

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

**AN ORDINANCE OF THE BOARD OF SUPERVISORS)
OF THE COUNTY OF SAN BENITO, ADDING) Ordinance No.:
CHAPTER 19.43 TO TITLE 19 OF THE SAN BENITO)
COUNTY CODE RELATING TO CANNABIS BUSINESS)
LAND USE REGULATIONS)**

THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO ORDAINS AS FOLLOWS:

SECTION 1: Chapter 19.43, “Cannabis Business Land Use Regulations,” is hereby added to Title 19 of the San Benito County Code as follows:

Chapter 19.43 Cannabis Business Land Use Regulations.

- 19.43.010 - Purpose, Intent, and Applicability.
- 19.43.020 - Definitions.
- 19.43.030 - Supplemental Findings for Cannabis Business Land Uses.
- 19.43.040 - Permit Requirements for All Cannabis Businesses.
- 19.43.050 - Supplemental Requirements for Certain Cannabis Businesses.
- 19.43.060 - Fees.
- 19.43.070 - General Development Standards Applicable to All Cannabis Businesses; Restrictions.
- 19.43.071 - Supplemental Development Standards Applicable to Cultivation Sites.
- 19.43.080 - Operating Requirements Applicable to All Cannabis Businesses.
- 19.43.090 - Supplemental Operating Requirements for Cultivators.
- 19.43.100 - Supplemental Operating Requirements for Distributors.
- 19.43.110 - Supplemental Operating Requirements for Testing Laboratories.
- 19.43.120 - Supplemental Operating Requirements for Manufacturing Site.
- 19.43.130 - Supplemental Operating Requirements for Microbusinesses.
- 19.43.140 - [RESERVED]
- 19.43.150 - Non- Compliance with Operational Requirements
- 19.43.160 - Inspection and Enforcement.

Section 19.43.010 Purpose, Intent, and Applicability

- A. **Purpose.** This Chapter establishes cannabis business standards that are designed to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls, as a result of and in compliance with State law, protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment, by establishing minimum land use requirements for cannabis businesses engaging in commercial cannabis activity in the County.
- B. **Intent.** Commercial cannabis activities already are highly regulated by both the state and federal governments, and their regulation of commercial cannabis activities is subject to rapid change. Therefore, the Board of Supervisors intends to reserve all of its statutory planning and zoning authority concerning cannabis businesses and commercial cannabis

activities. This Chapter recognizes that, due to the unique federal and state constraints on commercial cannabis activity, as well as, the potential environmental and social impacts associated with commercial cannabis activity, certain land use controls pertaining to cannabis businesses are necessary. Cannabis businesses with facilities within the County shall be subject to the zoning and land use regulations of the zoning district in which such cannabis business facility is established and will operate, as set forth in Title 25 of the San Benito County Code, and as otherwise established by the County.

- C. Nothing in this Chapter is intended, nor shall it be construed, to allow persons to engage in conduct that endangers others or causes a public nuisance;
- D. Nothing in this Chapter is intended, nor shall it be construed, to exempt the commercial cultivation of cannabis from compliance with all other applicable County zoning and land use regulations, as well as other applicable provisions of the County Code, State and local commercial cannabis business permitting requirements, or compliance with any applicable State laws;
- E. All persons operating facilities and conducting commercial cannabis activities, as defined in this Chapter, are subject to possible Federal prosecution, regardless of State licensure or local permitting. Any land use or other entitlement from the County does not assert or provide any Federal protections; The provisions of this Chapter shall not be construed to protect any person from prosecution pursuant to any laws that may prohibit the cultivation, sale, distribution, possession, use of, and/or any other activity associated with controlled substances, or to authorize conduct that is unlawful under State or Federal law. Moreover, cultivation, sale, possession, distribution, and use of cannabis remain violations of Federal law as of the date of adoption of the ordinance creating this Chapter and this Chapter is not intended to, and does not authorize conduct or acts that violate Federal law and does not protect any person from arrest or prosecution under those Federal laws. Persons engaged in commercial cannabis activities assume any and all risk and any and all liability that may arise or result under State and Federal laws from the cultivation, sale, possession, distribution, use of cannabis and/or any other commercial cannabis activity.
- F. **Applicability.** The standards of this Chapter shall apply to all cannabis businesses required to obtain the applicable land use permit identified in Title 25, and which engage in commercial cannabis activity as defined in Section 19.43.020 and regulated pursuant to Chapter 7.02.
- G. Certain cannabis businesses shall only be permitted in the AP, AR, CM, and M-1 zoning districts, depending on the type of commercial cannabis activity in which it is engaged, as set forth in, and in compliance with, Title 25.

Section 19.43.020 Definitions.

For the purpose of this Chapter the definitions set forth in Section 7.02.020 of Chapter 7.02 of the San Benito County Code are hereby incorporated by reference.

“Cannabis Business Land Use” shall mean the type of cannabis business and corresponding commercial cannabis activity in which the cannabis business is engaged on real property in the County.

Section 19.43.030 Supplemental Findings for Cannabis Business Land Uses. The Planning Commission shall make supplemental conditional use permit findings in writing prior to approval of any Cannabis Business Land Use. All cannabis business land use proposals shall demonstrate compliance with Section 19.43.070, subdivision (A)(4).

Section 19.43.040. Permit Requirements for All Cannabis Businesses.

- A. **Permit Required.** Commercial cannabis activities may only occur in compliance with the approval of the applicable permit identified in Section 19.43.040, subdivision (B), and in Title 25. The required permit shall be obtained prior to the commencement of any commercial cannabis activity. All conditions of the permit for the cannabis business shall be satisfied prior to the commencement of the commercial cannabis activity or as otherwise specified in the conditions of the permit.
- B. The below table identifies the cannabis business land uses allowed by zone and the type of permit required to establish each use pursuant to Title 25. Designation of zoning districts in this Section does not give any owner, occupant, or lessor of real property any rights to operate, or provide that any permit applied for under Title 25 shall be granted.

San Benito County Cannabis Business Permit Types/Land Use by Commercial Cannabis Activity	State License Type	P	Permitted Use, Land Use Permit required													
		MCUP	Minor Use Permit required													
		CUP	Conditional Use Permit required													
		----	Use Not Allowed													
		N/A	Not Applicable													
PERMIT REQUIRED BY ZONE																
		Agricultural Districts		Rural Districts			Residential Districts		Commercial Thoroughfare & Neighborhood Commercial		Controlled Manufacturing, Light Industrial, Heavy Industrial & Resources Recovery Park				Airport Safety District	
		AR	AP	R	RT	RR	RI	RM	C-1	C-2	CM	M-1	M-2	RRP	AS	
Cultivation	1A, 1B, 1C, 2A, 2B, 3A, 3B, 4, 5A, 5B, Processor	CUP	CUP	---	---	---	---	---	---	---	CUP	CUP	CUP	---	---	
Manufacturing	6, 7, N, P, S	----	----	---	---	---	---	---	---	---	CUP	CUP	CUP	---	---	
Testing	8	----	----	---	---	---	---	---	---	---	CUP	CUP	CUP	---	---	
Retailer (Out-of-County Delivery)	10, 12	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Distributor	11	----	----	---	---	---	---	---	---	---	CUP	CUP	CUP	---	---	
Microbusiness (Non-Retail)	12	----	----	---	---	---	---	---	---	---	CUP	CUP	CUP	---	---	

- C. **Notice and Public Hearing.** Entitlements for cannabis business uses and/or development shall be subject to the applicable noticing requirements set forth in Chapters 25.43 and 25.49, except that a mailed notice regarding a pending action or hearing regarding a cannabis business entitlement shall be provided to all owners of property located within a 1,000-foot radius of the exterior boundaries of the subject parcel.

- D. **Indemnification.** The applicant shall enter into an indemnification agreement with the County in accordance with Chapter 19.41.

Section 19.43.050 Supplemental Requirements for Certain Cannabis Businesses.

- A. **Cultivation Site.** In reviewing an application submitted under Title 25 and order Chapter 7.02 to operate a cultivation-type cannabis business facility, the applicant shall provide the following additional information as requested:

1. A pest management plan;
2. A waste management plan;
3. A landscape plan that considers scenic highway protection and may involve the installation of mature landscape;
4. Preservation of agricultural lands, including preservation of prime agricultural lands in compliance with the General Plan;
5. A water management plan, including the proposed water supply, proposed conservation measures, and any water off-set requirements. Such plan may include an estimate of water demand for the cultivation site prepared by a licensed professional engineer or other expert on water demand and a detailed description of how the new water demand will be offset. New water demands shall be offset at a 1:1 ratio;
6. An energy management plan, including proposed energy conservation measures;
7. An air quality management plan for controlling odor; and
8. A security plan.

- B. **Distributor.** In reviewing the application submitted under Title 25 and order Chapter 7.02 to operate a distribution-type cannabis business facility, the applicant shall provide the following additional information as requested:

1. A written statement detailing how, and from where, cannabis will be received, how any storage or transportation operations will be secured to prevent theft and trespass, and to whom the cannabis will be taken;
2. A quality control inspection and requirements plan;
3. Storage and handling plans;
4. Proof of ownership or a valid lease for any and all commercial vehicles that will be used to transport cannabis;
5. The year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all commercial vehicles that will be used to transport cannabis; and

6. Proof of insurance in the amount of \$1,000,000 for any and all commercial vehicles being used to transport cannabis.

C. **Manufacturing Site.**

[RESERVED]

D. **Testing Laboratory.**

[RESERVED]

E. **Microbusiness.**

[RESERVED]

F. **[RESERVED]**

Section 19.43.060 Fees.

The permit application and processing fee required under Title 25 is non-refundable, and is due and payable in full at the time any permit application is submitted. This fee covers the costs of accepting and processing the application, including reviewing and investigating the completeness and accuracy of the information contained therein, and determining eligibility for issuance of a permit under Title 25.

Section 19.43.070 General Development Standards Applicable to All Cannabis Businesses; Restrictions.

No permit created under Chapter 7.02 or Title 25, may be issued for any cannabis business, on any premises, unless all the following requirements are met:

A. **Location and Design of Cannabis Businesses.** Cannabis businesses proposing to engage in commercial cannabis activity are subject to the following zoning and locational requirements:

1. **Location.** Cannabis businesses engaging in cultivation, distribution, manufacturing, microbusinesses, and/or testing laboratories must be properly located within zones that allow such uses in accordance with Title 25 and must meet all of the requirements for development in these zones.
2. **Setbacks.** Except as provided in a variance granted in accordance with subdivision (A)(3) of this Section, cannabis businesses must also meet all of the following setback requirements:
 - i. Less than one-hundred (100) feet from any boundary line of the premises. This setback requirement shall not apply to any permitted cannabis business facility located in an industrial zone.
 - ii. It shall be no closer than one-thousand (1,000) feet from any zoned parcel containing a sensitive use that is in existence at the time the application for the applicable permit identified in Section 19.43.040, subdivision (B), and in Title 25 is submitted, unless the State licensing authority or the County specifies a different radius. The distance measured shall be the horizontal distance measured in a straight line from the property line of those parcels

containing the sensitive use to the closest property line of the parcel on which the cannabis business is located.

- iii. It shall be no closer than three hundred (300) feet from any residentially zoned parcel in the County, including any legal non-conforming residential uses as of the date the application for the applicable permit identified in Section 19.43.040, subdivision (B), and in Title 25 is submitted. The distance between the cannabis business and the residential parcel shall be measured from the outer boundaries of the residential parcel to the first structure on the property seeking the applicable permit identified in Section 19.43.040, subdivision (B), and in Title 25. This setback requirement shall not apply to any permitted cannabis business facility located in an industrial zone.
3. At the time of application, the applicant may submit a written application for variance to the Resources Management Agency for consideration with the applicable permit application under Title 25 for consideration of modification to any provision of subdivision (A)(2) of this Section. Variance requests shall be referred to the Planning Commission to determine whether or not to grant a variance in accordance with Chapter 25.41 of the San Benito County Code, subject to all application forms and fees being received by the Resources Management Agency. In accordance with Chapter 25.41, the Planning Commission may decide whether the variance should be granted or denied, as well as, to whether to impose certain reasonable conditions upon any variance granted. If granted, the variance shall remain valid for the time period specified by the Planning Commission. Notwithstanding the foregoing, the Planning Commission:
 - i. Shall not grant a variance to reduce the sensitive use setback requirement any less than six-hundred (600) feet from any sensitive use.
 - ii. Shall not grant a variance to reduce the off-parcel residence setback requirement any less than one-hundred (100) feet from any off-parcel residence, if the cannabis business facility is located on a parcel that is ten (10) acres or less.
 4. Each proposed cannabis business shall:
 - i. Conform to the County's general plan goals and policies, any applicable specific plans, master plans, and design requirements.
 - ii. Be located within an appropriately zoned district for the particular cannabis business land use.
 - iii. Comply with all applicable zoning and related development standards, including, general development standards for cannabis business land use, the applicable supplemental requirements for cannabis business land use, and the operational standards for cannabis business land use
 - iv. Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.

- v. Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
- vi. Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
- vii. Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.
- viii. Have appropriate security measures planned for and incorporated into design and operations.
- ix. Have an appropriate record keeping and reporting program in place to assure compliance with Operational Standards.

B. **Building Permits and Inspection.** Submit to a mandatory building inspection and obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), the County's Contract Fire Department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

C. **Security Measures.** An applicant shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis goods, and to deter and prevent the theft of cannabis goods at the cannabis business site. Except as may otherwise be determined by the County Administrative Officer or his/her designee, these security measures shall include, but shall not be limited to, all of the following:

1. Alarm system (perimeter, fire, and panic buttons).
2. Remote monitoring of alarm systems by licensed security professionals.
3. Perimeter lighting systems (including motion sensors) for after-hours security.
4. Perimeter security and lighting as approved by the Sheriff and Director of the Resource Management or his/her designee(s).
5. Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business.
6. Establishing limited access areas accessible only to authorized cannabis business personnel.
7. Except for live cannabis plants which are being cultivated at a cultivation site, all cannabis goods shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis goods, including live cannabis plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
8. Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the

cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the County Administrative Officer or his/her designee(s), and that it is compatible with the County's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the County Administrative Officer or his/her designee(s). Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the County Administrative Officer or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the cannabis business and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the San Benito Sheriff's Office by the cannabis business, to facilitate remote monitoring of security cameras by the Office or its designee.

9. Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
10. Panic buttons shall be installed in all cannabis businesses with direct notification to the San Benito Sheriff's Office dispatch and shall be configured to immediately alert dispatch for the San Benito Sheriff's Office.
11. Having a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
12. Any bars installed on the windows or the doors of the cannabis business shall be installed only on the interior of the building.
13. Security personnel shall be on-site 24 hours a day or alternative security as authorized by the County Administrative Officer or his/her designee(s) and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the Sheriff's Office or his/her designee(s), with such approval not to be unreasonably withheld. Firearms may be carried by security personnel while they are on duty if authorized by the Sheriff's Office.
14. Each cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

15. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the cannabis business; or (b) a licensed security professional.
16. Each cannabis business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
17. Each cannabis business shall demonstrate to the Sheriff's Office, County Administrative Officer or their designees, compliance with the state's track and trace system for cannabis goods, as soon as it is operational.
18. Each cannabis business shall have state of the art network security protocols in place to protect computer information and all digital data.
19. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
20. Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.
21. Each permittee shall identify a designated security representative/liaison to the County of San Benito, who shall be reasonably available to meet with the County Administrative Officer or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the cannabis business, annually maintain a copy of the current security plan on the premises of the business, to present to the County Administrative Officer or his/her designee upon request that meets the following requirements:
22. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
23. Identifies all Managers of the cannabis business and their contact phone numbers.
24. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
25. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
26. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the cannabis business, the parking lot, and any adjacent property under the business' control.
27. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of employees and their vehicles one-half hour after closing.

D. **Storage and Transportation Plan.** A cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely

storing and transporting any (1) cannabis goods, (2) hazardous materials that may be used by the business, and/or (3) currency.

- E. **Floor Plan Designating Limited Access Areas.** The floor plan shall clearly designate limited access areas in which non-employees must be escorted at all times, to the degree they are granted access. Limited access areas include areas in which product, cash, office spaces, and security or surveillance equipment are stored or contained.

Section 19.43.071 – Supplemental Development Standards Applicable to Cultivation Sites.

In addition to the development standards under Section 19.43.070, all cultivation-type cannabis businesses shall, except as provided in a variance granted in accordance with Section 19.43.070, subdivision (A)(3), be no closer than three hundred (300) feet from any off-parcel permitted residence in any zone that is in existence at the time the application for the applicable permit identified in Section 19.43.060, subdivision (B), and in Title 25 is submitted, if the cannabis business facility is located on a parcel that is ten (10) acres or less. The distance between the cannabis business and the off-parcel residence shall be measured from the outer boundaries of the residential parcel to the first structure on the property seeking the applicable permit identified in Section 19.43.060, subdivision (B), and in Title 25. This setback requirement shall not apply to any permitted cannabis business facility located in an industrial zone.

Section 19.43.080 – Operating Requirements Applicable to All Cannabis Businesses.

- A. All commercial cannabis activities occurring at a cannabis business site shall comply with the provisions of this Chapter, as well as all applicable State and local laws;
- B. Each cannabis business shall operate in a reasonable manner such that the effects on the health or safety of nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts of commercial cannabis activities are minimized.
- C. Commercial cannabis activities shall not create hazards due to the use or storage of materials, processes, products, chemicals, fertilizers, or wastes.
- D. Exterior lighting at the cannabis business site shall ensure the safety of the public and the members and employees of the facility while not disturbing surrounding residential or commercial areas, and shall comply with all applicable provisions of Chapter 19.31 the San Benito County Code regarding exterior lighting in furtherance of the preservation and protection of “dark skies” within the County. Illumination of any portion of the cannabis business site between the hours of darkness by lighting that is visible from the exterior of the cannabis business site, except such lighting as is reasonably utilized for the security of the cannabis business site, is prohibited.
- E. Driveways, sidewalks, parking strips, fire access roads and streets on or adjacent to the premises shall be kept in a clean and safe condition.
- F. **Loitering.** The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises. The cannabis business shall notify the San Benito Sheriff’s Office if anyone continues to loiter around the building or premises after reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner.

- G. **Restriction on Alcohol.** The sale, dispensing, or consumption of alcoholic beverages on or about a cannabis business facility or in its parking area is prohibited.
- H. **Hours of Operation.** A cannabis business may operate only during the hours specified in the conditional use permit issued under Title 25 and/or the Cannabis Business Permit issued by the County under Chapter 7.02.
- I. **Age.** No person under the age of twenty-one (21) years shall operate a cannabis business, or be issued a permit for any commercial cannabis activity of any kind.
- J. **Records and Recordkeeping.** Each owner and/or operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a Cannabis Business Permit issued pursuant to this Chapter), or at any time upon reasonable request of the County, each cannabis business shall file a sworn statement detailing the number of sales by the cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. On an annual basis, each owner and operator shall submit to the County a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the County Administrative Officer or his/her designee.
- K. Each owner and/or operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the County Administrative Officer or his/her designee(s) upon a reasonable request.
- L. Prior to state licensing, each cannabis business shall maintain a record of all persons, patients, collectives and primary caregivers served by the cannabis business, for a period of no less than four (4) years. Once a State License is obtained, the cannabis business must maintain such records only to the extent permitted or required by MAUCRSA.
- M. All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis goods for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth MAUCRSA.
- N. Each cannabis business shall allow County officials access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the County's request, unless otherwise stipulated by the County. The County may require the materials to be submitted in an electronic format that is compatible with the County's software and hardware.
- O. **Restriction on Alcohol & Tobacco Sales.**

1. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.
 2. No person shall cause or permit the sale or tobacco products on or about the premises of the commercial cannabis business.
 3. No person shall consume cannabis, cannabis products, tobacco or alcohol on the premises of any commercial cannabis business.
- P. **Restriction on Consumption.** Cannabis shall not be consumed by any employee of any cannabis business at the cannabis business site, or during any commercial transfer, including, but not limited to, delivery and/or distribution.
- Q. No cannabis goods or graphics depicting cannabis goods shall be visible from the exterior of any cannabis business, or on any of the vehicles owned or used as part of the cannabis business.
- R. No outdoor storage of cannabis goods is permitted at any time.
- S. **Signage and Notices.** In addition to the requirements otherwise set forth in this Section, business identification signage for a cannabis business shall conform to the requirements of the San Benito County Code including, but not limited to, seeking the issuance of a sign permit from the County.
1. No signs placed on the premises of a cannabis business shall obstruct any entrance or exit to the building or any window.
 2. Each entrance to a cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited.
 3. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the cannabis business or elsewhere including, but not limited to, the public right-of-way.
 4. Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards or other prohibited signs may be used at any time.
 5. In accordance with state law and regulations or as stipulated in the applicable permit issued pursuant to Title 25 and/or Chapter 7.02, a cannabis business shall agree that, as an express and ongoing condition of operating, the holder of the permit shall be prohibited from utilizing any of the following to advertise any cannabis business located in the County of San Benito, including, but not limited to, a billboard (fixed or mobile), bus shelter, placard, aircraft, and/or other similar forms of advertising. This paragraph is not intended to place limitations on the ability of a cannabis business to advertise in other legally authorized forms, including on the Internet, in magazines, or in other similar ways.
- T. **Odor Control.** Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Cannabis

businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis business. As such, cannabis businesses must install and maintain the following equipment, or any other equipment which the Resource Management Director or his/her designee determine is a more effective method or technology:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
2. An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business

U. **Display of Permit and County Business License.** The original copy of any State-License, Cannabis Business Permit issued pursuant to Chapter 7.02, and any County-issued business license shall be posted inside the cannabis business in a location readily-visible to the public.

Section 19.43.090. Supplemental Operating Requirements for a Cultivators.

- A. **Outdoor Cultivation Shall Be Prohibited.** No Cannabis Business Permit shall be issued pursuant to this Chapter for outdoor cultivation. Outdoor cultivation of any kind is expressly prohibited in the County and shall be subject to all applicable enforcement. It shall be unlawful, and a violation of this Chapter, for any person to engage in any outdoor cultivation of any kind.
- B. All commercial cultivation shall be conducted inside enclosed buildings or structures, and any and all cannabis, regardless of stage of growth, shall not be visible from the exterior of the building or structure within which cannabis is cultivated. Any cultivation occurring within greenhouse structures shall require additional steps to be taken toward screening, shielding, darkening, obscuring, or rendering opaque the structure to ensure the cannabis cultivated within is not visible. Structures that are exempt from building permits shall not be used for cultivation purposes, including structures previously permitted under an "Agricultural Building Exemption" as defined in Chapter 21.01 of the San Benito County Code.
- C. Under no circumstances shall a building intended for residential use be used for the cultivation of cannabis.
- D. In no case, shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.
- E. Cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.

- F. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- G. Cultivation shall at all times be conducted in such a way as to ensure the health, safety, and welfare of the public, the employees working at the cannabis business, visitors to the cultivation site, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- H. All cultivators shall submit to the following in addition to the information generally otherwise required for a cannabis business:
 1. **Cultivation and Operations Plan.** A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.
 2. A description of a legal water source, irrigation plan, and projected water use.
 3. Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
 4. **Odor Mitigation Plan.** Plan for addressing odor and other public nuisances that may derive from the cultivation site.
- I. Use of water from any water source that is not located on the parcel on which cultivation is taking place is prohibited.
- J. All irrigation runoff, fertilizer, and contaminants on site shall be contained as specified in the Cannabis Business Operation Plan.
- K. A cultivator shall only propagate immature plants at their own corresponding cultivation site in the designated propagation areas, except that a cultivator shall not be prohibited from propagating immature plants or seeds for distribution to another cannabis business.
- L. The propagation areas shall contain only immature plants.
- M. Mother plants used for propagation shall be maintained as immature plants and located in the designated propagation area.
- N. Compliance with the labeling and track and trace program requirements promulgated by the responsible state department.

Section 19.43.100. Supplemental Operating Requirements for Distributors.

- A. A distributor shall neither store nor distribute any non-cannabis goods and/or non-cannabis accessories, that are to be sold to another party, on any permitted cannabis business premises. For the purposes of this section, non-cannabis goods are any goods

that do not meet the definition of cannabis goods as defined in Section 5000, subdivision (c) of the California Code of Regulations.

- B. After taking physical possession of cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's State-licensed premises to select a representative sample for laboratory testing.
- C. A distributor shall ensure that all cannabis and/or cannabis product batches are stored separately and distinctly from other cannabis and/or cannabis product batches on the distributor's premises.
- D. The distributor shall ensure that the batch size from which the sample is taken meets the requirements of state law, specifically the testing provisions within the California Code of Regulations.
- E. A distributor or a distributor's employee shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video-recorded, and the recording kept available to state and local authorities for a minimum of 180 days, pursuant to Section 5305 of the California Code of Regulations.
- F. A distributor shall not transport cannabis goods to a State-Licensed Retailer unless and until it has verified that the cannabis goods have been tested and certified by a State-Licensed testing laboratory as being in compliance with state health and safety requirements pursuant to Sections 5705, 5710 and 5714 of the California Code of Regulations.
- G. A distributor shall comply with all requirements promulgated by the applicable state department or agency, including, but not limited to, all bonding and insurance requirements, as well as, those requirements for any commercial vehicles or trailers used for transporting cannabis goods.

Section 19.43.110. Supplemental Operating Requirements for Testing Laboratories.

- A. Testing laboratories shall be required to conduct all testing of cannabis goods in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to state and local law. Each Testing laboratory shall be subject to additional regulations as determined from time to time as more regulations are developed under this Chapter and any subsequent State of California legislation regarding the same.
- B. Testing laboratories shall conduct all testing of cannabis goods in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- C. All Testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.
- D. Testing laboratories shall destroy any harvest batch which testing sample indicates non-compliance with health and safety standards required by the Bureau unless remedial measures can bring the cannabis goods into compliance with quality standards as specified by law and implemented by the Bureau.

- E. Each testing laboratory shall ensure that a testing laboratory employee takes the sample of cannabis goods from the distributor's premises for testing required by state law and that the testing laboratory employee transports the sample to the testing laboratory.
- F. Except as provided by state law, a testing laboratory shall not acquire or receive cannabis goods except from a State-Licensee in accordance with state law, and shall not distribute, sell, or dispense cannabis goods, from the State-licensed premises from which the cannabis goods were acquired or received. All distribution shall be performed pursuant to a specified chain of custody protocol.
- G. A testing laboratory may receive and test samples of cannabis goods from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing laboratory shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis goods received.
- H. Testing laboratories shall be required to conduct all testing in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to state and local law.

Section 19.43.120. Supplemental Operating Requirements for Manufacturers.

- A. Any compressed gases used in the manufacturing process shall not be stored on any property within the County of San Benito in containers that exceeds the amount which is approved by the San Benito Contracted Fire Department and authorized by the regulatory permit. Each site or parcel subject to a permit under Title 25 and Chapter 7.02 shall be limited to a total number of tanks as authorized by the San Benito Contract Fire Department on the property at any time.
- B. Manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- C. If an extraction process uses a professional grade closed loop CO₂ gas extraction system every vessel must be certified by the manufacturer for its safe use as referenced in Section 19.43.120, subdivision (E). The CO₂ must be of at least ninety-nine (99%) percent purity.
- D. Closed loop systems for compressed gas extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.
- E. Certification from an engineer licensed by the State of California, or by a certified industrial hygienist, must be provided to the Resource Management Agency for a professional grade closed loop system used by any commercial cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its

intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:

1. The American Society of Mechanical Engineers (ASME);
 2. American National Standards Institute (ANSI);
 3. Underwriters Laboratories (UL); or
 4. The American Society for Testing and Materials (ASTM).
- F. The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.
- G. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the Contracted Fire Department and meet any required fire, safety, and building code requirements specified in the California Building Reference Codes.
- H. Manufacturing facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- I. Manufacturing facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- J. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

Section 19.43.130. Supplemental Operating Requirements for Microbusiness.

Microbusinesses shall be required to comply with the supplemental operating requirements, as set forth in this Chapter, applicable to each commercial cannabis activity in which the microbusiness engages.

Section 19.43.140. [RESERVED]

Section 19.43.150. Non-Compliance with Operational Requirements.

Any violation of this Chapter shall result in the immediate suspension of any Cannabis Business Permit issued pursuant to Chapter 7.02, and pending investigation and a hearing, shall result in revocation of the Cannabis Business Permit at the Cannabis Coordinator's discretion, subject to review by the County Hearing Officer. Under no circumstances shall a cause of action for monetary damages be allowed against the County of San Benito, the Cannabis Coordinator, or any County employee, or representative as a result of a suspension or revocation of a Cannabis Business Permit.

Section 19.43.160. Inspection and Enforcement.

- A. The County Administrative Officer or his/her designee, including, but not limited to the Resources Management Agency Director, shall have the primary responsibility and authority to administer and enforce this Chapter.
- B. The County Administrative Officer or his/her designee may inspect and enforce the requirements of this Chapter in accordance with the provisions set forth in Section 7.02.190 of the San Benito County Code.
- C. In addition, if the County Administrative Officer or his/her designee has reasonable cause to believe that there exists any condition on the property unsafe or dangerous which may require immediate inspection to safeguard the public safety, the County Administrative Officer or his/her designee shall have the right to immediately enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection. The cannabis business operator shall permit such entry and hold harmless and indemnify the County Administrative Officer or his/her designee and the County from any liability in connection with lawful entry hereunder.
- D. In the event the County Administrative Officer or his/her designee is unable to obtain compliance with any of the terms and provisions of this Chapter or a condition of approval, related to health and safety, he or she may order immediate cessation of operations. In the event of non-compliance with this Chapter or of a condition of approval not involving a health and safety risk, the County Administrative Officer or his/her designee may request that the Planning Commission issue an order for the immediate cessation of operations. In the event of an order to cease operations is issued, the County Administrative Officer or his/her designee shall coordinate with the operator to ensure that the operator completes the shut-down as soon it can be safely accomplished, and may require that the operator provide a schedule, subject to the County Administrative Officer or his/her designee's approval, of the timeline and events necessary to accomplish the shut-down. If such operations are not stopped or if resumed prior to written approval of the County Administrative Officer or his/her designee, the County Administrative Officer or his/her designee may request civil action by the Office of County Counsel, criminal prosecution by the office of the district attorney, or both such remedies, or may utilize any other available remedies available under the law.

SECTION 2. If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The board hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 3. The Board of Supervisors 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 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, California Business and

Professions Code Section 26055, subd. (h), which states in pertinent part, “[w]ithout limiting any other statutory exemption or categorical exemption, [CEQA] does not apply to the adoption of an ordinance . . . that requires discretionary review and approval of permits . . . 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 [CEQA].”

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days from the date of its adoption, and prior to the expiration of fifteen (15) days from the adoption thereof shall be published at least one time in a newspaper of general circulation in San Benito County, with the names of the Supervisors voting for or against the same.

In regular session of the Board of Supervisors of the County of San Benito, adopted this _____ day of _____, 201____, on regular roll call of the members of said Board by the following vote:

AYES: Supervisor(s)

NOES: Supervisor(s)

ABSENT OR NOT VOTING:

Anthony Botelho,
Chair, Board of Supervisors

ATTEST:

Janet Slibsager, Clerk of the Board

By: _____
Clerk of the Board

APPROVED AS TO LEGAL FORM:

San Benito County Counsel
Barbara J. Thompson

By: _____
Sarah M. Dickinson,
Acting Assistant County Counsel