

RESOLUTION NO. 2018-09

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
COUNTY OF SAN BENITO, STATE OF CALIFORNIA,
RECOMMENDING ADDING CHAPTER 19.43 RELATING TO CANNABIS
BUSINESSES LAND USE REGULATIONS**

WHEREAS, the Planning Commission has held a duly noticed public hearing on the proposed regular ordinance adding Chapter 19.43, related to cannabis business land use regulations within San Benito County; and

WHEREAS, the proposed ordinance establishes cannabis business standards that are designed to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls, including development standards and operating requirements; 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 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

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 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, and pursuant to 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].”

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 and Planning Commission recommends the Resources Management Agency Director be directed to file a Notice of Exemption.

Section 4. The Planning Commission hereby recommends adoption of the proposed ordinance as amended by the Planning Commission at the Planning Commission meeting on November 14, 2018.

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, Egland, 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