

**RESOLUTION NO. 2019-
A RESOLUTION OF THE PLANNING COMMISSION OF THE
COUNTY OF SAN BENITO, STATE OF CALIFORNIA,
RECOMMENDING ADDING CHAPTER 7.04 TO TITLE 7 OF THE SAN BENITO
COUNTY CODE RELATING TO HEMP ENTITIES**

WHEREAS, the Planning Commission has held a duly noticed public hearing on the proposed regular ordinance adding Chapter 7.04, related to hemp entities within San Benito County; and

WHEREAS, the proposed ordinance explicitly prohibits hemp entities from engaging in activities without registration; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the proposed ordinance is covered by the General Rule 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA;

WHEREAS, the proposed ordinance does not approve a development project or future development projects and subsequent to this ordinance, any hemp entity would still need to obtain a Conditional Use Permit for industrial, manufacturing, and laboratory uses, as this ordinance does not change when an entity would be required to obtain a CUP; and,

WHEREAS, any subsequent Conditional Use Permit would be subject to CEQA as required for discretionary approvals by the San Benito County Planning Commission; and,

WHEREAS, absent the adoption of the resolution, hemp cultivation may occur in the future without any regulation, including setbacks; and,

WHEREAS, the San Benito County Planning Commission held a public hearing on May 15, 2019 to review and consider the proposed ordinance adding Chapter 7.04 to the San Benito County Code, and has considered the staff report and all oral and written comments presented; 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 are 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 contact with odors from hemp cultivation on residential 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 hemp activities creates diversity of available agricultural-type opportunities and thereby promotes the diversification of use of agricultural and rangeland zones; and
3. 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 hemp cultivation sites will be subject to regulations, including, but not limited to the regulations of outdoor cultivation through setbacks and odor mitigation requirements; and
4. 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 hemp is an emerging agricultural-related industry with a local base of persons interested in entering the hemp industry, as well as, persons and entities outside the County looking for hemp opportunities in San Benito County.

WHEREAS, the Planning Commission has determined that the proposed ordinance is categorically exempt pursuant to CEQA Guidelines sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the Board of Supervisors further finds that the Ordinances are categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment); and

WHEREAS, the Planning Commission further finds that based on the evidence in the record and described in the public hearing, the proposed ordinance (Project) is exempt from CEQA pursuant to CEQA Guidelines Section 15183 of Title 14 of the California Code of Regulations. CEQA Guideline Section 15183 provide that projects which are consistent with a Community Plan, General Plan or Zoning for which an EIR has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.” An EIR was certified by

the Board of Supervisors for the adoption of the County of San Benito General Plan. The proposed ordinance is consistent with the general plan. Therefore, the proposed project qualifies for the exemption under CEQA Guideline Section 15183, because the proposed ordinance is consistent with the General Plan, for which an EIR was certified; and,

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. Based upon all information before it, the Planning Commission of the County of San Benito finds that the proposed ordinance serves the public necessity, convenience and general welfare, and is good zoning practice.

Section 4. A Notice of Exemption is recommended for approval for the Project.

Section 5. The Planning Commission hereby recommends adoption of the proposed ordinance.

Section 6. 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 May 15, 2019.

signed on original
San Benito County Planning Commission

ATTEST:

By: _____
Clerk