

RESOLUTION NO. 2018-10
A RESOLUTION OF THE PLANNING COMMISSION OF THE
COUNTY OF SAN BENITO, STATE OF CALIFORNIA,
RECOMMENDING AMENDING CHAPTER 7.02 RELATING TO CANNABIS
BUSINESSES

WHEREAS, the Planning Commission has held a duly noticed public hearing on the proposed regular ordinance amending Chapter 7.02, related to cannabis businesses within San Benito County; and

WHEREAS, the proposed ordinance explicitly prohibits cannabis businesses and commercial cannabis activities within the unincorporated area of San Benito County, with the exception of cannabis businesses engaged in the cultivation, distribution, laboratory testing, manufacture, microbusiness (non-retail), and out-of-county delivery services of cannabis goods, which are not prohibited under the proposed ordinance, and which hold a valid Cannabis Business Permit. The proposed ordinance limits the number of available cultivation-type permits throughout the unincorporated area of San Benito County, and as restricted by uses permitted under Title 25, to fifty (50). Cannabis businesses holding a valid Cannabis Business Permit are subject to reasonable regulations and requirements consistent with State law; and

WHEREAS, the Planning Commission has determined that the proposed ordinance is consistent with the following sections of the 2035 General Plan:

1. Section 9 Health and Safety Element which “provides guidance for how to protect county residents, workers, visitors, and properties from unreasonable risks associated with natural and manmade hazards. One of the main strategies used by the County to maintain safety is to require distance between known hazards and places where people live, work, and congregate.” Goal HS-5.2, Sensitive Land Use Locations, states, “[t]he County shall ensure adequate distances between sensitive uses and facilities or operations that may produce toxic or hazardous air pollutants or substantial odors.” The Ordinance is consistent with Goal HS-5.2 in that setbacks are required from sensitive land use areas, as well as, from all boundary lines so as to reduce the exposure to and contact with odors from commercial cannabis activity on residential, or other sensitive use, properties; and
2. Section 3 Land Use Element, GOAL LU-3.1 Agricultural Diversification, states, “[t]he 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.” The Ordinance is consistent with Goal LU-3.1 in that not prohibiting certain commercial cannabis activities, to wit, commercial cannabis cultivation, creates diversity of available agricultural-type opportunities and thereby promotes the diversification of use of agricultural and rangeland zones; and
3. Section 3 Land Use Element, GOAL LU-6.3 Industrial Uses, states, “[t]he 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 (e.g., highways like State Route 25 corridor in the North County, arterial roads, rail, and

airports).” The Ordinance is consistent with Goal LU-6.3 in that the zones identified for commercial cannabis activities encompass all areas where the nodes have been identified, and that the ordinance allows commercial cannabis activity in industrial areas; and

4. Section 4, Economic Development Element, focuses on diversifying the local economy. GOAL ED-1.5 Quality of Life Improvements, states, “[t]he County shall focus economic development efforts on creating positive change in the county relative to residents and workers’ quality of life. This should include considering air quality, education opportunities, safety, water quality, scenic beauty, and recreational opportunities during economic development decisions.” The Ordinance is consistent with Goal ED-1.5 in that cannabis businesses will be subject to stringent regulations, including, but not limited to, limitation on operating hours, the prohibition of outdoor cultivation, odor filtration requirements, and a track-and-trace program which is intended to deter criminal activity and trespass; and
5. Section 4, GOAL ED-1.6 Agricultural Base Diversification, states, “[t]he 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.” The Ordinance is consistent with Goal ED-1.5 in that the cannabis industry is an emerging agricultural-related industry with a local base of persons interested in entering the cannabis industry, as well as, persons and entities outside the County looking for cannabis business opportunities in San Benito County.

WHEREAS, the Planning Commission hereby finds that this Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308 Class 8: Actions by Regulatory Agencies for Protection of the Environment, and per California Business and Professions Code Section 26055, subd. (h):

1. 15308. Actions by Regulatory Agencies for Protection of the Environment. Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.
2. Business and Professions Code – DIVISION 10. Cannabis [26000 - 26231.2] CHAPTER 5. Licensing [26050 - 26059] 26055 (h): Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019

The Resources Management Agency Director is hereby directed to file a Notice of Exemption.

WHEREAS, a Notice of Exemption has been prepared for the Project; and

WHEREAS, the Planning Commission has considered all public testimony and information presented during the public hearing regarding this item.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the County of San Benito as follows:

Section 1. Based on the review and determination of the Resources Management Agency, the Planning Commission of the County of San Benito finds that the proposed ordinance is consistent with the General Plan for the reasons set forth above.

Section 2. Based on the review and determination of the Resources Management Agency, the Planning Commission of the County of San Benito finds that the Project is exempt from review under the California Environmental Quality Act as set forth above.

Section 3. A Notice of Exemption is recommended for approval for the Project.

Section 4. The Planning Commission hereby recommends adoption of the proposed ordinance.

Section 5. Upon approval of the Project by the San Benito County Board of Supervisors, the RMA Director may file the Notice of Exemption with the County Clerk.

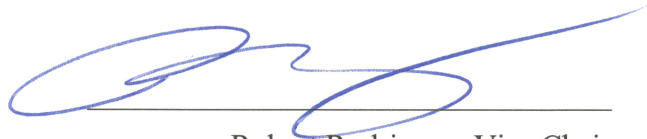
PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO AT A PUBLIC MEETING HELD ON THIS 14TH DAY OF NOVEMBER, 2018 BY THE FOLLOWING VOTE:

AYES: Pierce, Eglan, Loe, Rodriguez

NOES:

ABSENT: Tognazini

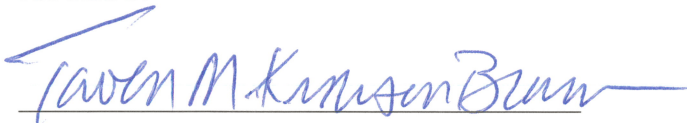
ABBSTAIN:



Robert Rodriguez, Vice Chair

San Benito County Planning Commission

ATTEST:



Taven M. Kinison Brown, Principal Planner

Resource Management Agency, San Benito County

By: _____

Clerk