

ATTACHMENT K: COUNTY PC RESOLUTION NO. 13-13 AND ORDINANCE

**RESOLUTION OF THE SANTA BARBARA COUNTY PLANNING COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF RECOMMENDING TO THE BOARD)
OF SUPERVISORS THE ADOPTION OF AN AMENDMENT)
TO ARTICLE II, THE SANTA BARBARA COUNTY) RESOLUTION NO.: 13 - 13
COASTAL ZONING ORDINANCE, OF CHAPTER 35,)
ZONING, OF THE COUNTY CODE, AMENDING) CASE NO.: 13ORD-00000-00004
DIVISION 2, DEFINITONS, AND DIVISION 7, GENERAL)
REGULATIONS, TO IMPLEMENT NEW REGULATIONS)
REGARDING COTTAGE FOOD OPERATIONS AND)
SPECIFY THAT IN-HOME RETAIL SALES ARE)
REGULATED AS HOME OCCUPATIONS.)

WITH REFERENCE TO THE FOLLOWING:

- A. On July 19, 1982, by Ordinance 3312, the Board of Supervisors adopted the Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and
- B. The County Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety and general welfare of the residents of the County, to recommend that the Board of Supervisors adopt an ordinance (Case No. 13ORD-00000-00004) amending Article II, the Santa Barbara County Coastal Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, to implement new regulations and make other minor clarifications, corrections and revisions.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.

- C. The proposed Ordinance is consistent with the Coastal Act of 1976, the Santa Barbara County Coastal Plan, the Santa Barbara County Comprehensive Plan including applicable area and community plans, and the requirements of the State Planning, Zoning and Development Laws.
- D. The proposed Ordinance is in the interest of the general community welfare since the amendment will serve to implement the requirements of State law regarding allowing cottage food operations within dwellings in a manner that ensures that the cottage food operation is accessory and incidental to the primary use of the dwelling as a residence such that the commercial cottage food operation is compatible with the surrounding neighborhood.
- E. This County Planning Commission has held a duly noticed public hearing, as required by Section 65854 of the California Government Code, on the proposed Ordinance at which hearing the proposed Ordinance was explained and comments invited from the persons in attendance.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. In compliance with the provisions of Section 65855 of the California Government Code, this County Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this County Planning Commission, based on the findings included as Attachment D of the County Planning Commission staff report dated March 27, 2013.
3. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
4. The Chair of this County Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the County Planning Commission.

PASSED, APPROVED AND ADOPTED this April 3, 2013 by the following vote:

AYES: Blough, Brown, Cooney, Ferini, Hartmann
NOES:
ABSTAIN:
ABSENT:

 (signed copy on file) .
JOAN HARTMANN, Chair
Santa Barbara County Planning Commission

ATTEST:

 (signed copy on file) .
DIANNE MEESTER BLACK
Secretary to the Commission

APPROVED AS TO FORM:

DENNIS A. MARSHALL
COUNTY COUNSEL

By (signed copy on file) .
Deputy County Counsel

EXHIBITS:

1. 13ORD-00000-00004

EXHIBIT 1

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE II, THE SANTA BARBARA COUNTY COASTAL ZONING ORDINANCE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING DIVISION 2, DEFINITIONS, AND DIVISION 7, GENERAL REGULATIONS, TO IMPLEMENT NEW REGULATIONS FOR HOME OCCUPATIONS THAT QUALIFY AS COTTAGE FOOD OPERATIONS AND SPECIFY THAT IN-HOME RETAIL SALES ARE REGULATED AS HOME OCCUPATIONS.

Case No. 13ORD-00000-00004

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1:

DIVISION 2, DEFINITIONS, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35-58, Definitions, to add the following new definition of “Cottage Food Employee,” “Cottage Food Operation,” “Cottage Food Operator,” “Cottage Food Products,” “Direct Sale,” “Indirect Sale,” “In-home Retail Sales,” “Private Home” and “Registered or Permitted Area” to read as follows:

Cottage Food Employee. An individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

Cottage Food Operation. A commercial enterprise conducted 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 are prepared or packaged for direct, indirect, or direct and indirect sale to consumers in compliance with California Health and Safety Code Section 113758.

Cottage Food Operator. An individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

Cottage Food Products. Nonpotentially hazardous foods, including foods that are described in California Health and Safety Code Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

Direct Sale. A transaction between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. Direct sales include transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

Indirect sale. An interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to California Health and Safety Code Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

In-home Retail Sales. A type of direct sales occurring within a dwelling in which sellers operate either from their primary residence or the homes of customers.

Private Home. A dwelling, including an apartment or other leased space, where individuals reside.

Registered or Permitted Area. The portion of a private home that contains the private home's kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

SECTION 2:

DIVISION 7, GENERAL REGULATIONS, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35-121, Home Occupations, to read as follows:

Section 35-121. Home Occupations.

Section 35-121.1 Purpose and Intent.

The purpose of this section is to provide permit regulations and processing requirements for home occupations. The intent is to prevent any adverse effects on the residential enjoyment of surrounding residential properties.

Section 35-121.2 Applicability.

The provisions of this section shall apply to all home occupations which include Cottage Food Operations and In-home Retail Sales. Home occupations may be permitted in any dwelling in any zoning district including nonconforming dwellings.

Section 35-121.3 Processing.

- ~~1. Except as stated in Section 35-121.5, prior to the commencement of any type of occupation in a home or an artist studio, a Coastal Development Permit for a home occupation shall be issued by the Planning and Development Department.~~

Before the commencement of a home occupation within a dwelling or artist studio, a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits) or, where the Coastal Commission approves the Coastal Development Permit, a Land Use Permit in compliance with Section 35-178 (Land Use Permits) shall be issued for the home occupation unless the occupation qualifies for an exemption as stated in Section 35-121.5 (Exceptions to Permit Requirements for Home Occupations) below.

a. Special processing requirements for applications for cottage food operations located outside of the Montecito Community Plan area. The following special processing requirements apply to applications for Coastal Development Permits and Land Use Permits for home occupations that qualify as cottage food operations.

(1) Appealable development. The following shall apply to applications for home occupations that may be appealed to the Coastal Commission in compliance with Section 35-182 (Appeals).

(a) The Zoning Administrator shall approve, conditionally approve, or deny the application in compliance with Section 35-169.4.2 (Coastal Development Permit for development that is appealable to the Coastal Commission in compliance with Section 35-182 (Appeals) and is not processed in conjunction with a Conditional Use Permit or Development Plan).

(2) Development that is not appealable. The following shall apply to applications for home occupations that may not be appealed to the Coastal Commission in compliance with Section 35-182 (Appeals).

(a) Notice. Notice of the submittal of the application and pending decision of the Zoning Administrator shall be given in compliance with Section 35-181.3 (Coastal Development Permit and Land Use Permit Noticing).

(b) Hearing not required. The Zoning Administrator shall review the application for compliance with the Comprehensive Plan and any applicable community or area plan, this Article, and other applicable conditions and regulations, and approve, conditionally approve, or deny the Coastal Development Permit or Land Use Permit. A public hearing shall not be required.

(c) Appeal. The action of the Zoning Administrator is final subject to appeal in compliance with Section 35.182 (Appeals).

~~2. Prior to issuance of the Coastal Development Permit the applicant shall sign and record a Notice to Property Owner certifying that the home occupation will be conducted in compliance with the development standards of Section 35-121.4 and any other conditions as may be made part of the Coastal Development Permit.~~

Prior to the issuance of a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits) or a Land Use Permit in compliance with Section 35-178 (Land Use Permits) for a home occupation within a dwelling or artist studio, a Notice to Property Owner certifying that the home occupation will be conducted in compliance with the development standards of Section 35-121.4 (Development standards), below, and any other conditions as may be made part of the Coastal Development Permit or Land Use Permit shall be recorded by the property owner.

Section 35-121.4 Development Standards.

1. Home occupations other than cottage food operations. A home occupation shall comply with all of the following development standards, except that if the home occupation qualifies as a cottage food operation then the development standards of Subsection 2 (Cottage food operations), below, shall apply instead.

~~1~~ **a.** Only one home occupation shall be allowed on any one lot. The home occupation shall be conducted either entirely within not more than one room of the dwelling not including garages or entirely within an artist studio. A home occupation may not be conducted outside of the dwelling or the artist studio.

~~2~~ **b.** The home occupation shall not alter the residential character of the dwelling or the lot that contains the home occupation. There shall be no internal or external alterations to the dwelling that are not customarily found in such structures, and the existence of the home occupation shall not be discernible from the exterior of the dwelling unit.

~~3~~ **c.** The home occupation shall be conducted solely by the occupant(s) of a dwelling located on the lot that contains the home occupation. No employees other than the dwelling occupant(s) shall be permitted for business purposes on the lot that contains the home occupation. The home occupation may have off-site employees or partners provided they do not report for work at the lot that contains the home occupation.

~~4~~ **d.** No displays or signs naming or advertising the home occupation shall be permitted on or off the lot that contains the home occupation. All advertising for the home occupation, including but not

limited to telephone directories, newspaper or other printed material, or on equipment or vehicles associated with the home occupation shall not divulge the location of the home occupation. Business cards and letterhead may list the address of the home occupation.

- 5 e. There shall be no more than five customers, patients, clients, students, or other persons served by said home occupation upon the lot that contains the home occupation at any one time.
- 6 f. A home occupation shall not use any electrical or mechanical equipment that would create any visible or audible radio or television interference or create noise audible beyond the boundaries of the lot that contains the home occupation. Noise levels associated with the home occupation shall not exceed 65 dBA outside the dwelling that contains the home occupation.
- 7 g. No smoke or odor shall be emitted that occurs as a result of the home occupation.
- 8 h. There shall be no outdoor storage of materials related to the home occupation.
- 9 i. No vehicles or trailers except those incidental to the residential use and those allowed under Section 35-71.11 shall be kept on the lot that contains the home occupation.
- 10 j. A home occupation shall be strictly secondary and subordinate to the primary residential use and shall not change or detrimentally affect the residential character of the dwelling, the lot that contains the home occupation, or the neighborhood.
- 11 k. Where a home occupation will be conducted within a dwelling or artist studio that relies on a septic system, written clearance from the Santa Barbara County Public Health Department will be required prior to approval.
- 12 l. No hazardous materials other than those commonly found within a residence shall be used or stored on the site. Such materials and equipment shall be limited to quantities that do not constitute a fire, health or safety hazard.
- 13 m. Business-related deliveries shall be limited to a maximum of two per week. United States Mail and commercial parcel carriers' deliveries are exempted from this limitation.
- 14 n. A home occupation shall not create vehicular or pedestrian traffic that changes the residential character of the neighborhood and dwelling unit where the business is being conducted, or create a greater demand for parking than can be accommodated on-site or on the street frontage abutting the lot that contains the home occupation.

~~15. The home occupation shall at all time be conducted in compliance with the conditions and limitations of the foregoing subsections 1 through 14 and any other conditions and/or limitations that may be part of the Coastal Development Permit issued to allow the home occupation. Failure to comply with said conditions and limitations shall be cause for revocation of the Coastal Development Permit.~~

~~16. Occupations that cannot comply with all of the development standards listed in Section 35-121.4 may not be permitted as home occupations. Such prohibited occupations include, but are not limited to:~~

- ~~a. On-site automotive repair or service.~~
- ~~b. Painting of vehicles, trailers, boats or machinery.~~

2. Cottage food operations. A cottage food operation shall comply with all of the following development standards.

a. Allowed locations.

- 1) No more than one cottage food operation shall be allowed within any one dwelling unit.
- 2) Only one cottage food operation may be allowed on a lot.
- 3) No cottage food operation shall be located within 300 feet of another such operation as measured from lot that the cottage food operation is located on.

b. Allowed location within the dwelling and the lot containing the cottage food operation. All food preparation, packaging, sales, storage and handling of cottage food products and related ingredients, and equipment, shall be located within the registered or permitted area consisting of the dwelling's private kitchen and one or more attached rooms within the dwelling in which the cottage food operation is operated that are used exclusively for storage.

- (1) No portion of the cottage food operation including sales and storage shall occur within any parking area required in compliance with Division 6 (Parking Regulations).

c. Cottage food operators and cottage food employees.

- (1) The cottage food operation shall be conducted by the cottage food operator within the dwelling where the cottage food operator resides as their primary residence. Said dwelling shall be a legally established dwelling.
- (2) One full-time equivalent employee as defined by California Health and Safety Code Section 113758(b)(1) may participate in a cottage food operation in addition to those individuals residing within the dwelling as their primary residence.

d. Parking. All parking of vehicles and trailers associated with the cottage food operation on the lot on which the cottage food operation occurs shall be maintained in compliance with Division 6 (Parking Regulations).

- (1) Customers and non-resident cottage food employees shall not park their vehicles within or upon a parking space that is required to satisfy the parking requirement for the primary use of the lot.
- (2) On residentially-zoned lots, the overnight parking of commercial vehicles on the lot shall be in compliance with Section 35-71.11 (Parking).

e. Sales.

- (1) Within the Montecito Community Plan area, food items may only be sold, or offered for sale, from the dwelling to customers present at the dwelling between the hours of 9:30 a.m. to 3:30 p.m.
- (2) Outside of the Montecito Community Plan area, food items may only be sold, or offered for sale, from the dwelling to customers present at the dwelling between the hours of 8:00 a.m. to 7:00 p.m.

f. All waste containers shall be in compliance with Section 17-8 (Containers) of Chapter 17 (Solid Waste Services) of the County Code.

g. A cottage food operation shall not create vehicular or pedestrian traffic or other public nuisance that

changes the residential character of the neighborhood and dwelling unit where the business is being conducted, or create a greater demand for parking than can be accommodated onsite or on the street frontage abutting the lot on which the home occupation occurs.

- h. The cottage food operation shall at all times be conducted in compliance with:
- (1) The conditions and limitations of this Subsection 2 (Cottage food operations) and any other conditions and/or limitations that may be part of the Coastal Development Permit or Land Use Permit issued to allow the cottage food operation.
 - (2) California Health and Safety Code Section 113758.
 - (3) All other applicable State and County laws, regulations and requirements.
- i. The cottage food operation shall be registered or permitted by the County Public Health Department in compliance with Section 114365 of the California Health and Safety Code. Prior to the issuance of a Coastal Development Permit or Land Use Permit for a cottage food operation the cottage food operator shall present proof of receipt of registration or permit for the cottage food operation from the County Public Health Department.

Section 35-121.5. Exception to Permit Requirement for Home Occupation.

~~No Coastal Development Permit for a home occupation shall be required for home occupations such as accounting, bookkeeping, consultants in engineering, finance, management and publishing, telephone sales, etc., which meet all of the following criteria:~~

A Coastal Development Permit or Land Use Permit shall not be required for home occupations that are in compliance with all of the following criteria:

1. The ~~Development~~ development standards 1-4 and 6-15 under Section 35-121.4. of Section 35-121.4.1 or Section 35-121.4.2, above, as applicable to the specific home occupation except that:
2. ~~No clients or customers shall be served at the lot that contains the home occupation.~~
 - a. Clients or customers shall not be served at the lot that contains the home occupation except for in-home retail sales provided that these sales do not exceed four times within a calendar year and that there are no more than 25 customers at each sales event.
3. ~~No business advertisements, except for business cards and letterhead, may list the address of the home occupation.~~
 - b. Business advertisements, except for business cards and letterhead, shall not list the address of the artist studio or dwelling in which the home occupation occurs.
4. c. All business transactions occurring on the lot that contains the home occupation shall occur by internet, telephone, facsimile, computer modem or other telecommunication medium, or written correspondence.

Section 35-121.6. Violations of Home Occupation Regulations.

1. ~~It shall be unlawful for any person, firm or corporation to establish, cause, permit or maintain any type of business, profession or other commercial occupation (collectively to be referred to as a "home occupation") in an area zoned for residential use prior to the issuance of a Coastal Development Permit allowing said home occupation.~~

It shall be unlawful for a person, firm, or corporation, to establish, cause, allow, or maintain a type of business, profession or other commercial occupation (collectively to be referred to as a "home occupation") within a dwelling before the issuance of a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits) or a Land Use Permit in compliance with Section 35-178 (Land Use Permits) allowing the home occupation unless the home occupation does not require the issuance of a Land Use Permit in compliance with Section 35-121.5 (Exceptions to Permit Requirements for Home Occupations), above.

2. ~~It shall be unlawful for any person to conduct a home occupation for which a Coastal Development Permit has been issued without complying with all conditions attached to such permit.~~

The home occupation shall at all times be conducted in compliance with the conditions and limitations of Section 35-121.4 (Development Standards), above, any other conditions and/or limitations that may be part of the Coastal Development Permit issued in compliance with Section 35-169 (Coastal Development Permits) or Land Use Permit issued in compliance with Section 35-178 (Land Use Permits) to allow the home occupation, and it shall be unlawful for a person to conduct a home occupation for which a Coastal Development Permit or Land Use Permit has been issued without complying with all conditions attached to the permit.

3. Failure to comply with conditions and limitations of the Land Use Permit shall be cause for revocation of the Land Use Permit in compliance with Section 35-169.8 (Revocation).
4. Occupations that cannot comply with all of the development standards listed in Section 35-121.4 (Development Standards), above, shall not be permitted as home occupations. Examples of prohibited occupations include:
 - a. Automotive repair or service.
 - b. Painting of vehicles, trailers, boats or machinery.

SECTION 3:

All existing indices, section references, and figure and table numbers contained in Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 4:

Except as amended by this Ordinance, Division 2 and Division 7 of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 5:

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force 30 days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later; and before the expiration of 15 days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

SALUD CARBAJAL
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____
Deputy County Counsel