

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, ADDING NEW COUNTY CODE SECTIONS 18.08.195 AND 18.104.095, DEFINING AND ESTABLISHING REASONABLE STANDARDS FOR COTTAGE FOOD OPERATION PERMITS AND AMENDING COUNTY CODE SECTIONS 18.10.020, 18.126.030, AND 18.126.060 ENABLING ISSUANCE OF COTTAGE FOOD OPERATION ADMINISTRATIVE PERMITS

WHEREAS, periodically the Planning, Building and Environmental Services Department recommends certain zoning amendments to Title 18 of the Napa County Code; and

WHEREAS, this County-sponsored Zoning Ordinance amendment would implement the requirements of State laws AB 1616 (cottage food operations) and AB 2297 (California retail food code) to allow cottage food operations within residences under specific circumstances, and this Ordinance is intended to adopt reasonable standards allowed by State law to provide that cottage food operations within residences do not create unreasonable impacts or endanger public health, safety or welfare; and

WHEREAS, Napa County wishes to support the growing movement in California for community-based food production connecting food to local communities, small businesses, and environmental sustainability, which has been referred to as “cottage food,” “artisan food,” “slow food,” or “locally based food;” and

WHEREAS, Napa County General Plan Agricultural Preservation and Land Use Policy AG/LU-19 states: “The County recognizes that increasing local food production in Napa County and increasing local food purchases by County residents and institutions such as the jail, schools, and hospitals will contribute to greater food security, increase agricultural diversity, and create a reliable market for small-scale farmers;” and

WHEREAS, Napa County is a premier wine growing region dependent upon the continued success of agriculture, and as such it is imperative that cottage food operations be conducted in a manner that prevents encroachment of urban land uses within the agricultural preserve; and

WHEREAS, this Ordinance does not propose any general plan land use or zoning district redesignations; and

WHEREAS, the Planning Commission of Napa County , State of California, conducted a duly noticed public hearing on January 16, 2013 and at the conclusion of the public hearing recommended _____ that the Board of Supervisors _____; and

WHEREAS, the proposed Ordinance was reviewed and determined to be consistent with the County's General Plan and existing Zoning Code regulations; and

The Board of Supervisors of Napa County, State of California, ordains as follows:

SECTION 1. A new Section 18.08.195 (Cottage Food Operation) is hereby added to Chapter 18.08 (Definitions) of the Napa County Code to read in full as follows:

18.08.195 Cottage food operation.

"Cottage food operation" means an enterprise within the registered or permitted area of a dwelling unit where the cottage food operator, as defined by California Health and Safety Code Section 113758, resides and where cottage food products pursuant to California Health and Safety Code Section 113758 are prepared or packaged for direct, indirect, or direct and indirect sale to consumers.

SECTION 2. Section 18.10.020 (Duties – Specific subjects) of Chapter 18.10 (Zoning Administrator) of the Napa County Code is amended to read in full as follows:

18.10.020 Duties - Specific subjects.

The zoning administrator shall hear and decide all applications for the following unless, in the zoning administrator's sole discretion, the zoning administrator determines that the public interest would be furthered by having a particular application heard and decided by the conservation, development and planning commission:

A. Permits and modifications thereof for the following:

1. Farmworker housing as defined by Section 18.08.294 of this code,
2. [Cottage food operations](#)~~(Reserved)~~,
3. Kennels and veterinary facilities,
4. Multiple-family dwelling units,
5. Second dwelling units as part of a deep lot development,
6. Undergrounding of gas, electric, telephone, or cable television lines,
7. Noncommercial wind energy and conversion systems,
8. Child day care centers,
9. Residential care facilities (medium) and (large),
10. (Reserved),
11. (Reserved),
12. (Reserved),
13. Minor modifications of use permits after making the findings required by Section 18.124.130 of this title,
14. Farmworker centers as defined by Section 18.08.293 of this code,
15. (Reserved),
16. (Reserved);
- B. (Reserved);
- C. Merger of substandard parcels, but only if the parcels meet the requirements set forth in Section 17.48.040;
- D. (Reserved);
- E. Summary reversions to acreage, but only after making the findings required by Section 17.50.070;
- F. (Reserved);
- G. Licenses for Category 3 temporary events as defined in Section 5.36.015 if a hearing is requested and Category 4 temporary events as defined in Section 5.36.015 if not referred to the board;
- H. Certificates of present extent of legal nonconformity, in accordance with the procedure set forth in Section 18.132.050;
- I. Minor amendments of tentative, parcel and final maps in accordance with the procedure set forth in Sections 17.26.030 through 17.26.050 and Section 17.26.060 for modifications to or elimination of slope easements, and for this purpose the zoning administrator shall be deemed an "advisory agency" as defined in Chapter 17.02;
- J. Variances, pursuant to Chapter 18.128 of this code (commencing with Section 18.128.010) and excepting therefrom any variances from the terms of the Conservation Regulations as set forth in Chapter 18.108;
- K. (Reserved);
- L. Applications for extensions of the life of a tentative map;
- M. Minor modifications of small winery exemption certificates and minor modifications to use permits other than very minor requests for changes as described in subsection (C)(1) through (5) of Section 18.124.130, after making the findings required by Section 18.124.130;
- N. Variances from the standards for mobilehome parks in accordance with Section 15.40.480, or any successor amendment thereof;
- O. (Reserved); and

P. Applications for exceptions to the county's adopted road and street standards in connection with a building permit clearance for a single-family residence or other ministerial permit clearance.

SECTION 3. A new Section 18.104.095 (Cottage Food Operations) is hereby added to Chapter 18.104 (Additional Zoning District Regulations) of the Napa County Code to read in full as follows:

18.104.095 Cottage food operations.

The following rules and standards shall apply to each cottage food operation:

A. The applicant for the cottage food operation permit shall be the individual who conducts the cottage food operation from his or her private dwelling unit and is the owner of the cottage food operation. The permit shall not be transferable to another operator, nor transferable to another site.

B. No more than one cottage food employee, as defined by California Health and Safety Code Section 113758(b)(1), and not including a family member or household member of the cottage food operator, shall be permitted on the premises of the cottage food operation.

C. The cottage food operation shall be registered or permitted by the County Health Officer in accordance with Section 114365 of the California Health and Safety Code. Cottage food operations shall comply with all California Health and Safety Code requirements.

D. The use shall be conducted within the kitchen of the subject dwelling unit except for attached rooms within the dwelling that are used exclusively for storage or bookkeeping. No greater than twenty-five percent of the dwelling may be used for the cottage food operations, and it shall not be conducted within an accessory building.

E. No signage or advertisement identifying the cottage food operation shall be permitted at the premises.

F. There shall be no change in the outside appearance of the dwelling unit or premises, or other visible evidence of the conduct of such cottage food operation.

G. Except for vehicle parking, no outdoor portions of the premises shall be utilized for cottage food operation including outdoor sales and visitation.

H. Direct sales of products from the site of the cottage food operation shall be conducted by prior appointment only, and shall not exceed more than ten visitors in any single day. No customers of the cottage food operation shall be permitted to dine at the premises.

I. No greater than one visitor's vehicle and one non-resident employee's vehicle shall be parked on site at any time. All on site vehicle parking shall be conducted in a manner consistent with county code.

J. Direct sales and cottage food operation related deliveries shall not occur between the hours of eight p.m. and seven a.m.

K. The use shall conform to the noise standards prescribed in Chapter 8.16.

L. Gross annual sales shall not exceed the dollar amounts specified in California Health and Safety Code Section 113758.

M. No cottage food operation shall be allowed unless an administrative permit has first been issued pursuant to Chapter 18.126.

SECTION 4. Section 18.126.030 (Issuance) of Chapter 18.126 (Administrative Permits)

of the Napa County Code is amended to read in full as follows:

18.126.030 Issuance.

Subject to the provisions of this chapter, an administrative permit may be issued by the director, or zoning administrator as provided by subsection (A) of Section 18.10.020, for any of the following:

- A. A temporary event;
- B. A home occupation;
- C. An entry structure;
- D. Directional, identification, temporary off-site and/or agricultural signs, and comprehensive sign plans;
- E. A temporary trailer;
- F. Very minor modifications to use permits as described in subsections (C)(1) through (5) of Section 18.124.130;
- G. Hot air balloon launching sites involving fifty or fewer days of launches or attempted launches at the same site per year. For purposes of this chapter, anytime the permittee stages or sets up balloon equipment in anticipation of a launch at the same site, the site shall be deemed used and it shall count towards the maximum fifty launching days allowed per year regardless of whether an actual launch occurs;
- H. The raising and keeping of more than twenty-five roosters per acre or more than one hundred roosters per legal parcel; ~~and/or~~
- I. Small wind energy systems pursuant to the requirements of Chapter 18.117 of this Code; and/or
- J. Cottage food operation.

SECTION 5. Section 18.126.060 (Permit - Issuance prerequisites) of Chapter 18.126

(Administrative Permits) of the Napa County Code is amended to read in full as follows:

18.126.060 Permit - Issuance prerequisites.

Issuance of an administrative permit is subject to the following standards:

- A. An administrative permit for a temporary event shall not be issued unless the application complies with Chapter 5.36 and the standards set forth in the Temporary Events Manual.
- B. An administrative permit for a home occupation shall not be issued unless the application complies with the standards contained in Section 18.104.090.
- C. An administrative permit for certain entry structures and fences shall not be issued unless the application complies with the standards contained in Section 18.104.270 or Section 18.104.275.
- D. An administrative permit for a directional sign shall not be issued unless the application complies with the standards contained in subsections (A) and (B) of Section 18.116.030
- E. An administrative permit for an identification sign shall not be issued unless the application complies with the standards contained in Section 18.116.035.
- F. An administrative permit for a comprehensive sign plan shall not be issued unless the application complies with the standards contained in Section 18.116.035.

G. An administrative permit for an agricultural sign shall not be issued unless the application complies with the standards contained in subsection (C) of Section 18.116.030.

H. An administrative permit for a temporary off-site sign shall not be issued unless the application complies with the standards contained in subsection (G) of Section 18.116.030.

I. An administrative permit for a construction trailer shall not be issued unless the application complies with the following standards:

1. A building permit for a residential use has been issued for the property upon which the trailer will be located;
2. The trailer is for use by the owner/builder;
3. The trailer meets applicable county department of environmental management requirements for sewer and water; and
4. The trailer meets applicable county setback requirements.

J. An administrative permit for a medical or caregiver trailer shall not be issued unless the application complies with the following standards:

1. The property owner or occupant of the property has provided written documentation from a licensed physician indicating the property owner's or occupant's need for twenty-four hour, in-home medical care;
2. The trailer meets applicable county department of environmental management requirements for sewer and water; and
3. The trailer meets applicable county setback requirements.

K. An administrative permit for an office trailer shall not be issued unless the application complies with the following standards:

1. A use permit has been granted for the property upon which the trailer will be located and a building permit for the office is either in process for issuance or has been issued;
2. The trailer will be used during the daytime for business purposes only and no overnight lodging will occur;
3. The trailer meets applicable county department of environmental management requirements for sewer and water; and
4. The trailer meets applicable county setback requirements.

L. An administrative permit for a watchman trailer shall not be issued unless the application complies with the following standards:

1. A use permit has been granted and a building permit (if required) is either in process for issuance or has been issued for the property upon which the trailer will be located;
2. There is a need for security on-site because the property is located in an isolated area or there is a risk of theft, vandalism, burglary, or unauthorized entry upon the property;
3. The trailer meets applicable county department of environmental management requirements for sewer and water; and
4. The trailer meets applicable county setback requirements.

M. Except as provided in Section 18.104.295, a permit for a farm labor trailer shall not be issued unless the application complies with the following standards:

1. A use permit has been granted for the property upon which the trailer will be located;
2. A building permit for a permanent structure is either in process for issuance or has been issued;
3. There is a demonstrated need for a temporary trailer to be onsite prior to completion of construction of the permanent structure;

4. The trailer meets applicable county department of environmental management requirements for sewer and water; and

5. The trailer meets applicable county setback requirements.

N. An extension of time for an administrative permit for any temporary trailer shall not be issued unless the director determines that the original findings identified in Section 18.126.060 have not changed.

O. A permit for hot air balloon launchings shall not be issued unless the application complies with the following standards:

1. The proposed launch site is located more than five hundred feet from any off-site residence or if the launch site is proposed within five hundred feet of any off-site residence, the permittee has submitted written consent to the planning department from the property owners or residents of any off-site residences within five hundred feet stating that they have no objection to the proposed launch site;

2. The permittee has submitted a signed statement which acknowledges that the permittee: (a) has read the county's adopted code of conduct; (b) agrees that all users of the launch site will be bound by the county's adopted code of conduct; and (c) certifies that all activities within the last year at any other sites operated by the permittee have complied with the county's adopted code of conduct;

3. The permittee has provided written authorization from either the property owner where the launch site is proposed or the property owner's authorized agent together with a statement from the property owner or the property owner's authorized agent confirming that balloon launchings will not interfere or conflict with any existing or planned agricultural uses on the property;

4. The site is proposed for use only between the hours of five-thirty a.m. and nine-thirty a.m.;

5. The permittee has provided the planning department with a certificate of insurance naming the county and the property owner as additional insureds on the personal injury/property damage insurance in an amount acceptable to the county's risk manager which is consistent with the county's corporation yard license requirements currently existing or as amended;

6. The permittee has provided a list of intended landing areas that are both reasonable given the launch location and prevailing winds and permitted or allowed;

7. The permittee and each balloon operator utilizing the permittee's launch site agree to conduct their operations so as to remain in good standing with the county. For purposes of this section, "in good standing with the county" means that within the last twelve-month period, the county has not received more than three verified complaints or a number of verified complaints equivalent to three percent of the total number of launches, whichever is greater. All complaints must be: (a) submitted on a form provided by the planning department for verification; and (b) submitted by a property owner or resident who has certified that the permittee or a balloon operator using the launch site has landed on the property owner's or resident's property without permission; and

8. Notice of the tentative approval of a hot air balloon launching site pursuant to this chapter shall be given by the director of planning in accordance with subsection (B)(4) of Section 18.136.040. All notices under this section shall inform the persons notified of their right to appeal the decision under Section 18.126.060, including the time within which any such appeal must be filed.

P. An administrative permit for agriculture association signs and American viticulture area signs shall not be issued unless the application complies with the standards contained in subsection (F) of Section 18.116.030.

Q. An administrative permit for the raising and keeping of more than twenty-five roosters per acre or more than one hundred roosters per legal parcel shall not be issued unless the application complies with the following standards:

1. A description of the real property where the roosters will be kept and identification and consent of the owner of the property.

2. There are no zoning or building code violations on the property, and there have been none in the twelve months preceding submittal of the application.

3. An inspection has been conducted by a representative of the county agricultural commissioner-sealer's office, who has reported that any roosters currently being kept on the property are being kept and raised in humane and sanitary conditions.

4. Neither the applicant or property owner has, within the preceding five years, been convicted of a violation of Penal Code Sections 597, 597b, 597i, or 597j.

5. The application shall list the number of roosters to be kept, maintained or harbored. A site plan must be submitted identifying the locations and number of coops and cages. Coops and cages shall not conflict with any building code and setback requirements, unless they otherwise would qualify as a legal nonconformity under subsections (A), (B) and (C) of Section 18.132.030.

6. Coops and cages shall be maintained in a clean and sanitary condition.

R. An administrative permit for off-site sign(s) identifying a hospital with emergency room facilities shall not be issued unless the application and proposed signage complies with the standards contained in subsection (H) of Section 18.116.030.

S. An administrative permit for a cottage food operation shall not be issued unless the application complies with all of the standards contained in Section 18.104.095.

SECTION 6. The County has determined that this Ordinance would not have a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 - Existing Facilities, Section 15305, Class 5 - Minor Alteration in Land Use Limitations, and by the General Rule, Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This proposed Zoning Ordinance text amendment would establish an administrative permitting process for cottage food operations to be conducted within a portion of existing dwelling units as an accessory use to the residence involving negligible or no expansion of the dwellings. The proposed Zoning Ordinance text amendment would not have a significant effect on the environment.

SECTION 7. Pursuant to Chapter 4, Title 7, commencing with Section 65800, of the California Government Code, this Ordinance is consistent with the following policies and goals of the 2008 General Plan Update: Goal AG/LU-1, Goal AG/LU-3, Policy AG/LU-19, Goal E-1, Goal E-2, Policy E-3, and Policy E-8(d)

SECTION 8. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors of the County of Napa hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 9. This Ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 10. A summary of this Ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and public hearing held thereon before the Napa County Planning Commission at a regular meeting of the Commission on the ____ day of _____, 2013, and was passed at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the _____ day of _____, 2013, by the following vote:

AYES:	SUPERVISORS	_____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

BRAD WAGENKNECHT, Chairman
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _____

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: Deputy County Counsel</p> <p>By: County Code Services</p> <p>Date:</p>	<p>Approved by the Napa County Board of Supervisors</p> <p>Date: _____</p> <p>Processed by:</p> <p>_____ Deputy Clerk of the Board</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
GLADYS I. COIL, CLERK OF THE BOARD