

**BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO**

Ordinance No. 1,025

**AN URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO ADDING CHAPTER 9.04, "SAN BENITO RIVER REGULATIONS," TO TITLE 9 OF THE SAN BENITO COUNTY CODE.**

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

**SECTION 1. Purpose and Findings:**

The San Benito County Code ("SBCC"), Chapter 9.04, "San Benito River Regulations," sets forth various use and occupancy regulations for the San Benito River, as herein defined. In order to protect the health and safety of the public and critical infrastructure, and to protect and enhance the environmental quality and conditions in and along the San Benito River, the adoption of Chapter 9.04 is warranted.

Further, the San Benito River is defined as that area in the 100 year flood plain. As such, trash and debris left in the San Benito River has an adverse effect on the environment and on the watershed. The San Benito River is part of the Pajaro River watershed that flows into the Monterey Bay Marine Sanctuary.

In or around March 2021, there was a fire that was caused the homeless in the San Benito River which endangered County infrastructure. Future fires in the San Benito River could further threaten County infrastructure or homes that are adjacent or near the San Benito River. Due to the drought condition of San Benito County which is detailed in Exhibit "A" "Findings and Declaration", attached hereto and incorporated herein by this reference, there is a need to adopt this urgency ordinance to reduce the risk of fire in the San Benito River.

**SECTION 2. Amendments to Title 9 of the San Benito County Code**

The following chapter and sections of Title 9, Chapter 9.04 of the San Benito Code are hereby added to read as follows:

**Chapter § 9.04 SAN BENITO RIVER REGULATIONS.**

**§ 9.04.001 Definitions.**

- (A) "San Benito River" – as used in this Chapter, the "San Benito River" or the "San Benito River Area" means all portions of the San Benito River, as shown on United States Geological Survey Quadrangle Maps, located in the unincorporated County of San Benito which is designated as a 100-year flood zone by the Federal Emergency Management Agency (FEMA). The precise boundaries are depicted on the San Benito County's Geographic Information System (GIS), available at <https://cosb.maps.arcgis.com/home/index.html>.
- (B) "Camp" means to pitch or occupy camp facilities, or to use camp paraphernalia, for living purposes in an outdoor area.

- (C) "Camp Facilities" include, but are not limited to tents, huts, tarpaulin shelters, unapproved shacks, or temporary shelters.
- (D) "Camp paraphernalia" includes, but is not limited to tents or tent-like structures, cots, beds, sleeping pads, hammocks, or personal cooking facilities and similar equipment.
- (E) "Personal effects" for the purposes of Section 9.04.004 means personal property consisting of the following items:
  - (i) Medication, medical devices, eyeglasses, or other prospection lenses;
  - (ii) Sleeping bag or bed roll which is sanitary and non-verminous;
  - (iii) Tents in usable and reasonably good condition;
  - (iv) Clothes stored in a manner protecting them from the elements, which are not unsanitary, soiled, or verminous.
  - (v) Non-perishable food items; and
  - (vi) Personal property with an estimated individual fair market value of at least Fifty Dollars (\$50.00).
- (F) "Store" means to put aside or accumulate for use when needed, to place for safekeeping, or to put, place, or leave in a particular place, whether attended or unattended.

**§ 9.04.002 Prohibition- Encampment on Private Property.**

It is unlawful for any person to camp in or on any occupied or unoccupied private property without the express written permission of the owner or person in current lawful possession of the property.

**§ 9.04.003 Prohibition- Encampment on Public Property in the San Benito River.**

- (A) It shall be unlawful for anyone to camp, sleep, shelter, or reside on any public property in the San Benito River.
- (B) No person shall have any fire or campfire, propane, gasoline or kerosine stove, on public property in the San Benito River, except as otherwise allowed by this Code or by license or permit, or in an area designated for such purposes by the County.
- (C) Subsection (A) shall not be enforced unless there is space for the individual(s) at an alternative shelter location as set forth in Section § 9.04.005. Due to the high fire danger, subsection (B) may be enforced at any time.

**§ 9.04.004 Storage of Personal Property in the San Benito River Area**

It shall be unlawful for any person to store personal property, including camp facilities and Camp Paraphernalia in the San Benito River, except as (1) otherwise provided by the Board of Supervisors, (2) pursuant to a valid license or permit; (3) or with the express written permission of the property owner if the personal property is stored on private property in the San Benito River Area. Nothing herein shall be construed to allow storage where otherwise prohibited by this Code.

**§ 9.04.005 Enforcement**

- (A) Violation of the San Benito River Regulations shall be deemed a public nuisance, and a misdemeanor subject to criminal or civil enforcement, including administrative citations, in accordance with San Benito County Code.
- (B) Before issuing a citation or making an arrest to enforce Section 9.04.003(A), an officer charged with its enforcement who observes a violation must:
  - (1) Notify the person engaged in the prohibited conduct that he or she is in violation;
  - (2) Inform the person that resources are available through the Homeless Outreach Coordinator; and,
  - (3) Offer the person engaged in conduct prohibited by Section 9.04.003 (A), an available shelter space or a voucher for a participating hotel or motel to provide shelter at no cost to them and offer to provide transportation for the individual to the shelter or hotel/motel.
- (C) It is an affirmative defense to a prosecution under this Section that any person so notified as described in subsection (B)(1) promptly ceased, within a time reasonable under the circumstances, to engage in the prohibited conduct following such notification.

**SECTION 3. Severability**

The provisions of this Ordinance are separate and severable. If any sentence, section, or provision of this Ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this Ordinance irrespective of the invalidity of that sentence, section or provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances.

**SECTION 4. Effective Date and Codification**

This Ordinance shall take legal effect immediately after adoption, as provided by law. This ordinance shall not be codified.

In regular session of the Board of Supervisors of the County of San Benito, adopted this 8th day of June, 2021, on regular roll call of the members of said Board by the following vote:

AYES: Gonzales, Tiffany, Kosmicki, Hernandez

NOES: None ~~0~~

ABSENT: None ~~0~~

ABSTENTION: None ~~0~~



Chair, Board of Supervisors

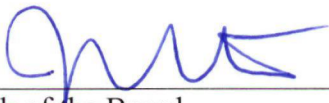
ATTEST:

Jennifer Frechette, Clerk of the Board

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

Barbara J. Thompson

By:   
Clerk of the Board

By: Barbara Thompson  
Reed Gallogly  
Deputy County Counsel

## Exhibit "A" - Findings and Declarations

The Board hereby makes the following findings:

- 1) The State of California is experiencing one the driest drought periods ever recorded;
- 2) Recent reports indicate that 87.95% of the state in severe drought and 52.86% is in extreme drought;
- 3) The website drought.gov indicates that in San Benito County, April 2021 was the 5<sup>th</sup> driest April over the past 127 years;
- 4) In San Benito County, 18.13 percent of the land has been classified as in the "Extreme Drought" status, and 100% of San Benito County has been classified as in the "Severe Drought Status", the map of which is attached below;
- 5) The Severe Drought status is characterized with a longer fire season, with high burn intensity, dry fuels, and a large fire spatial extent;
- 6) That the drought condition is expected to continue for at least the next several months;
- 7) Throughout many areas of the State, including San Benito County, there are significant amounts of dry vegetation, which can result in aggressive wildland fires;
- 8) The County of San Benito also encompasses many hillsides, dry pastureland, and wilderness areas that contain significant dry vegetation, and further contains areas known as "State Responsibility Areas";
- 9) Due to the dry condition, it is expected that local and state fire resources may be stretched to capacity this fire season;
- 10) Due to the dry condition, it is also expected that local and state fire resources may be stretched to capacity this fire season, thus making large fires harder or longer to eliminate.
- 11) The Board of Supervisors declares the facts set forth above to be true and correct.
- 12) Based on the foregoing facts and declaration, the Board of Supervisors hereby determines an urgency ordinance related to homeless persons in the San Benito River is necessary for the immediate preservation of public peace, health, and safety.



**D1 - Moderate Drought**

- Dryland pasture growth is stunted; producers give supplemental feed to cattle
- Landscaping and gardens need irrigation earlier; wildlife patterns begin to change
- Stock ponds and creeks are lower than usual

100.00%  
of San Benito County (D1-D4)



**D2 - Severe Drought**

- Grazing land is inadequate
- Fire season is longer, with high burn intensity, dry fuels, and large fire spatial extent
- Trees are stressed; plants increase reproductive mechanisms; wildlife diseases increase

100.00%  
of San Benito County (D2-D4)



**D3 - Extreme Drought**

- Livestock need expensive supplemental feed; cattle and horses are sold; little pasture remains; fruit trees bud early; producers begin irrigating in the winter
- Fire season lasts year-round; fires occur in typically wet parts of state; burn bans are implemented
- Water is inadequate for agriculture, wildlife, and urban needs; reservoirs are extremely low; hydropower is restricted

18.13%  
of San Benito County (D3-D4)



**D4 - Exceptional Drought**

- Fields are left fallow; orchards are removed; vegetable yields are low; honey harvest is small
- Fire season is very costly; number of fires and area burned are extensive

0.00%  
of San Benito

