

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

**AN ORDINANCE OF THE BOARD OF SUPERVISORS)
OF THE COUNTY OF SAN BENITO, AMENDING) Ordinance No.: 976
SECTIONS 25.07.005, 25.17.023, 25.17.044, AND)
25.17.063 OF TITLE 25 (“ZONING”) OF THE SAN BENITO)
COUNTY CODE TO IDENTIFY THOSE DISTRICTS)
WHERE THE USE OF LAND FOR COMMERCIAL)
CANNABIS BUSINESS PURPOSES IS EXPRESSLY)
PERMITTED WITH A CONDITIONAL USE PERMIT)**

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

SECTION 1: Section 25.07.005, “Conditional Uses,” of Chapter 25.07, “Agricultural Districts,” of the San Benito County Code shall be amended as follows:

§ 25.07.005 CONDITIONAL USES.

The following are conditional uses in an AR district:

- (A) Crowing fowl (11 or more);
- (B) Commercial greenhouses and mushroom growing facilities;
- (C) Frog and poultry farms;
- (D) Commercial hog ranching;
- (E) Commercial stables;
- (F) Commercial cattle feed yards;
- (G) Private parks and camps;
- (H) Microwave, radio and television transmission and/or relay structures;
- (I) Commercial recreational uses, including but not limited to RV parks, hunting clubs and riding clubs;
- (J) Removal and processing of earth or other natural materials by excavation or grading;
- (K) Permanent stands for the sale of agricultural products;
- (L) Guesthouse;
- (M) Labor camps;
- (N) Additional dwellings as required for the following:
 - (1) Residences of members of the family of the owner or lessee of the land upon which the use is conducted;
 - (2) Residences of bona fide full-time employees of the owner or lessee of the land upon which it is conducted; and
 - (3) Farm labor. (Note: Sufficient acreage must exist to meet minimum building site requirements for the dwellings.)
- (O) Truck parking operations in the service of agriculture in agricultural districts only;
- (P) Pallet and agricultural bin manufacturing;
- (Q) Bed and breakfast establishments;
- (R) Radio frequency emission measuring facilities;

- (S) Commercial composting;
- (T) Application of cheese whey or sludge (solids from a sewage treatment plant) to land;
- (U) Application of green waste (as defined in Title 14, Chapter 31, Article 1, §§ 17852[1] and 17868.4) in excess of 30 tons per acre;
- (V) Agricultural processing;
- (W) Kennels, including, without limitation, kennels for hybrid animals;
- (X) Uses similar to the above as determined by the Planning Commission;
- (Y) Veterinary hospitals and pet clinics;
- (Z) Residential dwellings on Grade 1 agricultural soils;
- (AA) Uses listed in § 25.29.106 of this title;
- (BB) Abattoir;
- (CC) Cultivation of commercial cannabis (mixed-light, including nurseries);
- (DD) Cultivation of commercial cannabis (indoor, including nurseries); and
- (EE) Uses similar to the above as determined by the Planning Commission.

SECTION 2: Section 25.17.023, “Permitted Uses, Use Permit Required in Each Case,” of Chapter 25.17, Article II, “Controlled Manufacturing,” of the San Benito County Code shall be amended as follows:

§ 25.17.023 PERMITTED USES, USE PERMIT REQUIRED IN EACH CASE.

The following uses are conditionally permitted in the CM district if conducted wholly within a completely enclosed building, and on-site parking of vehicles and the loading and unloading of trucks which are incidental to the following uses:

- (A) Any use listed within the CM District if it results in the construction of a new structure;
- (B) Restaurants, bars or coffee shops;
- (C) Expansion of any building beyond 10,000 square feet;
- (D) Cultivation of commercial cannabis (mixed-light, including nurseries);
- (E) Cultivation of commercial cannabis (indoor, including nurseries);
- (F) Distribution of commercial cannabis and/or cannabis products;
- (G) Manufacturing of cannabis and/or cannabis products;
- (H) Laboratory testing of commercial cannabis and/or cannabis products;
- (I) Microbusiness for commercial cannabis (excluding retail activity); and
- (J) Uses similar to the above determined by the Planning Commission.

SECTION 3: Section 25.17.044, “Permitted Uses, Use Permit Required in Each Case,” of Chapter 25.17, Article III, “Light Industrial,” of the San Benito County Code shall be amended as follows:

§ 25.17.044 PERMITTED USES, USE PERMIT REQUIRED IN EACH CASE.

The following uses shall be conditionally permitted in the M-1 district with the approval of a use permit:

- (A) Research and/or development laboratories;
- (B) Nurseries and greenhouses;
- (C) Dwellings and apartments;
- (D) Cultivation of commercial cannabis (mixed-light, including nurseries);

- (E) Cultivation of commercial cannabis (indoor, including nurseries);
- (F) Distribution of commercial cannabis and/or cannabis products;
- (G) Manufacturing of cannabis and/or cannabis products;
- (H) Laboratory testing of commercial cannabis and/or cannabis products;
- (I) Microbusiness for commercial cannabis (excluding retail activity); and
- (J) Uses similar to the above determined by the Planning Commission.

SECTION 4: Section 25.17.063, “Permitted Uses, Use Permit Required in Each Case,” of Chapter 25.17, Article IV, “Heavy Industrial,” of the San Benito County Code shall be amended as follows:

§ 25.17.063 PERMITTED USES, USE PERMIT REQUIRED IN EACH CASE.

The following uses shall be permitted in the M-2 district with the approval of a conditional use permit:

- (A) Bottling works for all beverages;
- (B) Canneries;
- (C) Carpet, rug, rag, bag and furniture cleaning;
- (D) Chemicals, compounding and packaging from previously prepared materials;
- (E) Concrete block and brick;
- (F) Construction, mining and materials handling equipment;
- (G) Cotton, woolen, synthetic yard weaving;
- (H) Fur processing;
- (I) Furniture and fixtures, metal;
- (J) Heating apparatus;
- (K) Ink or inked ribbons;
- (L) Insulating materials;
- (M) Printing, publishing, reproduction and lithograph;
- (N) Machinery, general and special industrial, including pumps and compressors, ball and roller bearings; food products, textiles, woodworking, paper-making and printing machinery, ventilating and heat treating equipment; patterns; and mechanical power transmissions;
- (O) Recycling;
- (P) Metal cans;
- (Q) Metal fabrication plants using plate and structural shapes (such as steel erectors);
- (R) Pharmaceutical products;
- (S) Railroad locomotives and cars;
- (T) Smelting soap, detergent or cleaning preparations;
- (U) Sugar refining;
- (V) Tires;
- (W) Wooden containers, including copperware;
- (X) Woodworking shops, including furniture manufacture and prefabricated wood structural products;
- (Y) Cultivation of commercial cannabis (mixed-light, including nurseries);

- (Z) Cultivation of commercial cannabis (indoor, including nurseries);
- (AA) Distribution of commercial cannabis and/or cannabis products;
- (BB) Manufacturing of commercial cannabis and/or cannabis products;
- (CC) Laboratory testing of commercial cannabis and/or cannabis products;
- (DD) Microbusiness for commercial cannabis (excluding retail activity); and
- (EE) Uses similar to the above as determined by the Planning Commission.

SECTION 5. 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 6. 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 7. 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 11th day of December, 2018, on regular roll call of the members of said Board by the following vote:

AYES: Supervisor(s) Botelho, Muenzer, Medina, De La Cruz

NOES: Supervisor(s) none

ABSENT OR NOT VOTING: none

Anthony Botelho,
Chair, Board of Supervisors

ATTEST:

Janet Slibsager, Clerk of the Board

By: Janet Slibsager
Clerk of the Board

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

Barbara J. Thompson

By: Sarah M. Dickinson 12/10/18
Sarah M. Dickinson,
Acting Assistant County Counsel