

Attachment A

Discussion

AB 1616 and the Roles of the Local Health and Planning Agencies-

In 2012, the State of California adopted legislation known as The California Homemade Food Act (AB 1616) (see **Attachment F**), which became effective on January 1, 2013, requiring that cities and counties allow persons to prepare and package certain types of non-perishable foods from their home and allow the sale of such foods from their home or/and from other locations (i.e. farmers' market, restaurants). These types of operations are called *Cottage Food Operations*.

The intent of the Legislature was to encourage small business development, provide healthy and fresh food choices particularly in low income and rural communities, support community-based food production and not subject home-based food production to the same food safety requirements as other commercial food producers.

Local agencies directly involved with Cottage Food Operations are the County's Environmental Health Bureau and the Resource Management Agency (RMA)-Planning. AB 1616 makes the local health agencies responsible for ensuring compliance with the established food safety standards by requiring that cottage food operators obtain either a *Class A Registration* or a *Class B Permit* from the local environmental health agency, prior to the commencement of the cottage food operation.

With regards to zoning regulations, AB 1616 states that cities and counties shall not prohibit a cottage food operation in any residential dwelling, but shall do one of the following:

- 1) Classify a cottage food operation "as a permitted use of residential property for zoning purposes" that is allowed by right in a residence. (No zoning permit requirement.)
- 2) Establish a "nondiscretionary permit" process that makes the Zoning Administrator the appropriate authority to grant zoning permits for cottage food operations conducted from a residence without a public hearing. The local ordinance may include "reasonable standards, restrictions, and requirements" addressing spacing and concentration, traffic control, parking, and noise control relating to those homes." This permit is to be issued upon certification without a public hearing.
- 3) Establish a discretionary permit process (i.e. Use Permit) with "reasonable standards" as noted in item #2 above. (Government Code section 51035(a).)

One noteworthy point is that the local health agency's *Class A Registration* or *Class B Permit* is strictly required to begin the cottage food operation, regardless of the zoning option a local zoning agency chooses to undertake.

Planning Commission Hearings-

On April 10, 2013, the Monterey County Planning Commission held a public hearing to consider inland and coastal ordinances that would incorporate cottage food operation provisions into the Monterey County's zoning codes as a result of new State law. At that hearing, staff presented ordinances following the second option, establishing a non-discretionary permit process. However, the Planning Commission directed staff to pursue the first option, making cottage food operations a permitted use. The Planning Commission hearing was continued to May 8, 2013 to allow staff to make the necessary changes to the draft ordinances.

Staff revised the draft ordinances, and on May 8, 2013, the Planning Commission held a public hearing, at which the Planning Commission recommended that the Board of Supervisors adopt the draft ordinances, subject to minor changes involving the deletion of the proposed word "lessons" after the word "ceramics" under the section of "*Regulations for Home Occupations*" in both the coastal and inland zoning codes. (See **Attachments D and E** for Planning Commission Resolutions) The Planning Commission felt that adding the word "lessons" after ceramics would result in disallowing the making of ceramics as a type of home occupation, if the ceramics-making did not provide lessons.

Staff has made the required changes to the draft ordinances pursuant to the direction of the Planning Commission's May 8, 2013 hearing. The revised draft inland and coastal ordinances are attached as **Attachment B-1** (inland) and **Attachment C - Exhibit 1** (coastal).

Correction to Titles 20 and 21 -

In the process of drafting the proposed cottage food operation ordinances, staff found an error in the definition number for "Cottage Industry" in Title 20. The draft coastal ordinance corrects that error. Additionally, the ordinances make minor corrections to the home occupation regulations.

Environmental Review-

The proposed code amendments are categorically exempt under the California Quality Environmental Act (CEQA) per CEQA Guidelines Sections 15301 (Existing Facilities) and 15305 (Minor Alterations in Land Use Limitations). Sections 15301 and 15305 apply because the draft ordinances would allow cottage food operations to be conducted within existing dwelling units as an accessory use of the residence. Because the cottage food operation would take place in existing homes and are operated primarily by the homes' residents, impacts such as traffic, parking and noise are minimal.

Conclusion-

The proposed code amendments would allow a cottage food operation as a type of home occupation. The cottage food operation would be considered a "permitted use of residential property for zoning purposes" pursuant to AB 1616's first zoning option. Under this option the use is allowed by right without a planning permit requirement.