

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 ADDING CHAPTER 15.01.050, ET. SEQ., "EDIBLE FOOD RECOVERY" TO TITLE 15, ARTICLE III OF THE SAN BENITO COUNTY CODE.

The Board of Supervisors of the County of San Benito Ordains as follows:

- SECTION 1. PURPOSE AND FINDINGS
- SECTION 2. TITLE OF ORDINANCE
- SECTION 3. DEFINITIONS
- SECTION 4. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS
- SECTION 5. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES
- SECTION 6. INSPECTIONS AND INVESTIGATIONS
- SECTION 7. ENFORCEMENT
- SECTION 8. SEVERABILITY
- SECTION 9. EFFECTIVE DATE

SECTION 1. PURPOSE AND FINDINGS:

The San Benito County Code ("SBCC"), Title __, "Edible Food Recovery Ordinance," sets forth various regulations applications to comply with SB 1383 and reduce organics in landfills as a source of methane. The County has been assisting the jurisdictions within the County with compliance and any applicable exemptions concerning AB 939, AB 341, and AB 1826 and is planning on assisting with SB 1383 applicable exemptions and compliance. In order to further reduce organics in the landfills, the addition of Chapter __, "Edible Food Recovery Ordinance," to Title __ of San Benito county Code is recommended.

- (a) State organics recycling law, Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016 (approved by the Governor of the State of California on September 19, 2016), took effect on January 1, 2017 and sets Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, and requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The SB 1383 Regulations place requirements on multiple entities, including counties, cities, residential households, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets with compliance required beginning January 1, 2022. The County is eligible for, has applied for and expects to receive, a rural waiver from CalRecycle for most of the generator and collection requirements, except for the commercial edible food generator requirements and other edible food recovery program requirements.

- (b) In furtherance of the food recovery objectives of the laws noted above and to reduce legal risks associated with food recovery, the State food donation law, Assembly Bill 1219 of 2017, the California Good Samaritan Food Donation Act of 2017, provides additional protections for entities that donate and distribute food for human consumption.
- (c) By January 1, 2022, the SB 1383 Regulations require jurisdictions that provide solid waste services, to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of SB 1383.
- (d) It is in the public interest for participants in the County—to work together to advance the goals in the state legislation noted above.
- (e) This Ordinance is adopted pursuant to CalRecycle’s SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. No mitigation measures identified in the EIR are applicable to the County’s enactment of this Ordinance. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment

SECTION 2. TITLE OF ORDINANCE: (§ 15.01.050)

This Ordinance is titled “Edible Food Recovery Ordinance”.

SECTION 3. DEFINITIONS: (§ 15.01.051)

The following definitions govern the use of terms in this Ordinance:

“CalRecycle” means California's Department of Resources Recycling and Recovery, which is the state agency designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations.

“California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this Ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

“Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

“County” means the County of San Benito.

“Designee” means a staff person that the County of San Benito assigns to carry out any of the County’s responsibilities of this Ordinance.

“Designated Entity” means an entity that the County of San Benito contracts with or otherwise arranges to carry out any of the County’s responsibilities of this Ordinance as authorized in 14 CCR Section 18981.2. A Designated Entity may be a government entity, a private entity, or a combination of those entities.

“Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this Ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code, as codified in the Health and Safety Code Section 113700, et seq.

“Enforcement Action” means an action of the relevant Enforcement Agency to address non-compliance with this Ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

“Enforcement Agency” means an entity with the authority to enforce part or all of this Ordinance as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this Ordinance. Nothing in this Ordinance authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity. The County of San Benito is an Enforcement Agency for purposes of enforcing this ordinance. Other public entities may be designated by the County to serve as an Enforcement Agency for the County.

“Enforcement Officer” means the County Administrative Officer of the County of San Benito or designee.

“Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

“Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.

“Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

“Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety Code;

2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Ordinance.

“Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

“Food Scraps” means all edible or inedible food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, coffee grounds, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

“Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

“Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

“Health Facility” has the same meaning as in Section 1250 of the Health and Safety Code.

“Inspection” means an Enforcement Agency’s electronic or on-site review of records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Ordinance. For the purposes of this definition of Large Event, “local agency” means all public agencies except those that are not subject to the regulatory authority of the jurisdiction.

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation. For purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a

public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Ordinance.

“Notice of Violation” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

“Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

“SB 1383” means Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016.

“SB 1383 Regulations” means or refers to, for the purposes of this Ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

“Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

“Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (1) Supermarket.
- (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food Service Provider.
- (4) Food Distributor.
- (5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Ordinance.

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.

- (3) Health facility with an on-site Food Facility and 100 or more beds.
- (4) Large Venue.
- (5) Large Event.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition as to entities subject to the regulatory authority of a jurisdiction, the definition in 14 CCR Section 18982(a)(74) shall apply to this Ordinance.

“Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

SECTION 4. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

Commercial Edible Food Generator Requirements (§ 15.01.052)

Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3 or such later deadline established by State law or regulations.

Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities, as defined in Section 113789 of the Health and Safety Code, operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024 or such later deadline established by State law or regulations.

Commercial Edible Food Generators shall comply with the following requirements:

- A. Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
- B. Enter into a contract or other written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection for Food Recovery of Edible Food that would otherwise be disposed; or, (ii) acceptance of Edible Food that would otherwise be disposed that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- C. Use best efforts to abide by all contractual or written agreement requirements specified by the Food Recovery Organization or Food Recovery Service on how Edible Food should be prepared, packaged, labeled, handled, stored, distributed or transported to the Food Recovery Organization or Service.
- D. Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.

- E. Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- F. Allow the Enforcement Agency to review records upon request, including by providing electronic copies or allowing access to the premises.
- G. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (1) A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (2) A copy of all contracts and written agreements established under 14 CCR Section 18991.3(b) and/or this Ordinance.
 - (3) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (a) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (b) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (c) The established frequency that food will be collected or self-hauled.
 - (d) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
 - (4) If it has not entered into a contract or written agreement with Food Recovery Organizations or Food Recovery Service, a record that describes (i) its direct donation of Edible Food to end recipients (including employees) and/or (ii) its food waste prevention practices that result in it generating no surplus Edible Food that it can donate.
- H. Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators shall provide, upon request, a Food Recovery report to the Enforcement Agency that includes the information in G. Entities shall provide the requested information within 60 days of the request.

Nothing in this Ordinance shall be construed to limit or conflict with (1) the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 or (2) otherwise applicable food safety and handling laws and regulations.

Nothing in this Ordinance prohibits a Commercial Edible Food Generator from donating Edible Food directly to end recipients for consumption, pursuant to Health and Safety Code Section 114432(a).

SECTION 5. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES (§ 15.01.053)

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records:
- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records:
- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the County and contract with or have written agreements with one or more Commercial Edible Food Generators shall report to the County, or its designated Enforcement Agency, the total pounds of Edible Food recovered from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with (regardless of whether those Generators are located in the County) according to the following schedule:
- (Tier 1) no later than August 15, 2022, submit an initial report covering the period of January 1, 2022 to June 30, 2022; and
- (Tier 2) no later than March 31, 2023, and no later than every March 31 thereafter, submit a report covering the period of January 1 to December 31 of the previous calendar year.

- D. In order to support Edible Food Recovery Capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in the County shall provide, upon request, information and consultation to the County, or the County, regarding existing, or proposed new or expanded, food recovery capacity in a form that can be provided to or that can be accessed by the County and the Commercial Edible Food Generators in the County. A Food Recovery Service or Food Recovery Organization contacted by an Enforcement Officer designated by the County, shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the Enforcement Officer.

SECTION 6. INSPECTIONS AND INVESTIGATIONS (§ 15.01.054)

Inspections and Investigations

- A. The County's Enforcement Officer or its designated Enforcement Agency is authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this Ordinance, subject to applicable laws.
- B. A person subject to the requirements of this Ordinance shall provide or arrange for access during all Inspections (with the exception of a private residential dwelling unit) and shall cooperate with the Enforcement Agency during such Inspections and investigations. Such Inspections and investigations may include Inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance. Failure to provide or arrange for access to the premises or access to records for any Inspection or investigation is a violation of this Ordinance and may result in penalties.
- C. Any records obtained by the County's Enforcement Officer or its designated Enforcement Agency during Inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- D. The County's Enforcement Officer or its designated Enforcement Agency shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this Ordinance.

SECTION 7. ENFORCEMENT (§ 15.01.055)

- A. Violation of any provision of this Ordinance shall constitute an infraction and will be grounds for issuance of a Notice of Violation and assessment of an administrative citation and penalty by the County's Enforcement Officer or its designated Enforcement Agency.
- B. Enforcement Actions under this Ordinance are issuance of an administrative citation and assessment of a fine. Any section of this Ordinance may be enforced by the County, or, if agreed to, by its designated Enforcement Agency.
- C. A violation may be punishable by:
- A fine not exceeding \$100 for a first violation;
 - A fine not exceeding \$200 for a second violation of the same provision of this code within any twelve consecutive month period;

- A fine not exceeding \$500 for each additional violation of the same provision of this code within any twelve consecutive-month period.

D. The Enforcement Agency for the provisions of this Ordinance is the County and any designated Enforcement Agency authorized by the County to enforce one or more sections of this Ordinance.

SECTION 8. SEVERABILITY

If any provision of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such invalidity shall not affect the remaining provisions or application of the remaining provisions of this Ordinance, which can be given effect without the invalid provisions or application.

SECTION 9. EFFECTIVE DATE AND CODIFICATION

This Ordinance shall take legal effect thirty (30) days after adoption, as provided by law. Sections 2 - 7 of this Ordinance shall be codified in the San Benito County Code.

In regular session of the Board of Supervisors of the County of San Benito, adopted this ____ day of January, 2022 on regular roll call of the members of said Board by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTENTATION:

 Bea Gonzales
 Chair, Board of Supervisors

ATTEST:
 Jennifer Frechette, Clerk of the Board

APPROVED AS TO LEGAL FORM:
 San Benito County Counsel

By: _____
 Clerk of the Board

By:  _____
 Reed Gallogly
 Deputy 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. Establish defined boundaries to separate cities and unincorporated communities from prime agricultural land and important natural resources, using such features as agriculture buffers, greenbelts, open space, and parks. (p. 2-3)
- b. 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. (p. 2-3)
- c. Encourage agriculture that is locally-produced, profitable, and attracts related businesses. (p. 2-3)
- d. 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.
- e. Support existing and establish new local businesses that are based on industries that are innovative, technology-based, and sustainable.
- f. 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.
- g. Support the county's growing tourism industry:
- h. Protect natural resources and open space areas from incompatible uses.
 1. Preserve the county's environmental quality and diverse natural habitats.
- J. Coordinate County planning efforts with those of the City of Hollister and the City of San Juan Bautista.

2. Goals and Policies:

- a. LU-3.1 Agricultural Diversification
- b. LU-3.2 Agricultural Integrity and Flexibility
- c. LU-3.8 Visitor Serving Uses in Agricultural Areas
- d. LU-3.9 Right to Farm and Ranch
- e. ED-4 To expand the county's wine and hospitality industries in order to ensure San Benito County becomes a regional leader in the wine industry and a premier tourist destination.
 - f. ED-4.1 Wine and Hospitality Combining District
 - g. ED-4.2 Wine Industry Promotion
 - h. ED-4.3 Sustainable Wineries
 1. ED-4.4 Winery Special Events
 - J. ED-4.6 Bed and Breakfast Inns and Boutique Resorts near wineries

The Board of Supervisors finds that the experience of the first year of legal hemp cultivation in San Benito County, which began even before the adoption of the Hemp Entities Management Program Ordinance in Chapter 7.04 of the County Code, identified underappreciated impacts that were not adequately addressed in that ordinance, in particular with respect to odor impacts adversely impacting cities, rural residential subdivisions, the winery industry and tourism in the Wine and Hospitality Combining District; and with vandalism and theft due to the inability of the general public to differentiate between cannabis and hemp in outdoor cultivation areas located adjacent to public rights of way. Adoption of amendments to Chapter 7.04 establishing hemp cultivation exclusion zones surrounding cities, county service areas associated with rural residential development, and the Wine and Hospitality Combining District, as well as increased setbacks from established residential uses on smaller parcels in rural areas and from public rights of way, will serve to greatly reduce, if not eliminate these impacts in a manner that is consistent with, and strikes an appropriate balance between, the competing principles, goals, policies and standards set forth in the General Plan identified above.

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 Chapter 7.04 establishing hemp cultivation exclusion zones surrounding cities, county service areas associated with rural residential development, and the Wine and Hospitality Combining District, as well as increased setbacks from established residential uses on smaller parcels in rural areas and from public rights of way, are necessary and appropriate for the protection and promotion of the public health, safety, and welfare and quality of life, while allowing for the development of hemp as a viable commercial agricultural crop with associated testing, processing and manufacturing facilities to benefit the San Benito County economy.

C. Amendments not subject to the California Environmental Quality Act (CEQA) The Board of Supervisors hereby finds that the adoption of amendments to Chapter 7.04 of the San Benito County Code establishing hemp cultivation exclusion zones surrounding cities, county service areas associated with rural residential development, and the Wine and

Hospitality Combining District, as well as increased setbacks from established residential uses on smaller parcels in rural areas and from public rights of way, is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, section 15060, subdivision (c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. Additionally, adoption of amendments to 7.04 of the San Benito County Code is exempt in accordance with CEQA Guidelines section 15061, subdivision (b)(3) because it can be seen with certainty that there is no possibility the activity may have a significant effect on the environment, and is categorically exempt pursuant to CEQA Guidelines section 15308, as an action by the County for the enhancement or protection of the environment by limiting or restricting the places where hemp cultivation and related activities may occur within the County of San Benito.