

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 CHAPTER 7.04)
TO TITLE 7 OF THE SAN BENITO COUNTY CODE) Ordinance No.: 989
RELATING TO HEMP ENTITIES)**

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

SECTION 1: Chapter 7.04, Hemp Entities, shall be amended in its entirety to read as follows:

Chapter 7.04: Hemp Entities.

- 7.04.010 - Authority, Purpose, and Intent.
- 7.04.020 - Definitions.
- 7.04.030 - Prohibitions.
- 7.04.040 - Hemp Entity Management Program (“H.E.M.P.”).
- 7.04.050 - H.E.M.P. Registration.
- 7.04.060 - Fees and Charges; Debt Owed to County.
- 7.04.070 - General Requirements for Hemp Entities.
- 7.04.080 - Operating Requirements for Cultivators.
- 7.04.090 - [RESERVED].
- 7.04.100 - Administration and Enforcement.
- 7.04.110 - Compliance with State and Local Laws.
- 7.04.120 - Registered Hemp Entity Responsible for Violations.
- 7.04.130 - Limitations on County’s Liability.

Section 7.04.010. Authority, Purpose, and Intent.

- A. Pursuant to Article XI, Section 7 of the California Constitution, the County of San Benito is authorized to adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens, including, but not limited to, those which establish standards, requirements and regulations related to commercial and research industrial hemp activities. Any standards, requirements, and regulations established by the State of California, or any of its departments or divisions, regarding commercial and/or research industrial hemp activities shall be the minimum standards applicable within the unincorporated area of the County of San Benito.
- B. It is the further purpose and intent of this Chapter to require all hemp entity owners and operators to annually register with the County of San Benito.
- C. Further, it is the purpose and intent of this Chapter to impose reasonable land use regulations to protect the County’s residents, neighborhoods, businesses, and the environment from disproportionately negative impacts caused by commercial and/or research industrial hemp activities, and to enforce rules and regulations consistent with state and federal law.
- D. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the County, and are in addition to any permits, licenses and approval required under state, County, or other law.

Section 7.04.020. Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- A. “Approved seed cultivar” means a variety of hemp approved to be grown by a commercial hemp entity and shall include cultivars certified by all the following:
 - 1. Member organizations of the Association of Official Seed Certifying Agencies, including, but not limited to, the Canadian Seed Growers’ Association;
 - 2. Organization of Economic Cooperation and Development;
 - 3. A seed-certifying agency pursuant to Article 6.5 (commencing with Section 52401) of Chapter 2 of Division 18.
- B. “Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean “industrial hemp” as defined by this Chapter and by Section 11018.5 of the Health and Safety Code.
- C. “County of San Benito” or “County” means the County of San Benito, as a political subdivision of the State of California or entity, and/or as related to the land or jurisdiction to which this Chapter applies, means the unincorporated area of the County of San Benito.
- D. “Commercial hemp entity” means a person who engages in the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, dispensing, or sale of hemp and/or hemp for commercial purposes.
- E. “Cultivation” means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of hemp.
- F. “Dried flower” means all dead hemp that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- G. “Enforcing officer” means the San Benito County Administrative Officer, Health Officer, Resources Management Agency Director, Sheriff, or Agricultural Commissioner, or their authorized deputy(ies) or designee(s), or any person employed by the County of San Benito and appointed to the position of Code Enforcement Officer, as established by San Benito County Resolution No. 90-27 and Ordinances 567 and 625, each of whom is independently authorized to enforce this Chapter.
- H. “Established agricultural research institution” or “research hemp entity” means a person that is either:

1. A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or
 2. An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.
- I. “H.E.M.P.” means the Hemp Entities Management Program established under this Chapter.
- J. “Hemp” or “industrial hemp” means a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent (0.3%) tetrahydrocannabinol (“THC”) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom. For the purpose of this Chapter, “hemp” shall not be subject to the provisions of Chapter 7.02 of the San Benito County Code.
- K. “Hemp concentrate” means hemp that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a hemp plant is a concentrate for purposes of this Chapter.
- L. “Hemp entity” means both commercial and research hemp entities.
- M. “Hemp goods” means both hemp and/or hemp products.
- N. “Hemp products” means hemp that has undergone a process whereby the plant material has been transformed into a concentrate including, but not limited to, concentrated hemp, or an edible or topical product containing hemp or concentrated hemp and other ingredients.
- O. “H.E.M.P. Registration” means the annual registration with the County Agricultural Commissioner required under this Chapter, state, and/or federal law.
- P. “Legal parcel” means a parcel of real property for which one (1) legal title exists that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).
- Q. “Manufacture” means to produce, prepare, propagate, or compound, or otherwise blend, extract, or infuse hemp and/or a hemp product either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- R. “Manufactured hemp” means raw hemp that has undergone a process whereby the raw hemp has been transformed into a concentrate, extract, or other manufactured product intended for internal consumption, through inhalation, oral ingestion, or for topical application, or any other use in which the hemp is used, including but not limited to building material, food, fuel, medicine, paper, plastic substitute, rope and textiles.
- S. “Non-volatile solvent” means any solvent used in the extraction process that is not a volatile solvent as defined in Health and Safety Code Section 11362.3(b)(3). “Non-volatile solvent” includes carbon dioxide (CO₂) used for extraction and ethanol, when used for extraction or post-extraction processing.

- T. “Owner” means any of the following:
1. A person with an aggregate ownership interest of twenty percent (20%) or more in the hemp entity seeking registration, unless the interest is solely a security, lien, or encumbrance.
 2. The Chief Executive Officer, or other manager, of a nonprofit or other entity.
 3. A member of the board of directors of a nonprofit.
 4. An individual who will be participating in the direction, control, or management of the hemp entity seeking registration, or who has a financial interest in the entity other than a fixed lease of real property.
- U. “Registrant” means an owner applying for H.E.M.P. registration pursuant to this Chapter.
- V. “Registered hemp entity” means any person who has properly registered a hemp entity with the County pursuant to this Chapter.
- W. “Registering authority” means the County Agricultural Commissioner who is responsible for the issuance, renewal, or reinstatement of the H.E.M.P. Registration, and authorized to take disciplinary action against any registered hemp entity.
- X. “Person” includes any individual, firm, partnership, joint venture, association, corporation, Limited Liability Company, estate, trust, business, business trust, receiver, syndicate, collective, cooperative, institution, or any other group or entity, or combination acting as a unit, and the plural as well as the singular.
- Y. “Premises” means the designated structure(s) and land of a legal parcel specified in the application that is owned, leased, used, possessed, or otherwise held under the control of the registered hemp entity will be or is conducted. The premises shall be a contiguous area.
- Z. “Raw hemp” shall include hemp flowers, hemp leaves, or other categories of harvested hemp, categories for unprocessed or frozen hemp or immature plants, or hemp that is shipped directly to manufacturers.
- AA. “Seed breeder” registered hemp entity that develops seed cultivars intended for sale or research.
- BB. “Seed cultivar” means a variety of hemp.
- CC. “Sensitive use” means any of the following:
1. “Church” means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
 2. Licensed child care facility;
 3. Licensed child care home;
 4. Licensed “child day care facility” means a facility that provides nonmedical care to children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes:

- i. “Day care center” means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.
 - ii. “Employer-sponsored child care center” means any child day care facility at the employer’s site of business operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of children of that employer, and of the officers, managers, and employees of that employer.
 - iii. “Family day care home” means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home.
- 5. “School” means an institution of learning for minors, whether public, private, or charter, offering a regular course of instruction required by the California Education Code, or any licensed child or day care facility. This definition includes a nursery school, pre-school, transitional kindergarten, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.
- 6. “School bus stop” means any location designated in accordance with California Code of Regulations, Title 13, section 1238, to receive school buses, as defined in California Vehicle Code section 233, or school pupil activity buses, as defined in Vehicle Code section 546.
- 7. “School evacuation site” means any location designated by formal action of the governing body, superintendent, or principal of any school as a location to which juveniles are to be evacuated to, or are to assemble at, in the event of an emergency or other incident at the school.
- 8. “Youth center” means any public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:
 - i. Private youth membership organizations or clubs, social service teenage club facilities, video arcades where ten (10) or more video games or game machines or devices are operated and where minors are legally permitted to conduct business, or similar amusement park facilities.
 - ii. A park, playground or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on city, county or state parks.
 - iii. This definition shall not include any private martial arts, yoga, ballet, music, art studio or similar studio of this nature nor shall it include any private gym, athletic training facility, pizza parlor, dentist’s office or doctor’s office primarily serving children, or a location which is primarily

utilized as an administrative office or facility for youth programs or organizations.

9. “Youth-oriented facility” means elementary school, middle school, high school, public park, any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominately minors.

DD. “Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

Section 7.04.030. Prohibitions.

A. **Compliance with Laws.** It is unlawful and shall constitute a public nuisance for anyone to engage in any commercial and/or research hemp activity within the County without complying with all applicable state, federal, and local laws and regulations pertaining to hemp entities, including the duty to register the hemp entity with the County Agricultural Commissioner.

B. **Persons Prohibited From Registering Under this Chapter.** The persons set forth in Section 7.04.050, subdivision (B) shall be prohibited from registering a hemp entity in the County of San Benito.

C. **Hemp Cultivation Exclusion Zone.** No outdoor hemp cultivation shall be conducted or permitted within one (1) mile of the sphere of influence boundary of the Cities of Hollister or San Juan Bautista, or the exterior boundaries of any County Service Area. No hemp cultivation may be conducted within the boundaries of the San Benito Wine/Hospitality Priority Area, as identified in the 2035 San Benito County General Plan, Figure 3-4, p. 3-19, except as provided in Section 7.04.050 E. No hemp cultivation may be conducted within five hundred feet (500') of any public road (County Road or State Highway) unless the cultivation area is fenced with a six foot high fence that provides a visual barrier or includes a six foot high perennial vegetative visual buffer at least six feet wide, in which the case, the distance to a public road may be reduced to X hundred feet (XXX') insert number between 200 and 400 feet. Outdoor hemp cultivation shall only be conducted within areas of the unincorporated County that are zoned Agriculture Production (AP) or Agricultural Rangeland (AR). Indoor hemp cultivation may only be permitted within the exclusion zone, provided that a Conditional Use Permit is first obtained on the condition that effective odor control measures are installed that will not cause detectable odors to any adjoining property in accordance with San Benito County Code section 19.43.080 (T).

B-D. **Hemp Research Entity Hemp Activities Prohibition.** All hemp activities including but not limited to cultivation, harvesting, processing, storage, research, or testing conducted by any Established Agricultural Research Institution or Hemp Research Entity, as defined herein, are prohibited within the County of San Benito.

Section 7.04.040. Hemp Entity Management Program (“H.E.M.P.”)

- A. There is hereby created the Hemp Entity Management Program (“H.E.M.P.”) which shall be administered by the County Agricultural Commissioner.
- B. The following classifications of registrations may be issued under the H.E.M.P.:
 - 1. Commercial Hemp Entity registration.
- C. The County Agricultural Commissioner or his/her designee(s) shall be authorized to build and manage the H.E.M.P.

Section 7.04.050. H.E.M.P. Registration.

- A. **Registration Required.** No person may operate any hemp entity or engage in any commercial ~~or research~~ hemp activity within the County unless the person has, at a minimum, complied with all applicable state, federal, and local laws and regulations pertaining to the hemp entity. All entities, except those engaged in research hemp activities (properly licensed/permitted by the State of California) shall have the duty to complete all of the following:
 - 1. Complete the H.E.M.P. Registration with the County Agricultural Commissioner;
 - 2. Pay the required registration or renewal fee; and
 - 3. Provide the Global Positioning System coordinates of the planned cultivation site to the County Agricultural Commissioner.

~~For registration purposes, research hemp entities shall only be required to comply with all necessary State of California requirements relating to registration, licensing, and permitting.~~

- B. **Prohibition.**
 - 1. No person, except as set forth in B(4), below, who has obtained a Cannabis Business Permit under Chapter 7.02 shall be permitted to register or operate under this Chapter. This prohibition shall extend as long as the Cannabis Business Permit remains in effect.
 - a) Subsections (B)(1), (B)(2) and (B)(5) shall not apply to those persons whose only Cannabis Activity is that of Cannabis Testing
 - 2. No person that has obtained a Cannabis Business Permit from another other jurisdiction shall be allowed to register or operate under this Chapter. This prohibition shall extend as long as the Cannabis Business Permit remains in effect.
 - 3. No person that cultivates Cannabis without a Cannabis Business Permit shall be allowed to register or operate under this Chapter.
 - 4. Further, no person set forth in Section 7.04.030, subdivision (B) may register or operate a hemp entity under this Chapter.
 - 5. No person engaged in any “personal use” cannabis activity or commercial cannabis activity, including but not limited to cannabis cultivation, manufacturing, or distribution, at any location, in San Benito County or in any other jurisdiction, may conduct research hemp activity in San Benito County.

- C. **Laboratories**

A person that has obtained a permit for laboratory testing may register/operate a testing laboratory under this Chapter, such that laboratory testing of both cannabis and hemp at one facility may be permitted subject to obtaining the necessary permits and registration and compliance with all laws, rules and regulations.

D. Drying, Processing, Storage or Manufacturing Facilities

A Conditional Use Permit in accordance with San Benito County Code Chapter 25.43 is required for any facility to be used for the drying, processing, storage, or manufacturing of hemp. All such activities shall be conducted in facilities that shall be located in indoors in areas zoned AP, AR, CM, M-1, or M-2 and shall include effective measures to control odors as specified in San Benito County Code section 19.43.080 (T). Hemp registrants engaged in drying, storage, processing, or manufacturing shall also obtain a business license in accordance with San Benito County Code section 7.01.

E. Outdoor Hemp Cultivation, Drying, Processing, Storage or Manufacturing Facilities within the San Benito Wine/Hospitality Priority Area

A Conditional Use Permit in accordance with San Benito County Code Chapter 25.43 is required for any outdoor cultivation of hemp located within the boundaries of the San Benito Wine/Hospitality Priority Area, as identified in the 2035 San Benito County General Plan, Figure 3-4, p. 3-19. No Conditional Use Permit shall be approved for any outdoor cultivation of hemp located within one (1) mile of any existing permitted visitor-serving wine or hospitality site (e.g. tasting room, winery with tours, restaurant, hotel, bed & breakfast) that is located within the San Benito Wine/Hospitality Priority Area. The term of any Conditional Use Permit for outdoor cultivation of hemp, or any facility for the drying, processing, storage or manufacturing of hemp, located within the boundaries of the San Benito Wine/Hospitality Priority Area shall be limited to a term of five (5) years, subject to renewal. Notices of public hearing for any Conditional Use Permit or renewal of such permit for outdoor hemp cultivation, or any facility for the drying, processing, storage or manufacturing of hemp, proposed to be located within the boundaries of the San Benito Wine/Hospitality Priority Area shall be given to all property owners within a one (1) mile radius of any proposed hemp cultivation site, measured from the exterior boundaries of the parcel where the proposed hemp cultivation site or facility for the drying, processing, storage or manufacturing of hemp, is proposed to be located. Hemp cultivation within the San Benito Wine/Hospitality Priority Area shall also be subject to annual registration. Failure to maintain annual registration shall be grounds for revocation of a Conditional Use Permit.

E-F. Registration Requirements. A registrant shall provide all of the following information:

1. The name, physical address, and mailing address of the applicant.
2. The legal description, Global Positioning System coordinates, and map of the land area on which the registrant plans to engage in commercial or research hemp cultivation, storage, or both.
3. The seed cultivar to be grown, including the state or county of origin.
4. Pay the registration fee set forth in subdivision (D) below.
- 4.5. A notarized written consent signed by the record owners of the property where the cultivation is to be conducted.

- F.G. Fee; Fee Deposit.** At the time of registration, each registrant shall pay the registration fee established by state law and by resolution and/or ordinance of the County Board of Supervisors, to cover all costs incurred by the County to implement, administer, and enforce the provisions of this Chapter. Upon adoption of this Chapter, until changed by the adoption of a resolution or ordinance modifying the fee, the fee shall be that amount established under State law (pursuant to FAC §81005 and 3 CCR §4900 et seq.), as well as the County Agricultural Commissioner's actual costs for which a \$1,000.00 deposit shall be provided at the time of registration.
- G.H. Amended Registration.** Any time a registered hemp entity wishes to alter the land area where hemp is cultivated, or the seed cultivar used, the following shall be required prior to implementing the change:
- a. **Altered Land Area.** Any time a registered hemp entity wishes to alter the land area on which it conducts hemp cultivation, storage, or both, shall, before altering the area, submit to the County Agricultural Commissioner an updated legal description, Global Positioning System coordinates, and map specifying the proposed alteration. Once the County Agricultural Commissioner has received the change to the registration, the County Agricultural Commissioner shall notify the registered hemp entity that it is approved to cultivate hemp on the altered land area. Any attempt to alter the area prior to the County Agricultural Commissioner's approval shall cause the H.E.M.P. Registration to be automatically revoked.
 - b. **Changed Seed Cultivar.** Any time a registered hemp entity wishes to change the seed cultivar grown, it shall submit to the County Agricultural Commissioner the name of the new, approved seed cultivar to be grown. Once the County Agricultural Commissioner has received the change to the registration, the County Agricultural Commissioner shall notify the registered hemp entity that it is approved to cultivate the new seed cultivar. Any attempt to cultivate the new seed cultivar prior to the County Agricultural Commissioner's approval shall cause the H.E.M.P. Registration to be automatically revoked.
- H.I. Transfer of H.E.M.P. Registration.** Registration of a hemp entity does not create an entitlement, interest of value, does not run with the land, is not transferable, and automatically terminates upon transfer of ownership. A registered hemp entity shall not transfer ownership or control of any H.E.M.P. Registration to another person. Any attempt to do so shall cause the H.E.M.P. Registration to be automatically revoked.
- I.J. Expiration.** Each H.E.M.P. Registration under this Chapter shall only be valid for a term of twelve (12) months. A H.E.M.P. Registration may be renewed as provided in Section 7.04.060.
- I.K. Renewal.** An application for renewal of a H.E.M.P. Registration shall be filed at least sixty (60) calendar days prior to the expiration date of the current registration. The renewal registration shall contain all the required application information as set forth in Subdivision (C) of this Section and the registrant shall pay a renewal fee in an amount to be set by resolution and/or ordinance by the County Board of Supervisors to cover the costs of processing the renewal registration, together with any renewal fee established under State law (pursuant to FAC §81005 and 3 CCR §4900 et seq.), as well as, any costs incurred by the County to administer the H.E.M.P. created under this Chapter.

~~K.L.~~ **Denial, Non-Renewal, Suspension, or Revocation of H.E.M.P. Registration.** The County Agricultural Commissioner may refuse to accept a registration, including a renewal registration, for any premises upon which research or commercial hemp activity is being conducted, or is proposed to be conducted, in violation of this Chapter. The acceptance of a registration pursuant to this Chapter shall not be deemed or construed to be a permit for or approval of any violation of this Chapter. The acceptance of a registration shall not prevent the enforcing officer from thereafter requiring correction of violations or from preventing research or commercial hemp activity being carried out thereunder when in violation of this Chapter.

Section 7.04.060. Fees and Charges; Debt Owed to County.

- A. No registrant may commence or continue any commercial or research hemp activity in the County, without timely paying in full all fees and charges required for the operation of a hemp entity. Fees and charges associated with the operation of a hemp entity shall be established by resolution and/or ordinance of the County Board of Supervisors which may be amended from time to time.
- B. **Registration Application Fee.** An application for a H.E.M.P. Registration must be accompanied by a registration fee, plus fee deposit. All work performed in reviewing a H.E.M.P. Registration, consulting with the applicant, conducting site inspections, reviewing changes in information contained in the registration, and making determinations on the application shall be billed to the registrant. In the case of subsequent changes in the information contained in the initial registration, costs for reviewing the amendment shall be billed against the deposit. A H.E.M.P. Registration shall not be granted to a hemp entity under this Chapter until the registrant has paid a non-refundable H.E.M.P. Registration fee as set forth in State law, plus a deposit as set forth in Section 7.04.050. The purpose of this fee is to pay for the costs of implementing, administering and enforcing the H.E.M.P.
- C. **Fees Deemed Debt to the County of San Benito.** The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the County of San Benito that is recoverable via an authorized administrative process as set forth in the County Code, or in any court of competent jurisdiction.

Section 7.04.070. General Requirements for Hemp Entities.

Each hemp entity subject to this Chapter and shall conform to the County's general plan goals and policies, any applicable specific plans, master plans, and design requirements.

Section 7.04.080. Operating Requirements for Cultivators.

- A. **General.** Each hemp entity cultivating hemp under this Chapter and shall operate only within those zone districts where such cultivation is allowed pursuant to Title 25 of the County Code and shall comply with all applicable zoning and related development standards, including, general and supplemental development standards, and any operational standards applicable to hemp entities.
- B. **Odor and Pollen Drift Mitigation.** Each hemp entity cultivating hemp shall design the land area used for cultivation in a manner that minimizes odors and pollen drift to surrounding uses.

- C. **Minimum Premises Size.** The minimum size premises upon which a commercial hemp entity may cultivate hemp is ~~ten-twenty~~ (4020) acres. Two adjoining parcels that together total ~~ten-twenty~~ or more acres in size may be utilized to meet this requirement.
- D. **Setbacks.** Except as provided in a variance granted in accordance with subdivision (D)(5) of this Section, hemp entities cultivating hemp must meet all of the following setback requirements:
1. No less than one-hundred (100) feet from any boundary line of the premises. This setback requirement shall not apply:
 - in an industrial zone, or
 - between contiguous parcels also engaging in hemp cultivation, or
 - with a written agreement of neighboring property owners for a reduced setback which must be recorded, is valid for one crop, and must be renewed on an annual basis
 2. No closer than one-thousand (1,000) feet from any parcel containing a sensitive use that is in existence at the time the hemp entity is registered. 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 area of cultivation, or location of other hemp activity, on the Property seeking registration under this Chapter.
 3. No closer than one ~~hundred-thousand~~ (1,000) feet from any residentially ~~zoned~~ developed parcel in the County that is ten (10) acres or less, including any legal non-conforming residential uses as of the date of registration under this Chapter. The distance between the hemp entity and the residential parcel shall be measured from the outer boundaries of the residential parcel to the closest area of cultivation on the Property seeking registration under this Chapter. This setback requirement shall not apply:
 - in an industrial zone, or
 - between contiguous parcels also engaging in hemp cultivation, or
 - with a written agreement of neighboring property owners for a reduced setback which must be recorded, is valid for one crop, and must be renewed on an annual basis
 4. No closer than one ~~hundred-thousand~~ (1,000) feet from any off-parcel permitted residence in any zone that is in existence at the time of registration under this Chapter, if the hemp entity is located on a parcel that is ~~ten-forty~~ (440) acres or less. The distance between the hemp entity and the off-parcel residence shall be measured from the outer boundaries of the residential parcel to the edge of the growing area. This setback requirement shall not apply in an industrial zone.
 - in an industrial zone, or
 - between contiguous parcels also engaging in hemp cultivation, or
 - with a written agreement of neighboring property owners for a reduced setback which must be recorded, is valid for one crop, and must be renewed on an annual basis

5. **Variance.** A person wishing to register a hemp entity may submit a written application for variance to the Resources Management Agency for consideration. 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 and pursuant to the conditions specified by the Planning Commission.

E. **Laboratory Testing and Destruction.** Hemp entities shall comply with all applicable provisions of the California Food and Agricultural Code and federal law pertaining to hemp, including, but not limited to, cultivation, laboratory testing, and destruction.

~~F. Other than for cultivation, all other hemp businesses, including but not limited to manufacturing and testing, shall obtain a conditional use prior to beginning operations if required by Title 25 of the San Benito County Code.~~

F. **Signage.** Each hemp cultivation site shall post signage of a size and with content specified by the Agricultural Commissioner at intervals of no less than fifty feet (50') around the entire exterior perimeter of the cultivation site to clearly identify that the crop is Industrial Hemp and not cannabis.

G. **Transportation.** No vehicle transporting harvested hemp plants or products shall be driven or moved on any roadway unless the vehicle is so constructed, covered, or loaded as to prevent any of its contents or load from dropping, sifting, leaking, blowing, spilling, or otherwise escaping from the vehicle.

H. **Post-Harvest Field Treatment.** Within no more than thirty (30) days after harvest, stalks or other remaining hemp plant material shall be shredded by a power-driven shredder or other device that effectively reduces hemp plant material to particle size, permitting rapid decomposition and incorporation into the soil of the parcel where it has been cultivated. In the event that rain or other inclement weather event makes post-harvest field treatment impracticable in the opinion of the Agricultural Commissioner, the field treatment shall occur as soon thereafter as is feasible, within a time frame specified by the Agricultural Commissioner.

Comment [JE1]: Having uniform signage specified by the Ag Commissioner is clearer than individualized designs, content and sizes with standards open to interpretation and that would possibly be confusing to the public or intended audience. If the Ag Commissioner prefers standards such as those in the San Joaquin County hemp ordinance, that is within the discretion of the Board of Supervisors to decide.

Section 7.04.090. [RESERVED].

Section 7.04.100. Administration and Enforcement.

A. The San Benito County Board of Supervisors (the "Board") adopts this Chapter pursuant to its police power for the purpose of preserving the health, safety and public welfare of the residents of the County. The Board finds that agriculture is extremely important to the County's economy and that insuring the continued agricultural commodities is essential to the health and well-being of County residents. The Board determines that the enforcement of this Chapter is essential.

B. Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

~~B.C.~~ Consent to entry, inspection, and additional testing. Hemp registrants consent, as a condition of issuance of any hemp registration, business license or permit, to the entry by staff of the San Benito County Agricultural Commissioner; officers of the San Benito County Sheriff; staff of the San Benito County Department of Environmental Health; Code Enforcement Officers, Building Inspectors and the Chief Building Official of the Department of Planning and Building, Resource Management Agency; and, Fire Inspectors and the Fire Marshal to make such inspections and to take such actions as may be necessary to enforce the provisions of this Ordinance, the San Benito County Code, the laws of the State of California, and the laws of the United States. Reasonable advance telephone notice of entry shall be given, to the extent feasible under the circumstances. To the extent reasonably necessary to verify that the hemp contains less than .3% THC, hemp registrants consent to additional testing by enforcement officials, which shall be at the cost and expense of the registrant.

~~C.D.~~ Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the County of San Benito. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any registration issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the County for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The County of San Benito may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by hemp entity or persons related to, or associated with, the hemp entity.

~~D.E.~~ Each and every violation of the provisions of this Chapter may in the discretion of the District Attorney or County ~~Attorney-Counsel~~ be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

~~E.F.~~ The remedies provided herein are not to be construed as exclusive remedies. The County is authorized to pursue any proceedings or remedies provided by law.

Section 7.04.110. Compliance with State and Local Laws.

It shall be the responsibility of the owners and employees of the registered hemp entity to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and/or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed by the County, including but not limited to building permits for L occupancies for laboratories (2019 California Building Code § 306.2) and F occupancies for drying (2019 California Building Code § 313). Nothing in this Chapter shall be construed as authorizing any actions that violate state or local law regarding the operation of a hemp entity.

Section 7.04.120. Registered Hemp Entity Responsible for Violations.

The registered hemp entity shall be responsible for any and all violations of the state and/or local laws, as well as any the regulations promulgated under this Chapter, whether committed by the registered hemp entity or any employee or agent of the registered hemp entity, which violations

occur in or about the registered hemp entity whether or not said violations occur within the registered hemp entity's presence.

Section 7.04.130. Limitations on County's Liability.

To the fullest extent permitted by law, the County of San Benito shall not assume any liability whatsoever with respect to having registered any hemp entity pursuant to this Chapter.

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.

SECTION 4. EFFECTIVE DATE AND CODIFICATION. 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.~~ Upon adoption, Section 1 of this Ordinance shall be codified; the remaining sections shall not be codified

In regular session of the Board of Supervisors of the County of San Benito, introduced on ~~September 10~~_____, ~~2019~~2020, and adopted this 24th day of ~~September~~_____, 20192020, on regular roll call of the members of said Board by the following vote:

AYES: Supervisor(s)

NOES: Supervisor(s)

ABSENT OR NOT VOTING:

Chair, Board of Supervisors

ATTEST:

Janet Slibsager, Clerk of the Board

APPROVED AS TO LEGAL FORM:

San Benito County Counsel
Barbara J. Thompson

By: _____
Clerk of the Board

By: _____
Barbara Thompson
County Counsel