

## **Proposed San Benito County Growth Management Initiative - 12/28/02**

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The People of San Benito County do ordain as follows:

The name of this ordinance is “The San Benito County Growth Control Initiative”.

### Section 1. Purpose

The purpose of this Initiative is to protect San Benito County, its agricultural lands and other valuable open space and natural resources, from excessive and harmful development. The objectives are to:

- Preserve the Rural Character and the Quality of Life of San Benito County
- Protect Agricultural Lands and Maintain and Enhance Farming and Ranching
- Safeguard Natural Resources, Open Space, and Scenic Beauty
- Limit and Stabilize the Rate of Development at a Level the County Can Live With
- Reduce Traffic Congestion and Hazard
- Lessen Air and Water Pollution
- Permit Adequate Levels of Public Services
- Secure Less Costly, Compact Urban Development instead of Scattered, Sprawling Growth

### Section 2. Findings

The citizens of San Benito County deliberately find and declare:

(a) Growth. San Benito County is at a critical juncture. Development and population in the County have increased very rapidly, much faster than in surrounding counties and greater than twice the State level. There are intense pressures for far more growth; official projections are a population of 115,000 by the year 2040. Huge developments are proposed, even in outlying agricultural areas. Growth is increasingly fraying the County’s rural and small town character and sense of community. Many of the County’s valuable natural qualities have been destroyed or impaired. Much that remains is in jeopardy.

(b) Public Services. Rampant growth overwhelms the County’s infrastructure and ability to provide critical public services (police and fire protection, public health, parks), given the County Government’s limited, more slowly growing revenues. Properly planned, compact

development in and near existing urban areas is much less costly than sprawling or scattered development to users and to taxpayers.

(c) Agriculture. Agriculture is the base for the County's economy and way of life. The County's farming and grazing lands are among the most productive in California, a bountiful source of nearby vegetables, fruit and other produce. They are an irreplaceable local, state and national resource. Increasingly, this agricultural land is being paved and roofed over, and cut up into parcels for quasi-rural residential development. Large parcel sizes and freedom from residential interference are crucial for viable farms and ranches. Preservation of agriculture is key to preserving the natural resources as well as the economy of the County. A vital agriculture, over the long term, can only be assured if the County makes a strong commitment to its maintenance and enhancement.

(d) Destruction of Natural Resources. Excessive, sprawling, and scattered residential development needlessly destroy not only the County's farmland but also wildlife habitat, scenic vistas, and other vital natural qualities. Obtrusive development adjacent to public roads and on hilltops and slopes preempts large amounts of open space. The County's natural beauty is being disfigured; its historic character lost.

(e) Traffic and Health and Safety. In significant part, San Benito County is being transformed from a rural community into bedroom suburbs for persons employed elsewhere. A result is dysfunctional commuting patterns which create severe congestion and hazard on overloaded roads and streets. The County now does not meet State air quality standards. Excessive development exacerbates air pollution harmful to people and property; especially vulnerable are persons with respiratory and heart problems, children, the elderly. Sewage disposal facilities in the County's urban areas are seriously inadequate; remedial action is very expensive and will take years.

(f) Housing. San Benito County has provided much more than its fair share of housing for the region; it has a gross excess of housing over jobs. There is a substantial work commute to other counties, which have not provided sufficient housing for their workers. Residential development on large lots consumes a huge amount of land but relatively provides little housing, certainly not housing affordable for most County residents. Higher density housing in and near built up areas would be much less costly to homeowners, taxpayers and the County. There are thousands of acres outside of agricultural areas to meet housing needs.

(g) Development Regulations. The County must revise its land use regulations to preserve agriculture and open space while meeting housing needs. Under current regulations, tens of thousands of dwelling units, housing more than 125,000 persons, legally could be built on unincorporated lands outside of cities. The County now limits the numbers of parcels that may be created each year, but not the building permits that may be issued on the numerous existing parcels. Current minimum parcel sizes of five acres in Agricultural Productive Areas and forty acres in Agricultural Rangeland Areas are unsuitable either for farming or for affordable housing. Incompatible non-agricultural uses are permitted broadly in agricultural areas. Moreover, development controls that the County now does have can be eliminated at any time by a majority of the Board of Supervisors.

(h) Burden of Proof. Within the meaning of California Evidence Code Section 669.5(c)(3), this ordinance is designed to protect agricultural use as defined in Government Code Section 51201(b) and open space land as defined in Government Code Section 65560(b).

(i) Federal and State Law. This Initiative is subject to Federal and State law, which is not always clearly determined and not infrequently changes. Accordingly, the measure contains provisions that it does not apply to the extent application would be inconsistent with Federal or State law. These provisions are designed to ensure that the Initiative will not conflict with superior law, in the future as well as currently.

### Section 3. General Plan Amendments

(a) Sections 4 through 19 amend the San Benito County General Plan. The amendments shall be placed in the Plan as specified or, absent specification, as appropriate in the Land Use Element or the Open Space and Conservation Element and on Plan maps, subject to further relocation deemed proper by County officials. Material deleted from the Plan by the amendments is in strikeout type (crossed out); material added is underlined, except some headings in the existing Plan are underlined. Further amendments of the Plan are made in Section 24.

### Section 4. Protection of Legal Rights; Compliance with the Law

Notwithstanding their literal terms, the provisions of the Initiative do not apply to the extent that courts determine that if they were applied they would deprive any person or persons of constitutional or statutory rights or privileges, would be a taking without requisite compensation, or in any respect would be inconsistent with the United States or State constitutions or laws. This limitation is to ensure that the provisions do not infringe constitutional or other legal rights or violate the law in any way, or subject the County to any liability. To the extent that a provision of the Initiative does not apply because of this Section, the County may permit only that parcel creation, development, or use that meets the requirements of law, that is most nearly consistent with the Initiative and is in accord with the other provisions of this General Plan.

### Section 5. State Housing Requirements

(a) Nothing in the Initiative, including in this Section, shall be applied to preclude County compliance with any legal obligation to provide for housing.

(b) To the maximum extent practicable, the County shall meet State housing legal requirements in accordance with this Plan. If the County must use Agricultural Productive or Agricultural Rangeland Areas to meet these requirements, beyond the uses permitted by the Initiative, it shall:

(1) use no more land in the areas than is necessary for the State mandated housing;

(2) locate the housing adjacent, or as near as possible, to existing urban or higher density residential areas;

(3) to the extent practicable, use non-prime rather than prime soils; and

(4) ensure that at least 40% of the housing provided shall be effectively and permanently committed for occupancy by senior and other moderate, lower and very low income persons, families and households, with at least one half of the 40% for lower and very low income households.

(c) If the County must use the designated agricultural areas, the minimum parcel size, limit on the number of dwelling units on a parcel, maximum floor area, and height restrictions in the Initiative shall not apply to the extent necessary to confine the use to the minimum area needed to meet State legal requirements.

## Section 6. Annual Limit on Dwelling Unit Permits

Policy 41 is added to the Land Use Element.

### POLICY 41

There shall be a limit each calendar year on the aggregate number of building and placement permits issued, or other approvals granted, for the construction of dwelling units in unincorporated areas of the County, whether in single-unit or multi-unit structures, and for the initial placement of manufactured housing, including mobile homes. This aggregate limit shall equal 1%, on average over any three years, of the County's population in unincorporated areas divided by the average number of persons per household in those areas, both figures as determined by the most recent United States Census. This annual limit may be increased by up to 50% (i.e. 0.5%) for dwelling units permanently and effectively committed to occupancy by an appropriate mix of senior and other moderate, lower and very low income persons, families and households. The annual limit may also be increased by up to 50% for dwelling units to be constructed or placed on the basis of transferable development credits authorized by Policy 7A. The limit shall not apply to the construction within three years of dwelling units to replace units destroyed or eliminated; nor shall it apply to dwelling units, if any, that are exempt under State law from the annual limit or to State required density bonus units. Dwelling units for moderate, lower and very low income households or based on transferable development credits may be given preference in allocating the 1% annual limit.

If fewer permits are granted than are permitted under the annual limit and under the allowed annual increases for moderate, lower and very low income households and for dwelling units based on transferable development credits, then the number of credits that could have been issued but were not in each category shall be carried forward as an increase in that category for subsequent years until permits are issued for that number or seven years have elapsed.

## Section 7. Transferable Development Credits Program

Policy 7A is added to the Land Use Element of the General Plan.

### POLICY 7A

The County shall establish a Transferable Development Credits Program for those Agricultural Productive Areas that are subdesignated Agricultural Productive 20 (AP 20). Property owners may choose to participate in this program. It allows participating owners to share in development values elsewhere in the County, especially given the added development permitted there under the program, while protecting agricultural and other valuable natural resource lands.

(a) Transferable Development Credits shall be granted by the County to property owners in conformity with this Policy, according to rule, in number and manner to further the objectives of the Initiative. Credits shall be granted on the following bases:

- (1) not less than one credit times the number of parcels that legally could have been created on a parcel prior to the Initiative minus the number of parcels that may be created under the minimum parcel sizes established by the Initiative;
- (2) not less than four credits for an owner forgoing the right to create an additional parcel permitted under this Plan;
- (3) not less than four credits for an owner forgoing all dwelling units on a parcel, which forbearance shall also include all dwelling units on one of the parcels existing after any permitted subdivision or subdivisions of the parcel.

The County may differentiate among areas in the number of credits granted, in excess of the minimums guaranteed by this subsection, to reflect development potential or harm, and among grantees according to their willingness to participate in the program at an earlier rather than later date.

(b) Development credits may be used as the Board of Supervisors authorizes, consistent with this Plan, in unincorporated areas not designated Agricultural Productive or Agricultural Rangeland or areas west of Highway 101, to build dwelling units or commercial and industrial space that otherwise would not be permitted, or not permitted until a later time. The Board shall provide for the efficacious use of credits to accomplish the objectives of the Program. With reasonable justification, the Board may permit more development per credit in some receiving areas and for certain types of development. Credits may also be used in incorporated areas, if their use is approved by the city.

(c) Credits may be sold or purchased, or otherwise transferred or received, by any person including the County and other governmental or non-governmental entities. The County may buy and sell credits, including by means of a revolving fund replenished by

the sale of credits, to establish and maintain an effective market for the credits, or to extinguish credits.

(d) The County shall make appropriate arrangements to inform persons about the development credits program, to facilitate the transfer of credits, and to ensure adequate, accurate records of development credit grants, transfers and use.

(e) As a prerequisite to the grant of development credits, owners shall convey to the County and, if one is available, jointly to a land trust (that complies with the Land Trust Standards and Practices of the Land Trust Alliance) an easement on the parcel from which parcels could have been created under (a)(1) or (a)(2) or on which dwellings are forgone under (a)(3).

The easement shall bar any land division, development or use not permitted by the Initiative on the parcel subject to the easement. In addition, if credits are granted under (a)(2) the easement shall relinquish any right to create the parcel forgone, and if granted under (a)(3) the right to any dwelling unit or any other development on the parcel involved or if that parcel is subdivided on one of the parcels existing after any permitted subdivision or subdivisions of the parcel, except development for agricultural use under Section 12 (1), Uses in Agricultural Areas, of the Initiative and for permitted processing, packaging, storage or sale of produce or plants under Section 12 (2). The Board of Supervisors may require that additional restrictions be included in easements.

The easement, to run with the land, shall be negative only; it shall convey no possessory interest to the County or land trust, nor confer any right of public access. The owner shall retain exclusive occupancy and use. The County has no responsibility or liability because of the easement for acts or omissions on the parcel, except in good faith and effectually to prevent or remedy violations of the easement.

Easements shall be duly recorded in the County land records.

(f) Nothing in the Initiative bars the County from granting development credits for areas not included or on bases other than specified in this Policy.

#### Section 8. Minimum Parcel Sizes

(a) The third paragraph on page 8 of the Land Use Element of the Plan is amended to read:

##### 1. AGRICULTURAL PRODUCTIVE (5-acre minimum lot size)

This designation is applied especially to those lands which are identified as being prime agricultural lands but also includes agriculturally productive lands of any type, including grazing lands. The minimum lot size in this area shall be five acres. The minimum parcel size on lands designated Agricultural Productive is twenty acres in

the area bounded by the San Benito County-Santa Clara County Boundary from Highway 101 to Pacheco Creek, Pacheco Creek to Highway 156, south on Highway 156 to Fairview Road, Fairview Road to McCloskey Road, McCloskey Road to the Hollister City Boundary, generally north, west and south along that Boundary to Wright Road, Wright Road to Buena Vista Road, Buena Vista Road to Highway 156, southwest on Highway 156 to Union Road, Union Road south to the area designated Manufacturing (M1) on the General Plan Land Use Designation Maps, by a line southwest and south along the western boundary of that area to the area designated Agricultural Rangeland, generally west and northwest along the northern boundary of the areas designated Agricultural Rangeland (including the areas redesignated Agricultural Rangeland by Section 9 of the Initiative) to the San Benito County-Monterey County boundary, that boundary to Highway 101, and Highway 101 to the San Benito County-Santa Clara County Boundary. This area shall be subdesignated Agricultural Productive 20 (AP 20), including on the General Plan Land Use Designations Maps.

In other areas designated Agricultural Productive the minimum parcel size is five acres. These areas shall be subdesignated Agricultural Productive 5 (AP 5), including on the Land Use Designation Maps.

(b) the fourth paragraph on page 8 of the Land Use Element is amended to read:

2. AGRICULTURAL RANGELAND (40-acre minimum lot size)

This designation applies primarily to rangeland, watersheds and hillside areas is assigned to the remote hillside areas, watershed and rangeland, such as Williamson Act land, many of which have been classified as some form of open space within the Open Space and Conservation Elements. These areas are typified by a lack of transportation access, high to very high fire hazard, and by the lack of utility services, or by steep slopes or remoteness. to allow for more dense types of development. Many of these areas are found within the critical fire hazard area or in the "out back" areas of the many isolated canyons throughout the County. The minimum parcel size for areas designated Agricultural Rangeland is 160 acres.

(c) The areas subdesignated Agricultural Productive 20 and Agricultural Productive 5 and the areas designated Agricultural Rangeland are depicted approximately on the map in the Appendix. That map is for purposes of illustration only; it is not enacted by this Initiative.

## Section 9. Redesignations

The area designated Agricultural Productive (AP) on the General Plan Land Use Designation Maps east and south of Hollister (including the area west and south of Bolado Park) is redesignated Agricultural Rangeland (AR), except for that part of the area bounded by a straight line extended due south from Best Road to the line that separates the north and south

halves of Section 19, that line extended due west to the San Benito River, and the San Benito River to Hospital Road. Areas designated Rural in the western part of the County, south of Highway 156, that are contiguous with areas designated Agricultural Rangeland are redesignated Agricultural Rangeland. All of the areas redesignated Agricultural Rangeland by this section shall be changed to that designation on the General Plan Land Use Designation Maps, and are subject to the provisions of this Initiative and the General Plan that apply to Agricultural Rangeland Areas. (Redesignations made by this section are illustrated on the Map in the Appendix.)

#### Section 10. Flood Plain Designations

The Flood category on page 15 of the Land Use Element is amended to read:

##### FLOOD

This category applies to land located within the 1% flood hazard zones (100-year flood plain) on the Federal Emergency Management Agency maps adopted by the County. Uses allowed on existing lots of record within the category include agriculture, grazing, mineral extraction, wildlife refuges, land in its natural state, and selected low intensity recreation ~~and other such uses permitted by the San Benito County Flood Zone Ordinance. Future commercial and industrial u~~Uses shall be carefully evaluated on a case by case basis ~~pursuant to flood mitigation criteria~~ with respect to flood concerns.

The Flood Plain designations on the General Plan Land Use Designation Maps are an overlay on other land use designations and subdesignations within whose boundaries on the maps the Flood Plain areas are located. The Flood Plain areas are governed by the General Plan provisions for the underlying designations and subdesignations and, to the extent that they are more restrictive, or impose additional requirements, by the flood plain provisions of this Plan, and by ordinances and regulations implementing those provisions.

#### Section 11. Certificates of Compliance

Policy 42 is added to the Land Use Element.

##### Policy 42

The County may not grant certificates of compliance except as required by State law. All relevant restrictive conditions permissible under State law shall be imposed on conditional certificates of compliance, and the owner or subsequent transferees held to strict compliance with those conditions. A certificate of compliance by itself creates no right to develop, or diminishes in any respect the County's authority to control development.

#### Section 12. Uses in Agricultural Areas

Paragraph two on page 8 of the Land Use Element of the General Plan is amended as follows:



## AGRICULTURAL

This category applies to the majority of the land area within San Benito County. It is divided into two designations, Agricultural Productive and Agricultural Rangeland. This land is now generally used for agriculture, including grazing, natural resources, watershed, outdoor recreation, open space, wildlife refuges and very low density residential. This land is presently used for agriculture, hillsides over 30%, rangeland and open space purposes. The uses allowed within this category include agriculture, grazing, land in its natural state, wildlife refuges, very low intensity residential, and uses that, by their nature, must be located in undeveloped areas. Conditional uses include mineral extraction, low density recreational facilities and institutional land uses. This category is divided into two density zones; Apart from uses preemptively authorized by Federal or State law, uses allowed in Agricultural Productive and Agricultural Rangeland Areas are the following, with their customary and appropriate accessory uses and structures, provided that the uses comply with all the provisions of this Plan and with County ordinances and regulations implementing the Plan:

- (1) Agriculture and horticulture, including but not limited to arboretums, gardens, nurseries, dairies, and rearing, feeding and sale of cattle and other ruminants (however, the floor area of greenhouses is limited to 1% of a parcel's area or 40,000 square feet, whichever is greater, except to the extent that the greenhouses are used to grow crops in the underlying soil);
- (2) Processing, packaging, storage or sale of agricultural produce or plants, a major portion of which over the course of a year were grown in San Benito County;
- 3) Provision of agricultural services and manufacture of products to meet the unmet needs of County agriculture that cannot practically be met outside the designated Agricultural Areas;
- (4) Rearing, feeding, training, care, study or sale or rental of animals, consistent with Federal, State and County environmental protection regulations;
- (5) One single family dwelling unit per parcel (except as provided under Policy 7B of the Land Use Element for clustering or required by Policy 16 of the Open Space and Conservation Element), secondary units mandated by State law, housing for *bona fide* agricultural workers employed on the parcel involved or on a farm or ranch of which the parcel is a part (this housing may not be used as housing for non-farm workers), and rental of rooms to lodgers in a single family dwelling unit;
- (6) Home occupations and offices, secondary to residential use, primarily conducted by residents of a parcel, that will not have deleterious effects on the environment or visual qualities;
- (7) Outdoor recreation and pastimes predominantly for active participants, not spectators, and subordinate, auxiliary uses including short-term lodging and provision of food and drink; this category of uses does not include, among other things, amusement or

- theme parks, stadiums or arenas, or recreational vehicle parking for more than several days, but it does include low-intensity campgrounds, without sewage or electrical hookups, and picnic areas; uses permitted under this paragraph may not interfere materially with agriculture or with the ability to use Grade 1 or 2 soils for agriculture and shall accord with a rural environment;
- (8) Accommodations for short-term visitors not to exceed fifteen rental units, and provision of food and drink, which do not interfere materially with agriculture and are in accord with a rural environment;
- (9) Use of historic structures to preserve the structures, their historic qualities or setting that will not have deleterious effects on agriculture, the environment or visual qualities;
- (10) Exploration, extraction, processing, storage and transmission of energy, minerals, water, rock or soil entirely or largely from San Benito County, consistent with Federal, State and County environmental regulations and visual safeguards;
- (11) Disposal, treatment and processing of wastes from San Benito County, consistent with Federal, State and County environmental and visual regulations, that the Board of Supervisors finds reasonably cannot be provided outside areas designated Agricultural; composting is not subject to this finding requirement and may use material from outside the County;
- (12) Special, occasional short-term events related to agriculture or animals (for example, fairs, rodeos, horseshows, wine festivals) that do not interfere materially with agriculture or cause more than short-term environmental harm;
- (13) Appropriately limited commercial or professional uses (for example, neighborhood stores, repair shops, medical facilities, veterinary services, child care centers) predominantly to provide goods or services to meet the unmet needs of residents, highway users, and permitted activities in the designated Agricultural Areas that practically cannot be met outside those areas;
- (14) Institutional and other non-profit uses that predominantly serve residents of the Agricultural Areas or that would be permitted by for-profit entities, and facilities for meetings and retreats not to exceed, in aggregate, 10,000 square feet floor area including accessory buildings; and
- (15) County and other government facilities and infrastructure, private air strips, and public utilities, that are limited to meeting the needs created by permitted uses in the designated Agricultural Areas, except to the extent the Board of Supervisors finds reasonably more extensive need that cannot be met outside those areas; government outdoor recreation facilities and ancillary accommodations are permitted whenever like private uses would be allowed.

### Section 13. Areas of Special Environmental Concern

(a) Policy 3 of the Open Space and Conservation Element of the Plan is amended to read:

#### POLICY 3 - Protection of wetlands ~~Mitigation for wetland development~~

Development shall be sited to avoid encroachment on wetlands. Mitigation shall be required for any development proposals that have the potential to reduce wetland habitat from ~~primary direct~~ or ~~indirect secondary~~ effects of the development. Development, agricultural conversion, keeping of animals, or topographical alteration may not be permitted if, cumulatively, the quantity or biological quality of wetlands would be reduced materially. For purposes of this policy, "wetlands" are areas that under common climatic circumstances are permanently or periodically covered by water, or where hydrophytic vegetation is substantially present or soils are primarily hydric in nature.

(b) Policy 32A is added to the Land Use Element of the General Plan.

#### POLICY 32A

No building, in whole or in part, may be located on a slope with a grade of more than 30%. No building may be located on a site that has access over a slope of more than 30%. Percentages are based on the steepness of slopes in their natural, unaltered state, and are calculated by dividing altitude increase by twenty over each twenty feet of surface distance.

### Section 14. Visual Safeguards

(a) Policy 16 of the Open Space and Conservation Element is amended to read:

#### POLICY 16 - Ridgeline development

To preserve the rural character of the area, new development shall be directed away from the horizon ~~through the use of building envelopes and integration of building architecture into the contour of the horizon.~~ Parcels may not be created that have no building site other than a ridgeline or hilltop, or that would entail a building or buildings projecting into the view of any ridgeline or hilltop from public places, unless there is no other possible configuration. Structures may not be located on ridgelines or hilltops, or where they will visibly project into the upward or horizontal view of a ridgeline or hilltop from public roads or parks, unless there is no less intrusive site on a parcel or a contiguous parcel in common ownership.

(b) Policy 36 of the Land Use Element is amended to read:

POLICY 36

The County shall maintain high standards of siting and design ~~in the~~ for development ~~of~~ for all land uses. Standards and criteria shall be established by the County.

Development and alteration of land surfaces shall be subordinate to and blend harmoniously with the natural and open space qualities of the area where located, so as not needlessly to impair those qualities. Structures shall be located, to the extent practicable, on that part of a parcel that minimizes their visual impact from public roads and parks. In all cases, appropriate preservation of vegetation, landscaping, screening, and building materials shall be required to reduce as much as practicable the visibility of development and scars from grading. To the extent possible, access roads shall be located, including by consolidation, where they are least visible from public roads and parks. Exterior lighting must be designed and placed to confine direct rays to the parcel where the lighting is located. In Agricultural Areas, signs shall be no more numerous, larger or noticeable than is necessary to provide essential information, and shall be compatible with a rural environment and the Scenic Roads and Highways Element. The height of buildings may not exceed 30 feet, except to the extent that the Board of Supervisors finds reasonably that a greater height is necessary for uses under Section 12 (1), (2), (3), (11) and (15) of the Initiative.

(c) Policy 7B is added to the Land Use Element.

Policy 7B

In Agricultural Areas, the County may allow permissible development to be clustered by transfer of the development from one parcel to another if the transfer clearly will reduce the adverse visual impact of the development and is consistent with all the provisions of this Plan. Clustered development may be on a single parcel or, notwithstanding Section 8 of the Initiative, on separate contiguous parcels that do not exceed two acres each.

As a prerequisite to clustering under this policy, the owner of the parcel from which development is transferred shall convey an easement to the County and, if available, jointly to an independent land trust (that complies with the Land Trust Standards Practices of the Land Trust Alliance). The easement shall bar any development on the parcel from which development is transferred except for agricultural use under Section 12 (1) of the Initiative (which does not include residential development) and under Section 12 (2) for permitted processing, packaging, storage or sale of produce or plants. The easement, to run with the land, shall be negative only; it shall convey no possessory interest to the County or land trust, nor confer any right of public access. The owner shall retain exclusive occupancy and use. The County has no responsibility or liability because of the easement for acts or omissions on the parcel,

except in good faith and effectually to prevent or remedy violations of the easement. Easements shall be duly recorded in the County's land records.

## Section 15. Maximum Floor Area

Policy 7C is added to the Land Use Element.

### POLICY 7C

In Agricultural Areas the maximum aggregate floor area in buildings on a parcel may not exceed 1% of the parcel's area or 40,000 square feet, whichever is greater. The Board of Supervisors may increase the maximum floor area for buildings and greenhouses by up to 40,000 square feet if necessary for permitted uses under Section 12 of the Initiative. The Board may increase the maximum by another 40,000 square feet for permitted processing, packaging and storage facilities under Section 12 (2).

## Section 16. Definitions

For purposes of the Initiative, unless the text or context clearly indicates otherwise:

"Agricultural Productive Areas" means areas designated Agricultural Productive and "Agricultural Rangeland Areas" means areas designated Agricultural Rangeland on the General Plan Land Use Designations maps on December 1, 2002, or by the Initiative; "Agricultural Areas" are Agricultural Productive and Agricultural Rangeland areas;

"Building" is any structure having a roof with a floor area of more than fifty square feet, except greenhouses and water tanks;

"Development" includes the construction or placement of a building or structure, including mobile dwelling units;

"Initiative" is the self-named San Benito County Growth Control Initiative;

"Moderate, lower and very low income persons, families or households" have the same meaning as under Section 50093, 50079.5 and 50105 of the California Health and Safety Code, respectively, or successor state statutory definitions;

"State Law" includes State constitutional provisions, valid statutes and court declared common law;

"Structure" includes any building, greenhouse, tower, utility line, dam, pumping facility, or anything constructed, erected, or placed, the use of which requires location on ground or attachment to something located on ground.

## Section 17. Application

(a) The Initiative does not affect the validity of parcels, development, and uses to the extent that they existed legally at the time the Initiative became effective, unless they are voluntarily eliminated or abandoned. However, the County may not permit parcels, development, or uses to be changed or expanded in ways that are inconsistent with the prohibitions, restrictions, limitations, or requirements of the Initiative.

(b) The County shall apply the prohibitions, restrictions, limitations, and requirements of the Initiative to proposed parcels, development, and uses unless they have received all discretionary County authorizations and approvals prior to the effective date of the Initiative, except to the extent precluded by State law.

## Section 18. Inconsistent County Plans, Ordinances and Actions

(a) To the extent that there is inconsistency between a provision of the Initiative and another provision of the General Plan that other provision is superseded and the Initiative shall govern unless voters approved the other provision after approval of the Initiative. However, General Plan provisions are not to be deemed inconsistent with the Initiative because they impose prohibitions, restrictions, limitations or requirements in addition to those imposed by the Initiative. In that respect, the Initiative establishes only minimum standards, which the County may augment without creating inconsistency.

(b) Any provision of any existing or subsequently adopted specific, area or other plan that is not part of the General Plan and of any zoning ordinance or any other ordinance, resolution or policy of the County may not be applied to the extent that the application would be inconsistent with the Initiative, except as State law mandates to the contrary.

(c) No subdivision or parcel map, development plan, development agreement, use permit, variance or other action inconsistent with the prohibitions, restrictions, limitations or requirements of the Initiative may be approved, permitted or taken by the County (including approval or permission by operation of law because of inaction), except as required by State law.

## Section 19. Compliance and Enforcement

The County government shall implement and enforce the provisions of the Initiative diligently and effectually. It shall use the most effective means at its disposal, subject to any official discretion required by State law, to prevent, abate and remedy violations of the Initiative. Residents of the County may enforce the Initiative by suits for injunctive relief against the County or any person in violation of the Initiative or to prevent impending violations.

## Section 20. Effective Date

This Initiative shall become effective as provided by statute, except if all the General Plan amendments permitted by law in the year in which the measure is approved have been made

the Initiative shall become effective and amend the plan at the beginning of January 1 of the following year.

#### Section 21. Amendments

As mandated by State law, this Initiative may be repealed or amended only by vote of the people of San Benito County, except the Board of Supervisors may amend the Initiative (1) to impose additional prohibitions, restrictions, limitations and requirements on the division, development, use and alteration of land, and (2) to increase or reduce the maximum floor areas in Section 15. The Board may also make or provide for non-substantive modifications to the Initiative for purpose of clarification, consistency of form or organization of the General Plan. Any modifications must be consistent with the substantive provisions and purpose of the Initiative.

#### Section 22. Severability

If one or more than one section, subsection, paragraph, subparagraph, sentence, clause, term, or application of this Initiative is invalid, that invalidity shall not affect the validity of any other part or application unless the clear effect would be to defeat the overall purpose of the measure. Each part and application of this Initiative would have been enacted as it was irrespective of the fact that one or more other parts or applications are declared invalid or inapplicable, except to the extent the effect clearly would be to defeat the purpose of the measure.

#### Section 23. Conflicting Ballot Measures

If there are other General Plan amendments on the same ballot as this measure that are approved by the voters, this measure shall be effective, except to the extent that its provisions are in actual, irreconcilable conflict with particular Plan amendments of one or more other measures and that measure or those measures received more votes. Otherwise, provisions in another measure shall be ineffective in nullifying the provisions of this Initiative.

#### Section 24. General Plan Consistency

The General Plan is amended as follows to eliminate or revise material that is or may deemed to be inconsistent with this Initiative or no longer appropriate.

(a) General Plan Maps (characterized as Figures) shall be changed expeditiously to conform to the textual provisions of the Initiative.

(b) Tables in the General Plan Elements, which summarize the policies of the Plan, to the extent not amended below shall be revised promptly to conform to the textual provisions of the Initiative.

(c) General Plan text below in ~~strikeout type (crossed out)~~ is deleted from the Plan. Material underlined is added to the Plan (except some section and paragraph headings are

underlined in the existing Plan). Because of the volume, material unchanged is omitted, even within a paragraph, unless regarded as helpful in making sense of an amendment. Material unchanged is not enacted by this Initiative.

LAND USE ELEMENT

Page 1

The time-horizon of this Plan Update is 10 years. It is intended, however, that this General Plan be reviewed annually and updated ~~every three years~~ as required to insure that the most recent technical data, community goals and State law requirements are recognized.

Page 5

TABLE 1

UNINCORPORATED SAN BENITO COUNTY LAND USE BREAKDOWN

DESIGNATION	ACRES	TYPES OF HOUSING ALLOWABLE	DWELLING UNITS(1)	POPULATION	MAXIMUM POPULATION PER ACRE
Agricultural Productive	<del>56650</del>	<del>SF 1 unit/5acres</del>	<del>11000</del>	<del>36029</del>	<del>0.64</del>
<u>(a) Agricultural Productive 20</u>		<u>SF 1 unit/20 acres</u>			<u>0.16</u>
<u>(b) Agricultural Productive 5</u>		<u>SF 1 unit/5acres</u>			<u>0.64</u>
Agricultural Rangeland	<del>659174</del>	<del>SF 1 unit/40160acres</del>	<del>16479</del>	<del>52403</del>	<del>0.8</del> <u>0.02</u>
Rural	<del>10516</del>	SF 1 unit/5acres	2103	6688	0.64
Rural/Urban	<del>1718</del>	SF up to 8 units/ Acre or Mobile Home Parks	<del>13704</del>	<del>43578</del>	25.45

Page 13

1. RURAL

~~Within areas where the average cross slope equals or exceeds 30%, the number of allowable units will be determined by use of the County's slope density formula.~~

Page 16

INDUSTRIAL

In some limited cases, isolated industrial uses will continue to be permitted as overlay zoning ~~without a general plan amendment.~~ provided that the zoning conforms to the Initiative.



## GOAL 1

### OBJECTIVES

1. 1. To protect ~~prime~~ agricultural areas in order to preserve them for the present and future agricultural production vital to the County.

## GOAL 2

### OBJECTIVES

b) To encourage an overall rural approach to development, such as large lots or the clustering of home sites to preserve the maximum open space possible in accordance with the Initiative.

## GOAL 4

### OBJECTIVES

c) to identify and plan for commercial services near existing federal, state, and regional parks in conformity with the Initiative.

## GOAL 9

f) Consistent with this Plan, Utilize area plans, master plans, specific plans, community plans and other planning studies to allow population growth in geographic areas that will maintain an adequate level of public services (fire, schools, sheriff), and protect natural resources.

### POLICY 1

The agriculturally designated areas of the County shall be developed at a low density use (~~5 acre minimum lot size~~).

### POLICY 2

The type of uses allowed on most agriculturally designated areas within the County include agriculture, agricultural processing, grazing, land in its natural state, wildlife refuges, and low intensity residential. Uses subject to use permit approval, if consistent with this Plan, include low intensity recreational facilities, mineral extraction and processing, and also institutional uses and uses, that, by their nature, should be located in undeveloped areas.

### POLICY 5

Encourage the private development of participatory recreational facilities, such as riding areas, camping facilities and hunting clubs, that are consistent with the provisions of the Initiative.

#### POLICY 15

~~The majority~~ Much of the development with a density greater than two units per acre shall occur within the Cities of ~~San Juan Bautista, Hollister and the Paicines Ranch Resort project site.~~ All commercial development providing comparative shopping and serving a regional need, major cultural and institutional uses and all industrial uses (excluding agricultural-related uses and low profile compatible industry) shall occur within the Cities, except for those uses which by their nature should or could be located in undeveloped areas. Development outside the Cities shall be in compliance with the Initiative.

#### POLICY 20

Allow the development of Neighborhood Plans, consistent with this Plan, where public interest is demonstrated to maintain and establish community identity, to coordinate traffic and circulation, to promote infill development where public services are already in demand, to identify recreational needs and ensure coordinated development.

#### POLICY 21

~~Designate areas on the General Plan Land Use Map for existing Neighborhood Commercial Centers in the Community of Aromas, Dunneville, and Tres Pinos, and designate existing commercial facilities in Paicines and Panoche for thoroughfare Commercial on General Plan Land Use Map.~~

#### POLICY 22

To allow commercial areas in the unincorporated areas to develop, a general plan amendment shall be required for the establishment of new commercial areas. In some limited situations, new small scale isolated commercial operations will be allowed as overlay zoning in other land use categories, if consistent with this Plan.

#### POLICY 27

#### ACTIONS

a) Regional centers shall be located near existing or future highway interchanges or major intersections, as permitted by the Initiative.

#### POLICY 30

Direct industrial development to unincorporated lands within close proximity to transportation systems, natural resources and existing industrial operations or to isolated areas that are appropriate for certain types of industry, provided that the location complies with the provisions of the Initiative.

#### POLICY 31

In some limited situations, new small scale isolated industrial operations will be allowed as overlay zoning in other land use categories, if in accord with the Initiative.

## POLICY 32

Absent adequate mitigation and compliance with the Initiative, development shall not be located on environmentally sensitive lands (wetlands, erodable soil, archaeological resources, important plant and animal communities).

## POLICY 34

The County shall amend its Ordinance and Regulations (e.g. Zoning, Subdivision, Capital Improvements) to conform to the plan and policies of the Land Use Element, ~~within one year from the date of adoption.~~

## OPEN SPACE AND CONSERVATION ELEMENT

Page 1

The Open Space/Conservation Element is designed with a 10-year horizon. Thus, we are looking ahead to the year 2000. It is intended that this plan be reviewed annually and updated as needed. ~~approximately every three years to insure that the most recent technical data, community goals, and State law requirements are recognized.~~

## POLICY 5

### ACTIONS

2. Development near oak woodlands shall be clustered to avoid, where technically or economically practical and consistent with the Initiative, the loss of trees, and transitional buffers shall be developed to help maintain viable ecosystems.

## POLICY 10

### ACTIONS:

1. The County, by resolution, will establish a policy of urban concentration for the protection of air quality. The resolution should specifically ~~discourage~~ prohibit the development of commercial and residential areas outside of urban centers, other than those defined in the Land Use Element, in order to reduce the impacts of air pollution caused by commuting and shopping.

### GOAL 2

To encourage the orderly development of identified concentrations within the County, in accordance with the Initiative, utilizing the infilling of existing developed areas and communities, along with an orderly and efficient development plan for public and private services (water and sewer districts).

### OBJECTIVES

As it becomes evident that services will soon be available, the County may choose to increase the allowable density through zoning, consistent with this Plan, provided that development of these lands considers ultimate development or urban density through a master plan for street design and home site location as well as the provision for urban-type services, such as sewer and storm drains.

#### POLICY 13

It will be the County's policy to require specific plans, which are consistent with this Plan, for small, large, new, or expanding communities that are not incorporated which would clearly identify centers of urban growth and land uses within these areas.

#### POLICY 15

##### ACTIONS

3. The County may, at the appropriate time, develop plans for the unincorporated communities within the County- which are consistent with this Plan.

#### POLICY 17

General Plan Amendments, ~~Specific Plans, Area Plans, and Area of Special Study~~ that result in a net increase in general plan buildout (Table 1 of the Land Use Element), shall include methods to conserve open space for natural resources including agriculture, wildlife habitat, and water (e.g. conservation easements and/or other similar resource protection measures). Proposed development areas shall also include measures to protect resources on-site and contiguous to the project with the use of permissible clustering, conservation easements, and other similar programs.

#### POLICY 22

##### ACTIONS

5. 5. Approval of residential subdivisions where residential densities are already allowed will be permitted if the following evidence is provided:  
d. subdivision is clustered, consistent with the Initiative, to minimize land use conflicts.

#### POLICY 33

It is the policy of San Benito County to promote and support, in accordance with the Initiative, the location of new agriculture-related business and industry and support programs that promote local agricultural products and increase marketing opportunities.

#### POLICY 38

##### ACTIONS

4. Subdivisions and lot-line adjustments (that create new building sites) within or near hazardous areas shall be allowed, consistent with the Initiative, provided that building sites for

each new parcel have adequate access and lot location is consistent with policies 2 and 4 of the element and with the Initiative.

## GOAL 8

Encourage private development of recreational facilities including, but not limited to, riding stables, golf courses, camping facilities, dude ranches and hunting clubs, and residential parks, which are consistent with the Initiative.

## POLICY 44

It will be the County's policy, where appropriate under this Plan, to utilize land use ordinances to encourage land owners to provide private recreational facilities and open space areas. In accordance with the Initiative, ~~it~~ will also be the County's policy to allow for an economic return on land while it is being utilized as open space.

## ACTIONS

3. Encourage the development of private recreation (e.g. campgrounds) near existing Federal and State parks in accord with the Initiative.

## POLICY 46

Develop a County-wide parks master plan, consistent with this Plan, to identify long-range recreational needs of the County, potential trail corridors, and areas for potential recreational-tourist services/programs.

## GOAL 10

## OBJECTIVE

b. b. Develop a County-wide parks master plan to identify potential areas to provide private and public recreational-tourist services/programs, needed recreation for County residents, and long-range recreational needs of the County in accord with this Plan.

## HOUSING ELEMENT

### Page 44

Other constraints to development include flood plains, earthquake fault zones, and significant agricultural and mineral resources. Low development densities ~~of one unit per 40 acres or one unit per five acres~~ are encouraged in areas where one or a combination of environmental hazards exist.

### Page 45

Land Use. Consistent with the countywide goal to maintain a rural atmosphere, and to direct development from environmentally hazardous areas, the vast majority of the County is identified for Agricultural Rangeland use (1 unit per 40-160 acres) and Agricultural Productive (1 unit per five and twenty acres). There is ample land outside areas designated Agriculture to meet County housing needs. The Land Use Element, ~~however~~ provides for areas of urban density in the Rural/Urban land use category and Areas of Special Study.



The zoning ordinance also includes provisions for second homes to be constructed on a five acre parcel if the home is for a family member or an employee and is consistent with the Initiative. Subject to the same limitation. ~~A~~ third home for a family member or employee may be constructed pending use permit approval.

TABLE 32  
GENERAL PLAN AND ZONING

<u>General Plan</u>	<u>Zoning Districts</u>	<u>Density</u>
Agricultural Rangeland	Agricultural Rangeland	1unit/40 <u>160</u> acres*
Agricultural Productive	Agricultural Productive	1 unit/5 <u>and 20</u> acres*

Growth Management. The County ~~recently~~ has amended the Land Use Element to include goals and policies for the establishment of a growth management program. Policy requires that affordable housing be ~~exempt from the given special treatment under the~~ growth management program. The ~~future~~ growth management program shall ~~provide evidence that the County will be able to meet Regional Housing Needs for the unincorporated area as discussed in Chapter 6 of this Element~~ comply with State housing legal requirements.

Policy 3-A. Allow the construction of affordable housing on larger lots in accordance with the Initiative that are consistent with the County’s mobile home ordinance and second unit senior ordinance.

-

PROGRAM 3-3

Continue to use the Senior Citizen Second Unit Ordinance to allow the construction of second units to house the elderly: in accord with the Initiative.

NOISE ELEMENT

GOAL #1

POLICIES

1. To insure that County land near airports, particularly land lying within future clear zones, will be reserved for only those uses deemed to be compatible with the high noise levels associated with an airport. Such uses might include open space, agriculture, cemetery, golf course or appropriate industrial uses, consistent with the Initiative.



SITE PLANNING

1. 2. Placement of dwelling units, consistent with the provisions of the Initiative, as far as possible from the noise source and placement of driveways and non dwelling units between dwelling units ~~the~~ and noise source effectively reduces noise impacts.

SCENIC ROADS AND HIGHWAYS ELEMENT

SIGNS

OBJECTIVE

Eliminate signs within the Scenic Corridor, other than those identified in the permitted use section of the Zoning Ordinance, which are consistent with Section 36 of the Land Use Element. This does not apply to temporary signs, advertising the sale of agricultural commodities produced or processed on site, nor does it apply to State, County or City signs, which are in accord with the provisions of the Initiative.

POLICY # 6

It will be the policy of San Benito County to protect the Scenic Corridor from the proliferation of unnecessary signs.

ACTIONS

Develop a sign ordinance which controls the locations and types of signs throughout the County areas. Suggested permitted uses within a Scenic Corridor have been provided in Appendix A. These uses could be used as a guideline for the development of a Scenic Highway Combining District Ordinance, provided that the ordinance conforms to the Plan.

SEISMIC SAFETY/SAFETY ELEMENTS

POLICY #4

ACTIONS

- a. The County shall establish an Overlay Zoning District for environmentally hazardous areas (an "EH" District), which discourages development in areas geologically hazardous to the health, safety and welfare of the citizens of the community and will concurrently develop density transfer policies in accordance with the provisions of this Plan which would allow for the transfer of some of the densities, which may have been allowed in hazardous zones.

## TRANSPORTATION ELEMENT

Page 7

There are several private landing strips in San Benito County. These are allowed in agricultural zones, subject to Section 12(15) of the Initiative, and regulated through the use permit process.

### POLICY 2

#### ACTION

~~a. Until the Transportation Master Plan is completed, subdividers/developers along Southside Road (Enterprise Road— Highway 25) or Cienega Road (Hospital Road— Airline Highway) shall finance studies to determine needed spot improvements along the two-lane facilities and provide funding and/or actual improvements to sections of the road.~~

### POLICY 10

Consistent with Policy 36 of the Land Use Element, ~~R~~road and private access road development in hillside areas shall minimize cut and fill and shall follow the natural contours of the land as much as possible.

### POLICY 20

In accordance with the Initiative, ~~S~~support the development of mixed land uses to reduce vehicle trips on collectors and arterials.

### POLICY 25

In appropriate areas under the Initiative, ~~E~~ncourage clustered land use to encourage pedestrian and combined pedestrian and transit use.