of the Combining Zone would not permit the use.

25.29.101 Permit Required for Rural Home Enterprise

A Rural Home Enterprise requires the issuance of an Administrative Use Permit.

As provided in this section, a Conditional Use Permit may be used to allow certain expansions in the operations of a Rural Home Enterprise.

25.29.102 Rural Home Enterprise Regulations

The following regulations apply to all Rural Home Enterprises. Additional limitations

may be imposed as part of an Administrative Use Permit or Conditional Use Permit for the Rural Home Enterprise.

- (A) A Rural Home Enterprise must be operated entirely inside of the primary dwelling unit or accessory dwelling unit or entirely within one (1) accessory structure.
- (B) A Rural Home Enterprise may be operated on any parcel in the allowed zoning districts. No minimum parcel size is required.
- (C) Up to five (5) non-residents may work onsite as part of a Rural Home Enterprise, unless additional non-resident onsite employees are permitted via a Conditional Use Permit.
- (D) Any number of on-site residents who may work as part of a Rural Home Enterprise.
- (E) A maximum of one (1) Rural Home Enterprise may be operated at a single location.
- (F) A Rural Home Enterprise may be operated at the same location as one or more Home Occupations.
- (G) Businesses must operate between 8 am and 9 pm weekdays, unless different hours and days of operation are approved through a Conditional Use Permit.
- (H) Rural Home Enterprises shall not include any of the following:
- (I) Employment on the premises of more than five (5) persons other than members of the family occupying the dwelling unit, unless permitted via a Conditional Use Permit.
- (J) Generation of pedestrian or vehicular traffic which would negatively affect the surrounding properties.
- (K) Storage of materials or supplies outdoors.
- (L) Show windows, window displays or on-site advertising to attract customers, clients or the general public to the premises;
- (M) Any operational characteristic or effect, including color, lighting, noise, vibration, electrical disturbance, smoke or odor discernable at the exterior boundaries of the building site which would identify the premises as serving a nonresidential purpose.
- (N) The sale of products on the premises not related to the Rural Home Enterprise;
- (O) The storage or use of flammable or toxic substances or other materials deemed hazardous, beyond that normal to a residential or agricultural district.

25.29.103 Permitted Rural Home Enterprises

Any business not specifically prohibited may be operated as a Home Occupation, so long as all of the limitations in this section are complied with.

Uses listed as permitted or conditionally permitted in the zoning district shall be regulated as provided in that chapter.

25.29.104 Prohibited Rural Home Enterprises

The following uses may not be operated as a Rural Home Enterprise:

The sale of vehicles by a Dealer as defined in section 285 of the California Vehicle Code.

25.29.105 Rural Home Enterprise Permit Filing Requirements

An application for an Administrative Use Permit or Conditional Use Permit shall be filed as provided in this Code.

25.29.106 Rural Home Enterprise Permit Review and Findings

An Administrative Use Permit or Conditional Use Permit for a Rural Home Enterprise shall be reviewed, and findings made as provided in this Code, including the following findings:

- (A) That the proposed use, if it complies with all conditions upon which approval is made contingent, is in conformance with the “Home Occupations” and “Rural Home Enterprises” regulations of this Code.
- (B) Conditions of approval may be imposed to ensure that all required findings for approval can be made and the use will operate as provided in this section.

25.29.107 Business License Tax

All Business' are subject to Title 5 Article IV Business License Tax.

25.29.108 Permit Modification or Revocation

An Administrative Use Permit or Conditional Use Permit for a Rural Home Enterprise can be modified or revoked per the procedures set forth in this Code. Any Rural Home Enterprise working outside the regulations set forth in this code will be subject to code enforcement procedures under Title 1: General Provisions; Code Enforcement.

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 ____ day of _____ 2021, on regular roll call of the members of said Board by the following vote:

YES: Supervisor(s)

NOES: Supervisor(s)

ABSENT OR NOT VOTING:

Bea Gonzales, Chair, Board of Supervisors

ATTEST:
Jennifer Frechette, Clerk of the Board

APPROVED AS TO LEGAL FORM:
Barbara J. Thompson, County Counsel

By: _____
Clerk of the Board

By: _____
Joel Ellinwood, 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 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. LU-5.6 The County shall encourage visitor-oriented commercial uses that promote the local history, local economy (e.g. agriculture, wineries, recreation), and market locally-produced agricultural products.
 - b. LU-5.8 Live-Work Development The County shall encourage mixed-use developments to include live-work floor plans for residents who desire office, commercial, or studio space adjacent to their living space. (RDR)
 - c. ED-1 To sustain the long-term economic wellbeing of the county by promoting economic sustainability and diversification
 - d. ED-2 To support and promote the retention and expansion of existing businesses within the county
 - e. ED-3 To attract new high quality businesses and investment that complement the county’s rural character and provide high wage jobs for local residents

The Board of Supervisors finds that the business in the home offers numerous opportunities for robust economic development within San Benito County. Building upon and updating the existing ordinance language allowing the permitted use of home occupations and modifications to rural home enterprise provide revenue and employment opportunities.

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 Chapters businesses in the home 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 use restrictions on the operation of businesses in the home will help to ensure that businesses 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.

B. Amendments not subject to the California Environmental Quality Act (CEQA)

The Board of Supervisors hereby finds that the adoption of amendments Chapters 25.29 of the San Benito County Code Business in the Home is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, section 15061(b)(3), CEQA review is not required because it can be seen with certainty that there is no possibility that the adoption of the ordinance will have significant effect on the environment in that home occupations and rural home enterprises will be operated in existing structures and that any activities proposed would not have operational characteristics that at the exterior boundaries of the building site which would identify the premises as serving a nonresidential purpose and have minimal effect on the environment.