



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 4/16/2014

Agenda Placement: 10B

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission

**FROM:** John McDowell for David Morrison - Director  
Planning, Building and Environmental Services

**REPORT BY:** John McDowell, Deputy Planning Director - 299-1354

**SUBJECT:** Cottage Food Ordinance / One Year Status Report

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### **RECOMMENDATION**

#### **COTTAGE FOOD ORDINANCE ONE YEAR STATUS REPORT**

**CEQA Status:** The proposed action is not a project as defined by 14 California Code of Regulation 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**Request:** One year status report and discussion on the Cottage Food Ordinance, which was adopted by the Board of Supervisor on February 26, 2103 and became effective on March 28, 2013. The ordinance allows the manufacturing and sale of certain types of foods from private residences upon issuance of an administrative land use permit and maintaining a public health operating permit.

**Staff Recommendation:** Receive the staff report, discuss, and provide comments to staff.

**Staff Contact:** John McDowell, 299-1354 or [john.mcdowell@countyofnapa.org](mailto:john.mcdowell@countyofnapa.org)

### **EXECUTIVE SUMMARY**

In recent years in both Napa County and California, there has been a growing movement toward locally sourced food production often referred to as "cottage foods," "artisan foods," "slow foods," or "locally based foods." Last year, in response to this growing trend, the Board of Supervisors adopted a Cottage Food Ordinance which enabled cottage food businesses to operate from private residences upon issuance of a land use administrative permit (zoning), and authorization from the Environmental Health Division for safe food handling. This ordinance supported a General Plan Policy (AG/LU-19) that encourages local food production. The ordinance also complied with two State Assembly Bills from 2012 mandating that local agencies allow cottage food operations from residences.

As part of the Planning Commission's recommendation in January, 2013, the Commission requested that a

status report be provided one year after the ordinance became effective. Such reviews have been used on other ordinances to determine if the ordinance is functioning as intended and to evaluate if any modifications should be considered. As discussed in the following section, Staff believe the ordinance is providing a balanced process that is not overly burdensome to applicants while providing adequate assurances for protecting the public health and welfare. No updates or changes to the ordinance are recommended at this time.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

This status report is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

#### **Background:**

In 2012, the State legislature enacted two new laws that require cities and counties to allow persons to prepare and package certain types of non-perishable foods from their homes, and allow the sale of such foods either from their homes or from other locations. The laws allow local agencies to establish a permitting process and to set 'reasonable standards' within certain State-prescribed parameters. These new laws, Assembly Bill (AB) 1616 (Gatto; Food safety: cottage food operations) and AB 2297 (Hayashi; California retail food code), went into effect January 1, 2013.

AB 1616 states that local agencies must follow one of the following options in their ordinance enabling cottage food operations:

- 1) Classify cottage food operations as a permitted / allowed by right use in any residential dwelling.
- 2) Establish a zoning administrator, non-discretionary (ministerial) administrative permit process, which can include 'reasonable standards' addressing concentration of uses, traffic control, parking, noise control, etc.
- 3) Establish a quasi-discretionary use permit process with 'reasonable standards' as noted above.

Napa County followed option two establishing an administrative permit process with certain prescribed 'reasonable standards'. This administrative permit was modeled after the long-existing home occupation administrative permit process and included similar standards to home occupation permits excepting that customers and one (non-resident) employee would be allowed at the residence as mandated under State Law. Applications are processed in the same manner as Home Occupation permits with processing times of a week or less. The fee is just under \$160. Permits are required to meet a number of operating conditions intended to preserve the integrity of the home as a home, where it is not readily apparent that a business is being operated from the residence. The ordinance limits parking and prohibits signage in addition to other standards.

Also included in County Code, but outside of the jurisdiction of the Planning Division and Planning Commission, are food preparation and handling requirements administered by the County's Environmental Health Division. These regulations, which by-and-large were mandated by State Law, only allow a fairly limited number of low risk food types to be processed from a residential kitchen. Food safety permitting falls into two classes as mandated by State Law. For foods sold directly to customers, a streamlined self-certification permitting process is employed. These are labeled as Class A permits. For foods packaged and sold indirectly to customers (wholesale), a Class B permit is required where Environmental Health must conduct a kitchen inspection in addition to annual reporting.

Environmental Health's Class A and B permits apply to all Cottage Food operations in Napa County, including within the cities. The administrative permitting process (previously reviewed by the Planning Commission), is a County zoning regulation that only applies to unincorporated properties subject to County zoning. The City of Napa has adopted a similar 'home occupation' style administrative permit process. The table below lists all Cottage Food permits issued since the enactment of the ordinance. There have been 10 total permits issued with 2 of those occurring within unincorporated Napa County. Most of these permits were issued within the first 6 months of the ordinance and the rate of inquiry and new applications have diminished since then, but inquiries do come in from time to time. All customers who have applied for permits have been issued permits. There have been no reports of violations at any of the permitted facilities. As such, Staff believe the ordinance is functioning as intended as no further work on the ordinance is recommended at this time. However, in the event that State law is updated, perhaps to allow additional food item (like tamales!!), an ordinance update would likely be necessary at that time.

Permit ID	Type	Status	Permit Name	Establishment Address
249862	Class A	Open	ROLLZ BAKING COMPANY	262 SHEFFIELD WAY AMERICAN CANYON
249755	Class B	Open	LA CREPE ESCAPE	2684 HARNESS DR POPE VALLEY (County)
249662	Class A	Open	RUSTIC CRUST BREADS	3606 WILLIS DR NAPA
249556	Class A	Open	FAMILY FARMER	2432 PACIFIC ST NAPA
249492	Class B	Open	GARDEN JUNKIE	2087 JANETTE DR NAPA (County)
249447	Class B	Open	LOCAL EDEN, LLC	2108 W LINCOLN AVE NAPA
249408	Class A	Open	TARTELETTE BAKE SHOP	223 OLD VINE WAY NAPA
249406	Class A	Open	CALISTOGA CAKES	1713 CEDAR ST CALISTOGA
249400	Class A	Open	WILDTREE HERB	88 PEACOCK CIR AMERICAN CANYON
249399	Class B	Open	HOLY ASSUMPTION MONASTERY	1519 WASHINGTON ST CALISTOGA

## **SUPPORTING DOCUMENTS**

None

Napa County Planning Commission: Approve

Reviewed By: John McDowell