



TOWN OF PARADISE

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931

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www.townofparadise.com

Planning Commission Staff:

Craig Baker, Community Development Director
Susan Hartman, Assistant Planner

Planning Commission Members:

Jody Jones, Chair
Dan Wentland, Vice Chair
James Clarkson, Commissioner
Stephanie Neumann, Commissioner
Michael Zuccolillo, Commissioner

PLANNING COMMISSION AGENDA

6:00 PM – May 21, 2013

In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact Community Development Director Baker, at 872-6291 at least 48 hours in advance of the meeting. Hearing assistance devices for the hearing impaired are available from the Presiding Clerk.

Members of the public may address the Planning Commission on any agenda item, including closed session. If you wish to address the Planning Commission on any matter on the Agenda, it is requested that you complete a "Request to Address Council/Commission" card and give it to the Presiding Clerk prior to the beginning of the Council Meeting.

All writings or documents which are related to any item on an open session agenda and which are distributed to a majority of the Planning Commission within 72 hours of a Regular Meeting will be available for public inspection at the Town Hall in the Town Clerk or Community Development Services Department located at 5555 Skyway, Room 3, at the time the subject writing or document is distributed to a majority of the subject body. Regular business hours are Monday through Thursday from 8:00 a.m. to 5:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL

1. APPROVAL OF MINUTES

- 1a. Approve regular meeting minutes of March 19, 2013

2. COMMUNICATION

- a. Recent Council Actions
- b. Staff Comments

3. PUBLIC COMMUNICATION

Comments are limited to a maximum of five minutes duration. If more time is needed, please request staff to place the subject on an agenda for a future Commission meeting.

***** PUBLIC HEARING PROCEDURE *****

- A. Staff comments
- B. Open the hearing to the public
 - 1. Project applicant
 - 2. Parties for the project
 - 3. Parties against the project
 - 4. Rebuttals
- C. Close hearing to the public
- D. Commission discussion
- E. Motion
- F. Vote

NOTE: Pursuant to Planning Commission Resolution No. 96-001, any person may speak before the Commission regarding the matter under consideration for a **maximum of five minutes** unless granted additional time by the Chair. "In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact the Community Development Dept., at 872-6291 at least 48 hours in advance of the meeting."

4. CONTINUED PUBLIC HEARING – None.

5. PUBLIC HEARING

5a. Item determined to be exempt from environmental review under CEQA Guidelines section 15601 (General rule exemption):

PARADISE MUNICIPAL CODE: Planning Commission consideration of a recommendation for Town Council adoption of proposed text amendments to the Town's zoning regulations contained in Paradise Municipal Code Title 17 (Zoning Ordinance). If adopted, the amendments would amend Paradise Municipal Code sections related to home occupation regulations so as to permit the establishment of Cottage Food Operations (CFO), pursuant to Government Code section 51035.

6. OTHER BUSINESS

- 6a. Continued discussion regarding the possibility of establishing local control of mobile home parks which are now administered by the State of California within the jurisdiction of the Town of Paradise. (Zuccolillo)

7. COMMITTEE ACTIVITIES

8. COMMISSION MEMBERS

- a. Identification of future agenda items (All Commissioners/Staff)

9. ADJOURNMENT

STATE OF CALIFORNIA) COUNTY OF BUTTE)	SS.
I declare under penalty of perjury that I am employed by the Town of Paradise in the Town Clerk's Department and that I posted this Agenda on the bulletin Board both inside and outside of Town Hall on the following date:	
<hr/>	
TOWN/ASSISTANT TOWN CLERK SIGNATURE	



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PLANNING COMMISSION MINUTES

March 19, 2013

6:00 PM

CALL TO ORDER: 6:01 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL: Commissioners James Clarkson, Stephanie Neumann, Dan Wentland, Michael Zuccolillo and Jody Jones, Chair.

1. APPROVAL OF MINUTES

- 1a. Motion by Zuccolillo, seconded by Wentland, approved Minutes from the Regular meeting of February 19, 2013. Roll call vote was unanimous.

2. COMMUNICATION

Community Development Director Baker informed the Planning Commission that the Town Council approved the Housing Element Progress Report and the report will be forwarded to the State Department of Housing and Community Development.

3. PUBLIC COMMUNICATION

1. Jon Remalia, Paradise resident, informed the Planning Commissioners of the impact the Sphere of Influence (SOI) has on individuals building in areas outside of Paradise, but within the SOI, and that the road standards are extreme, cost prohibitive and should be reconsidered because the standards will probably never be used.

4. CONTINUED PUBLIC HEARING – None.

5. PUBLIC HEARING – None.

6. OTHER BUSINESS

- 6a. Community Development Director Baker explained that the 1994 Paradise General Plan Implementation Status Report, required by the State of California, is still an adequate document because not much has changed, the growth projections have never been realized and most of the changes that did occur happened in the beginning of the plan, therefore, there are very few changes in the update.

MOTION by Wentland, seconded by Clarkson to accept and refer, as presented by staff, the calendar year 2012 Paradise General Plan implementation status report to the Town Council. Roll call vote was unanimous.

- 6b. Mr. Baker explained that the first Tree Ordinance, Ordinance No. 21, for the Town of Paradise was adopted within five months of Incorporation on May 7, 1980 and that there have been several changes throughout the years.

Commissioner Zuccolillo asked about the Tree Ordinance being suspended at one time, the reason behind that and if there were any changes when it was reinstated.

Mr. Baker explained that the previous ordinance was different in that it required more field inspections, public hearings, was a drain on staff and therefore was temporarily suspended to save money in May of 1996. When reinstated in February 1998, changes were made because lumber was valuable and there was a sense of alarm that residential property was being purchased, logged and then sold.

Commissioner Neumann asked about the cost of the mitigation fee of \$175 per tree and permit fees for under four, or over five, trees.

Mr. Baker stated that the tree permit fees are on the Fee Schedule that is adopted by Town Council Resolution and that the In Lieu fee is adopted by a separate resolution. The permit fee for one tree is \$48.68, up to four trees is \$109.16 and if the permit needs to go to the Planning Commission or Planning Director for five or more trees the minor hearing fee is \$173.60. A major permit of 30 trees or more has a beginning cost is \$173 plus \$2 per tree starting out at \$243.04 and going up from there. Most permit applications for 5 or more trees are for single family residential development and are exempt from the public hearing requirements, which is how Council wanted the ordinance set up.

Commissioner Neumann stated that the Tree Ordinance states that to harvest more than five trees an arborist needs to be hired and a plan submitted to document where the trees are and if the permit is denied the applicant could incur a large cost and is concerned that the process could be intimidating to an individual.

Mr. Baker stated that generally anything dealing with a single family residential land use does not require an arborist, is exempt from a hearing, and usually a photograph is adequate to issue the permit, though there is discretion to request a second opinion, but is not used often. Mr. Baker also stated that when an individual comes in to apply for a tree permit the process is explained for their convenience and that 99 percent of the permits are issued over the counter.

Commissioner Neumann asked what Commissioner Zuccolillo's concern was when asking the Planning Commission to review the Tree Ordinance in regard to economic growth.

Commissioner Zuccolillo stated that with all the time, effort and cost associated with obtaining a permit, he wanted to look at the ordinance to see if it could be changed or suspended along with the cost associated with it.

Commissioner Clarkson asked if there was a positive or negative response from individuals when dealing with tree issues.

Mr. Baker stated that, based on his experience, the issue is a very emotional one when brought into the public forum, but individual contacts are generally positive.

Chair Jones stated that her concern is that the Planning Commission was not involved in drafting the ordinance and was not asked or given direction by the Town Council to review it and is reluctant to do anything without their direction especially since it can be such an emotional issue.

Commissioner Wentland asked if it was within the Planning Commission's purview to make a recommendation to the Town Council.

Mr. Baker stated that if there is consensus to forward a message to Town Council then his job is to take the message to Council.

Chair Jones opened the discussion to the public.

1. Fred Aldred, 32 year resident, recently submitted a letter to the Commissioners stating that he believes that the trees belong to the property owner and that people move here because of the trees, not to eliminate the trees. He thinks the ordinance is outdated, should be forwarded to Council to be reviewed and removed.
2. Jon Remalia, recently purchased property in Paradise, there were a large number of oak trees with a majority of the root system gone, an arborist came out and stated that the trees needed to be removed due to safety issues, he submitted an application, and was told that more than 5 trees needed to go to Planning Commission, instead he took out the limit of trees the first and second year, and has removed the worst trees. He built a fence out of the removed trees, but stated that the ordinance does not allow for the milling of all trees due to the number requirements of tree removal and thinks there needs to be a mechanism where purchased property can be prepared for development without a huge cost and that the Town should follow the Department of Forestry Code for a healthy forest and that the process needs to be streamlined.

Commissioner Wentland stated that the original reason for the ordinance was partly due to profits being made from timber harvesting, but he believes the ordinance is currently obsolete. He was previously involved in Volunteers Advancing Defensible Space (VADS) that had grants to assist homeowners with defensible space issues, the program has ended due to finances, but thinks that fire safety in Paradise is a huge issue and that trees need to be removed to assist with fire safety and requiring permits makes it cost prohibitive. He also stated that at one time he had statistics regarding permits and tree sales and that over the years there were 800 tree permits issued, but according to the local nurseries in town over 14,000 trees were purchased, thereby showing that trees are being replaced and there should not be any fear of trees being reduced.

Commissioner Clarkson stated that he was a volunteer fire fighter and that comments regarding a catastrophic event on the ridge are a reality that it is not if, but when something will happen. He thinks the Planning Commissioners should ask the Town Council to explore the issues that were brought up tonight, ask the Town Council to consider putting the tree ordinance on the back burner for a period of time and if they are not receptive to the recommendations, then come up with alternative ideas that would assist citizens to lessen the likely hood of catastrophic type of events that are less of a burden to property owners. He thinks that this is an opportunity to do something positive regarding this issue.

Commissioner Zuccolillo discussed the issue of 100 feet of clearance around a house and stated that there are few properties in town with 100 feet of clearance and that allowing citizens to remove trees could make us more fire safe and that could possibly affect our insurance rates.

Commissioner Wentland stated that when the Christian Missionary Alliance (CMA) church developed their property they took down three trees and now it is a beautiful commercial lot with more than 50 trees and that most people are very responsible regarding trees.

Chair Jones stated that she is reluctant to throw out the tree ordinance because there is the potential for someone to come in and abuse the landscape in a way the Town wouldn't like. She is sympathetic to individual homeowners and is more inclined to look at the ordinance for homeowners as opposed to larger commercial parcels, because if there was no ordinance where would the incentive be to replace trees.

Commissioner Neumann asked if there was anything besides the Tree Ordinance that prohibited individuals from clear cutting.

Mr. Baker stated that there is nothing preventing individuals from limbing, trimming, cutting or clearing brush or trees that are less than 10" in diameter or trees that are not included in the ordinance.

Mr. Baker reminded the Commissioners that one of the Town Council's primary obligations is the implantation of the General Plan and the Tree Ordinance is directly referred to in that document and that any recommended changes to the Tree Ordinance need to be in accordance with the General Plan which also includes retaining the landscape.

After discussion by the Planning Commissioners of the current provisions of the Town of Paradise Tree Preservation Ordinance [PMC Chapter 8.12] the following was recommended:

MOTION by Clarkson, seconded by Zuccolillo, to request that the Town Council suspend the Tree Ordinance for all residential zoned lots for the purpose of increasing defensible space against wild land fires. Roll call vote was unanimous.

Mr. Baker reminded the Commissioners that the Town Council is not obligated to return the suggested changes of the ordinance to the Planning Commission and that the Town Council has the final authority.

6c. Commissioner Zuccolillo requested the discussion regarding the possibility of establishing local control of mobile home parks which are now administered by the State of California within the jurisdiction of the Town of Paradise be continued until the next regular meeting.

7. COMMITTEE ACTIVITIES – None.

8. COMMISSION MEMBERS

Future Agenda Items: None

9. ADJOURNMENT

Chair Jones adjourned the Planning Commission meeting at 7:18 p.m.

DATE APPROVED:

By: _____
Jody Jones, Chair

Dina Volenski, Asst. Town Clerk

M E M O R A N D U M

AGENDA NO. 5(a)

TO: Paradise Planning Commission

FROM: Craig Baker, Community Development Director

SUBJECT: Public Hearing - Consider Adoption of a Resolution Recommending Town Council Adoption of Paradise Municipal Code Zoning Regulations Text Amendments Related to Home Occupations and Cottage Food Operations

DATE: May 15, 2013

BACKGROUND:

On January 1, 2013, AB 1616, "The California Homemade Food Act," became law in California. The law essentially declares that "cottage food operations" (CFOs) are to be considered an accessory residential land use and local jurisdictions must adopt a process for permitting them in residential zones, subject to certain standards. Under the law, a cottage food operation is an enterprise within a private home in which homemade food products are prepared or packaged for direct and/or indirect sales to consumers. The law places the following requirements on CFOs, among others:

1. Securing registration or a permit from the local county health agency (depending on the size of the operation);
2. Restrict operation to the portions of the home designated in the registration or permit obtained from the county health agency;
3. Have gross receipts of no more than \$35,000 in 2013, \$45,000 in 2014 or \$50,000 in 2015 and in subsequent years; and
4. Only make foods that are considered to be non-hazardous by the State Public Health Officer, including certain baked goods, candy, dried fruit, dried pasta fruit pies, granola and popcorn, among others.

Through the law, local jurisdictions are given the option to permit CFOs in one of the following three ways: **1)** Permit CFOs outright, **2)** grant a non-discretionary permit to operate a CFO, or **3)** require CFOs to apply for a permit to use a residence for its operation. The Town of Paradise currently requires most businesses operating from residences to secure a Town-issued home occupation permit pursuant to Chapter 17.33 of the Town's adopted zoning regulations. If adopted, the Proposed zoning code amendments attached to this memorandum as "Exhibit A" of Resolution No. 13-3 would implement the 2nd option under the new law.

DISCUSSION:

Paradise Municipal Code section 17.45.500 (*Procedures for zoning district(s) or zoning text amendments*) provides for the Planning Director to initiate the process of zoning code text amendments whenever the public necessity, convenience or general welfare are sufficiently compelling as to warrant Planning Commission and Town Council consideration of such amendments.

Upon reviewing the zoning regulations of various local jurisdictions in California that have adopted code text amendments in response to AB 1616 communities, staff has prepared several proposed amendments to the Town's existing Home Occupation Regulations. If adopted, these text amendments would **1)** establish a definition for cottage food operations in section 17.33.200, **2)** amend section 17.33.300 to establish CFOs as a type of home occupation and assure that CFO (and other wastewater-generating home occupations) have a valid operating permit for the *existing* sewage disposal system serving affected residence, **3)** amend section 17.33.500 specifically to accommodate the requirements of AB 1616 for CFOs.

If adopted as drafted by staff, the mechanism established by these proposed amendments would result in a requirement for a CFO operator to secure issuance of a Town-approved home occupation permit subject to a one time processing fee (current fee: \$266.60; scheduled to increase to \$270.03).

The attached resolution document, drafted in consultation with the Town Attorney, endorses Town Council adoption of Town zoning code amendments that are necessary to conform with State Law regarding CFOs, while continuing to protect the quality and peaceful function of residentially-zoned areas of the Town of Paradise.

Town staff has determined, and the Town Attorney has concurred, that the nature of the proposed text amendments are sufficiently minor in and that there is no possibility that adoption and implementation of the amendments would result in a direct and significantly adverse effect upon the environment. Therefore, the proposed amendments can be found to be exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines section 15061 (General Rule Exemption).

Staff has developed the attached resolution document (and its attached exhibit "A") that, if adopted by the Planning Commission, would recommend Town Council adoption of several text amendments to the Town's home occupation regulations in order to accomplish objectives outlined within this memorandum. The proposed new text within Exhibit A is shown shaded and text proposed to be deleted is shown in ~~strikethrough~~ text.

COMMISSION ACTION REQUESTED:

Please be prepared to discuss the proposed amendments to the Town's home occupation regulations with staff, other Commissioners and the attending public during the required noticed public hearing. At the conclusion of the public hearing, staff's recommendation is for the Planning Commission to adopt Planning Commission Resolution No. 13-3, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Chapter 17.33 of the Paradise Municipal Code Relative to Home Occupations and Cottage Food Operations". If deemed necessary by a majority consensus of Planning Commissioners present, staff will be prepared to discuss and possible make further changes or additions to the text of the attached and proposed resolution prior to Planning Commission adoption. A written copy of the Town's current home occupation regulations is attached for your use.

Attachments

LIST OF ATTACHMENTS FOR AGENDA ITEM NO. 5(a)

1. Public notice for the May 21, 2013 public hearing before the Planning Commission
2. Current Town of Paradise Home Occupation Regulations
3. Assembly Bill No. 1616, The California Homemade Food Act
4. Planning Commission Resolution No. 13-3

**NOTICE OF PUBLIC HEARING
PARADISE PLANNING COMMISSION**

NOTICE IS HEREBY GIVEN by the Paradise Planning Commission that a public hearing will be held on Tuesday, May 21, 2013 at 6:00 p.m. in the Town Hall Conference Room, 5555 Skyway, Paradise, CA, regarding the following matter:

- a. Item determined to be exempt from environmental review under CEQA Guidelines section 15601 (General rule exemption)

PARADISE MUNICIPAL CODE: Planning Commission consideration of a recommendation for Town Council adoption of proposed text amendments to the Town's zoning regulations contained in Paradise Municipal Code Title 17 (Zoning Ordinance). If adopted, the amendments would amend Paradise Municipal Code sections related to home occupation regulations so as to permit the establishment of Cottage Food Operations (CFO), pursuant to Government Code section 51035.

The project file is available for public inspection at the Development Services Department, Paradise Town Hall. If you challenge this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Paradise Planning Commission at, or prior to, the public hearing. For further information please contact the Development Services Department at (530) 872-6291, extension 111.

CRAIG BAKER
Community Development Director

Chapter 17.33
HOME OCCUPATION REGULATIONS*

Sections:

17.33.100	Purpose.
17.33.200	Definitions.
17.33.300	Permit requirements.
17.33.400	Permits reviewed by the planning director.
17.33.500	Required standards and criteria.
17.33.600	Required findings.
17.33.700	Fees.
17.33.800	Revocation of home occupation permit.

17.33.100 Purpose. Home occupation regulations are intended to allow limited business activities in residential zoned districts when conducted by the occupants of a dwelling in a manner wholly accessory to and compatible with the residential characteristics of the surrounding neighborhood.
(Ord. 313 § 5(part), 1998)

17.33.200 Definitions. For the purposes of this chapter, certain words and phrases are defined as follows:

"Home occupation" means an accessory commercial activity or business service, conducted on the site of a dwelling unit by the inhabitants thereof, in a manner clearly incidental to the residential character of the site, and in accord with the provisions of this chapter. It shall not include activities that are limited solely to the use of a desk, telephone and personal computer.

"Home occupation permit" means a nondiscretionary permit issued by the planning director, based upon the specific standards and criteria contained in this chapter, and authorizing the establishment of a home occupation.
(Ord. 313 § 5(part), 1998)

17.33.300 Permit requirements. Home occupations shall be permitted as an accessory land use activity related to a dwelling unit subject to obtaining town approval and issuance of a home occupation permit. To apply for a home occupation permit, the following information must be submitted to the town community development department:

A. A completed home occupation permit application form and detailed plot plan drawn to scale, along with payment of the processing fee in effect at the time of application. If the applicant is not the owner of the property, proof of agency on behalf of or from the property owner must be submitted in writing in order to legally process the application;

*Prior ordinance history: 214 and 264.

B. A detailed written project description that describes the proposal, the setting of the neighborhood, proximity to neighboring residences, the level of noise generated by the proposal, parking demand of the home occupation, and the anticipated increase in traffic generated by the project;

C. A written explanation describing how the proposed home occupation complies with the standards and criteria set forth in Section 17.33.500 of this chapter;

D. Any additional information deemed necessary by the planning director to fully understand the proposed project;

E. If the property upon which the home occupation would be conducted is afforded access by a private road, the applicant shall submit written evidence indicating that all property owners having legal interest in the private road have no objection to the proposed home occupation.

(Ord. 313 § 5(part), 1998)

17.33.400 Permits reviewed by the planning director. The planning director shall review and act upon all home occupation permit (and/or modifications thereof) applications once all the required information has been submitted. Because the permits are nondiscretionary, no formal notice or public hearing are required. In reviewing home occupation permit applications (and/or application for modifications thereof), the planning director shall determine if the actual proposal complies with the standards and criteria listed in Section 17.33.500 of this chapter. The planning director shall consider the required findings contained in Section 17.33.600 of the chapter. If the planning director is unable to make any one of the required findings, the proposed home occupation permit [or modification(s) thereof] shall be denied.

(Ord. No. 473, § 2, 12-11-2007; Ord. 313 § 5(part), 1998)

17.33.500 Required standards and criteria. The planning director shall grant a permit for a home occupation as an accessory residential use on property zoned for residential use, provided that the use complies with all of the following standards and criteria:

A. The location of the home occupation is the principal residence of the applicant and is clearly incidental and secondary to the use of the property for residential purposes.

B. No major structural changes are proposed which will significantly alter the character of the residence or change its occupancy classification pursuant to the California Uniform Building Code.

C. Any traffic generated by the proposed home occupation would not be out of character with the existing traffic levels and patterns of the surrounding residential neighborhood.

D. The proposed home occupation shall not create levels of new light and glare inconsistent with existing amounts of light and glare within the surrounding residential.

E. The proposed home occupation shall not adversely increase noise levels or noise durations beyond permissible residential noise levels or noise durations within the surrounding neighborhood as regulated by the Paradise Municipal Code.

F. The proposed home occupation shall not generate vibration, dust, odor, heat, solid waste, electrical interference or other characteristics in excess of that customarily associated with similar residential uses in the surrounding neighborhood.

G. Employment shall be limited to members of the family residing on the premises, and to one additional nonresident employee.

H. The total floor area used for the home occupation, including area within accessory buildings, may be as large as fifty (50) percent of the net floor area of the dwelling unit, but shall in no case exceed seven hundred fifty (750) square feet.

I. Signs shall be limited to one unlighted sign and not larger than six (6) square feet in area. Such sign may be attached flat on the building wall or may be located elsewhere on the site except in a required yard setback area.

J. No equipment, materials or products associated with the home occupation use shall be stored or displayed where visible from off the premises.

K. The proposed home occupation shall not involve the storage or use of other than a minimal quantity of five (5) or fewer gallons of toxic, explosive or flammable materials; provided all such materials shall be subject to approval by the town fire chief.

L. A proposed home occupation that generates public traffic use in addition to the existing level of traffic use of a private road easement affording its access shall not be permitted unless written consent thereof is provided by all property owners having legal interest in the private road easement.

M. Any proposed home occupation affording access by use of a private road easement shall be conducted in a manner that shall not overburden the vehicular use of the private road easement.

(Ord. No. 414, § 3, 3-9-2004; Ord. 313 § 5(part), 1998)

17.33.600 Required findings. In order to approve a home occupation permit application, the planning director shall successfully make the following findings:

A. The proposed home occupation complies with all the applicable standards and criteria contained in Section 17.33.500 of this chapter;

B. The proposed home occupation will not have a significant adverse effect upon the health and safety of the citizens of Paradise or the community in general.
(Ord. 313 § 5(part), 1998)

17.33.700 Fees. The planning director or his/her designee is authorized to administer and collect a fee necessary to process the home occupation permit application. The fee shall be identified on the applicable master fee schedule adopted and periodically amended by the town council.

(Ord. 313 § 5(part), 1998)

17.33.800 Revocation of home occupation permit. After providing the permittee with written notification and a public meeting, the planning director is vested with the administrative authority to officially revoke a home occupation permit whenever evidence exists and a

17.33.800

determination is rendered verifying that a home occupation activity is not being conducted in a manner that complies with the required standards and criteria of this chapter and/or its town adopted and assigned conditions of approval.

(Ord. No. 473, § 3, 12-11-2007; Ord. 344 § 5, 2000; Ord. 313 § 5(part), 1998)

ASSEMBLY BILL

No. 1616

Introduced by Assembly Member Gatto

February 8, 2012

An act to amend Sections 110460, 111940, 111955, 113789, 114021, and 114023 of, and to add Article 5 (commencing with Section 113400) to Chapter 11 of Part 6 of Division 104 of, the Health and Safety Code, relating to food safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, as introduced, Gatto. Food safety: cottage food operations.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law makes it unlawful to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded. Food is misbranded if its labeling does not conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens. Violation of this law is a misdemeanor.

The existing California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. That law also prohibits food stored or prepared in a private home from being used or offered for sale in a food facility. A violation of these provisions is a misdemeanor.

This bill would exempt a cottage food operation, as defined, from specified food processing establishment, Sherman Law, and California Retail Food Code requirements. This bill would require a cottage food operation to meet specified requirements relating to sanitation, packaging, and labeling. This bill would authorize the State Public Health Officer to adopt implementing regulations, as specified, and procedures for a registration system. This bill would also authorize the State Public Health Officer to access the registered area of a private home where a cottage food operation is located, as specified. This bill would prescribe civil penalties for a violation of its provisions, and would provide for local permitting of cottage food operations.

By imposing duties on local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Small businesses have played an important role in helping
4 slow economies recover and prosper as an engine of job creation.
5 During the 1990s, small businesses created the majority of new
6 jobs and now account for 65 percent of United States employment.

7 (b) California, and the United States as a whole, are facing
8 growing obesity and obesity-related disease epidemics.

9 (1) Two-thirds of American adults and nearly one-third of
10 children and teens are obese or overweight, placing them at risk
11 for developing chronic diseases such as diabetes, heart disease,
12 and cancer.

13 (2) One in every nine California children, one in three teens,
14 and over half of adults are already overweight or obese. This
15 epidemic affects virtually all Californians.

1 (3) These health conditions are preventable and curable through
2 lifestyle choices that include consumption of healthy fresh foods.

3 (c) For decades, low-income and rural communities have faced
4 limited opportunities to purchase healthy foods. Often, without
5 cars or convenient public transportation options, low-income
6 residents in these areas must rely for much of their shopping on
7 expensive, fatty, processed foods sold at convenience and corner
8 stores.

9 (d) There is a growing movement in California to support
10 community-based food production, sometimes referred to as
11 “cottage food,” “artisanal food,” “slow food,” “locally based food,”
12 or “urban agriculture” movements. These movements seek to
13 connect food to local communities, small businesses, and
14 environmental sustainability.

15 (e) Increased opportunities for entrepreneur development
16 through microenterprises can help to supplement household
17 incomes, prevent poverty and hunger, and strengthen local
18 economies.

19 (f) At least 25 other states have passed laws that allow small
20 business entrepreneurs to use their home kitchens to prepare, for
21 sale, foods that are not potentially hazardous.

22 (g) Even some bake sales are currently illegal in California.

23 (h) It is the intent of the Legislature to enact a homemade food
24 act specifically designed to help address these challenges and
25 opportunities.

26 SEC. 2. Section 110460 of the Health and Safety Code is
27 amended to read:

28 110460. No person shall engage in the manufacture, packing,
29 or holding of any processed food in this state unless the person
30 has a valid registration from the department, except those engaged
31 exclusively in the storing, handling, or processing of dried beans.
32 The registration shall be valid for one calendar year from the date
33 of issue, unless it is revoked. The registration shall not be
34 transferable. *This section shall not apply to a cottage food*
35 *operation, as defined in Section 113400.*

36 SEC. 3. Section 111940 of the Health and Safety Code is
37 amended to read:

38 111940. (a) If any person violates any provision of Chapter 4
39 (commencing with Section 111950), Chapter 5 (commencing with
40 Section 112150), Chapter 6 (commencing with Section 112350),

Chapter 7 (commencing with Section 112500), Chapter 8 (commencing with Section 112650), Chapter 10 (commencing with Section 113025), ~~or~~ Article 3 (commencing with Section 113250) of Chapter 11, *or Article 5 (commencing with Section 113400) of Chapter 11*, of this part, or Chapter 4 (commencing with Section 108100) of Part 3, or any regulation adopted pursuant to these provisions, the department may assess a civil penalty against that person as provided by this section.

(b) The penalty may be in an amount not to exceed one thousand dollars (\$1,000) per day. Each day that a violation continues shall be considered a separate violation.

(c) If, after examination of a possible violation and the facts surrounding that possible violation, the department concludes that a violation has occurred, the department may issue a complaint to the person charged with the violation. The complaint shall allege the acts or failures to act that constitute the basis for the violation and the amount of the penalty. The complaint shall be served by personal service or by certified mail and shall inform the person so served of the right to a hearing.

(d) Any person served with a complaint pursuant to subdivision (c) of this section may, within 20 days after service of the complaint, request a hearing by filing with the department a notice of defense. A notice of defense is deemed to have been filed within the 20-day period if it is postmarked within the 20-day period. If a hearing is requested by the person, it shall be conducted within 90 days after the receipt by the department of the notice of defense. If no notice of defense is filed within 20 days after service of the complaint, the department shall issue an order setting the penalty as proposed in the complaint unless the department and the person have entered into a settlement agreement, in which case the department shall issue an order setting the penalty in the amount specified in the settlement agreement. When the person has not filed a notice of defense or where the department and the person have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(e) Any hearing required under this section shall be conducted pursuant to the procedures specified in Section 100171, except to the extent they are inconsistent with the specific requirements of this section.

1 (f) Orders setting civil penalties under this section shall become
2 effective and final upon issuance thereof, and payment shall be
3 made within 30 days of issuance. A copy of the order shall be
4 served by personal service or by certified mail upon the person
5 served with the complaint.

6 (g) Within 30 days after service of a copy of a decision issued
7 by the director after a hearing, any person so served may file with
8 the superior court a petition for writ of mandate for review of the
9 decision. Any person who fails to file the petition within this
10 30-day period may not challenge the reasonableness or validity of
11 the decision or order of the director in any judicial proceeding
12 brought to enforce the decision or order or for other remedies.
13 Section 1094.5 of the Code of Civil Procedure shall govern any
14 proceedings conducted pursuant to this subdivision. In all
15 proceedings pursuant to this subdivision, the court shall uphold
16 the decision of the director if the decision is based upon substantial
17 evidence in the whole record. The filing of a petition for writ of
18 mandate shall not stay any corrective action required pursuant to
19 the Miscellaneous Food, Food Facility, and Hazardous Substances
20 Act, as defined in subdivision (b) of Section 27, or the accrual of
21 any penalties assessed pursuant to this section. This subdivision
22 does not prohibit the court from granting any appropriate relief
23 within its jurisdiction.

24 (h) The remedies under this section are in addition to, and do
25 not supersede, or limit, any and all other remedies, civil or criminal.

26 SEC. 4. Section 111955 of the Health and Safety Code is
27 amended to read:

28 111955. "Food processing establishment," as used in this
29 chapter, shall mean any room, building or place or portion thereof,
30 maintained, used or operated for the purpose of commercially
31 storing, packaging, making, cooking, mixing, processing, bottling,
32 canning, packing, slaughtering or otherwise preparing or handling
33 food except restaurants. *"Food processing establishment" shall*
34 *not include a cottage food operation, as defined in Section 113400.*

35 SEC. 5. Article 5 (commencing with Section 113400) is added
36 to Chapter 11 of Part 6 of Division 104 of the Health and Safety
37 Code, to read:

Article 5. Cottage Food Operations

113400. This article shall be known, and may be cited, as the California Homemade Food Act.

113401. Unless the context otherwise requires, the meaning of terms used in this article, as applicable, shall be the same as the definitions found under the California Retail Food Code (Part 7 (commencing with Section 113700)). Additionally, for the purposes of this article, the following definitions apply:

(a) “Adulterated” means either of the following:

(1) Food that bears or contains any poisonous or deleterious substance that may render the food impure or injurious to health.

(2) Food that is manufactured, prepared, or stored in a manner that deviates from a HACCP plan, as defined in Section 113801, so as to pose a discernable increase in risk.

(b) “Cottage food operation” means a private home where cottage food products are prepared or packaged to be sold directly to consumers, including through the internet or mail order, and to in-state retail food facilities pursuant to this article.

(c) “Cottage food products” means foods that are prepared for sale in the home kitchen of a person’s primary private home and are not potentially hazardous food, as defined in Section 113871. Cottage food products include, but are not limited to, nonpotentially hazardous baked goods, jams, jellies, fruit butters, preserves, pickles with a pH level of 4.6 or below when measured at 75 degrees Fahrenheit, candy, granola, dry cereals, popcorns, nut mixes, dried fruit, chocolate covered nonperishable nuts and dried fruit, dry baking mixes, roasted coffees, dry teas, honey, and similar products specified in rules adopted by the department.

(d) “Home kitchen” means a kitchen primarily intended for use by residents of a private home. It may contain one or more stoves or ovens, including a double oven, and shall be designed for residential use.

(e) “Registered area” means the portion of a private home that contains a home kitchen where the preparation, packaging, storage, or handling of cottage food products occurs.

(f) “Potentially hazardous food” has the meaning provided in Section 113871.

(g) “Private home” means a dwelling, or an area within a rental unit, where individuals reside.

1 113402. A cottage food operation is subject to the following
2 requirements:

3 (a) Preparation, packaging, or handling of cottage food products
4 shall not occur in the home kitchen simultaneously with any other
5 domestic activities. Prohibited activities may include, but are not
6 limited to:

- 7 (1) Family meal preparation.
- 8 (2) Dishwashing unrelated to cottage food production.
- 9 (3) Clothes washing or ironing.

10 (4) Kitchen cleaning unrelated to cottage food production.

11 (b) Infants, small children, or pets shall not be allowed in the
12 home kitchen during the preparation, packaging, or handling of
13 any cottage food products.

14 (c) All food contact surfaces, equipment, and utensils used for
15 the preparation, packaging, or handling of any cottage food
16 products shall be washed, rinsed, and sanitized before each use.

17 (d) All food preparation and food equipment storage areas shall
18 be maintained free of rodents and insects.

19 (e) A person involved in the preparation and packaging of
20 cottage food products shall comply with all of the following:

21 (1) The person may not work in the home kitchen when sick
22 with a contagious illness.

23 (2) The person shall wash his or her hands before any food
24 preparation and food packaging activity.

25 113403. A cottage food operation shall package and label any
26 food it produces or packages for sale in compliance with labeling
27 requirements of the Federal Food, Drug, and Cosmetic Act (21
28 U.S.C. Sec. 343-1 et seq.).

29 113404. (a) The director may adopt regulations reasonably
30 necessary to implement this article. The regulations may include,
31 but are not limited to, all of the following:

32 (1) Sanitary procedures, in addition to those required by this
33 article.

34 (2) Labeling requirements, which shall be in compliance with
35 applicable regulations adopted pursuant to the Federal Food, Drug,
36 and Cosmetic Act (21 U.S.C. Sec. 343-1 et seq.).

37 (3) Procedures for a registration system, including provisions
38 for reasonable fees so that individuals may obtain a registration to
39 operate a cottage food operation. The director, however, shall not
40 require an inspection prior to allowing a food operation to register.

1 (4) If a registration system and provisions for reasonable fees
2 are established, these fees shall not exceed the reasonable
3 regulatory costs of administering the registration program.

4 (b) The director may not set a maximum annual gross sales
5 amount for a cottage food operation.

6 113405. (a) For purposes of determining compliance with this
7 article, the director may access, for inspection purposes, the
8 registered area of a private home where a cottage food operation
9 is located only if the director has, on the basis of a consumer
10 complaint, reason to suspect that adulterated or otherwise unsafe
11 food has been produced in the home kitchen. The director shall
12 not conduct routine inspections of cottage food operations.

13 (b) All inspections shall be made at reasonable times and, when
14 possible, during regular business hours.

15 (c) If the director is denied access to the registered area where
16 access was sought for the purpose of enforcing this article, the
17 director may apply to any court of competent jurisdiction for a
18 search warrant authorizing access to the registered area, and a court
19 may issue a search warrant for the purpose requested.

20 (d) Access under this section is limited to the registered area
21 and solely for the purpose of enforcing or administering this article.

22 113406. All of the following shall apply to cottage food
23 operations:

24 (a) A city, county, or city and county shall not prohibit cottage
25 food operations in any residential dwellings, but shall do one of
26 the following:

27 (1) Classify these operations as a permitted use of residential
28 property for zoning purposes.

29 (2) Grant a nondiscretionary permit to use a residence as any
30 cottage food operation that complies with local ordinances
31 prescribing reasonable standards, restrictions, and requirements
32 concerning spacing and concentration, traffic control, parking, and
33 noise control relating to those homes. Any noise standards shall
34 be consistent with local noise ordinances implementing the noise
35 element of the general plan. The permit issued pursuant to this
36 paragraph shall be granted by the zoning administrator, or if there
37 is no zoning administrator, by the person or persons designated
38 by the planning agency to grant these permits, upon the certification
39 without a hearing.

1 (3) Require any cottage food operation to apply for a permit to
2 use a residence for its operation. The zoning administrator, or if
3 there is no zoning administrator, the person or persons designated
4 by the planning agency to handle the use permits, shall review and
5 decide the applications. The use permit shall be granted if the
6 cottage food operation complies with local ordinances, if any,
7 prescribing reasonable standards, restrictions, and requirements
8 concerning the following factors: spacing and concentration, traffic
9 control, parking, and noise control relating to those homes. Any
10 noise standards shall be consistent with local noise ordinances
11 implementing the noise element of the general plan. The local
12 government shall process any required permit as economically as
13 possible. Fees charged for review shall not exceed the costs of the
14 review and permit process. An applicant may request a verification
15 of fees, and the city, county, or city and county shall provide the
16 applicant with a written breakdown within 45 days of the request.
17 The application form for cottage food operation permits shall
18 include a statement of the applicant's right to request the written
19 fee verification.

20 (b) In connection with any action taken pursuant to paragraph
21 (2) or (3) of subdivision (a), a city, county, or city and county shall
22 do all of the following:

23 (1) Upon the request of an applicant, provide a list of the permits
24 and fees that are required by the city, county, or city and county,
25 including information about other permits that may be required
26 by other departments in the city, county, or city and county, or by
27 other public agencies. The city, county, or city and county shall,
28 upon request of any applicant, also provide information about the
29 anticipated length of time for reviewing and processing the permit
30 application.

31 (2) Upon the request of an applicant, provide information on
32 the breakdown of any individual fees charged in connection with
33 the issuance of the permit.

34 (3) If a deposit is required to cover the cost of the permit,
35 provide information to the applicant about the estimated final cost
36 to the applicant of the permit, and procedures for receiving a refund
37 from the portion of the deposit not used.

38 (c) Use of a residence for the purposes of a cottage food
39 operation shall not constitute a change of occupancy for purposes
40 of the State Housing Law (Part 1.5 (commencing with Section

1 17910) of Division 13), or for purposes of local building and fire
2 codes.

3 (d) Cottage food operations shall be considered residences for
4 the purposes of the State Uniform Building Standards Code and
5 local building and fire codes.

6 SEC. 6. Section 113789 of the Health and Safety Code is
7 amended to read:

8 113789. (a) "Food facility" means an operation that stores,
9 prepares, packages, serves, vends, or otherwise provides food for
10 human consumption at the retail level, including, but not limited
11 to, the following:

12 (1) An operation where food is consumed on or off the premises,
13 regardless of whether there is a charge for the food.

14 (2) Any place used in conjunction with the operations described
15 in this subdivision, including, but not limited to, storage facilities
16 for food-related utensils, equipment, and materials.

17 (b) "Food facility" includes permanent and nonpermanent food
18 facilities, including, but not limited to, the following:

19 (1) Public and private school cafeterias.

20 (2) Restricted food service facilities.

21 (3) Licensed health care facilities.

22 (4) Commissaries.

23 (5) Mobile food facilities.

24 (6) Mobile support units.

25 (7) Temporary food facilities.

26 (8) Vending machines.

27 (9) Certified farmers' markets, for purposes of permitting and
28 enforcement pursuant to Section 114370.

29 (10) Farm stands, for purposes of permitting and enforcement
30 pursuant to Section 114375.

31 (c) "Food facility" does not include any of the following:

32 (1) A cooperative arrangement wherein no permanent facilities
33 are used for storing or handling food.

34 (2) A private home, *including a cottage food operation, as*
35 *defined in Section 113400.*

36 (3) A church, private club, or other nonprofit association that
37 gives or sells food to its members and guests, and not to the general
38 public, at an event that occurs not more than three days in any
39 90-day period.

1 (4) A for-profit entity that gives or sells food at an event that
2 occurs not more than three days in a 90-day period for the benefit
3 of a nonprofit association, if the for-profit entity receives no
4 monetary benefit, other than that resulting from recognition from
5 participating in an event.

6 (5) Premises set aside for wine tasting, as that term is used in
7 Section 23356.1 of the Business and Professions Code and in the
8 regulations adopted pursuant to that section, that comply with
9 Section 118375, regardless of whether there is a charge for the
10 wine tasting, if no other beverage, except for bottles of wine and
11 prepackaged nonpotentially hazardous beverages, is offered for
12 sale for onsite consumption and no food, except for crackers, is
13 served.

14 (6) Premises operated by a producer, selling or offering for sale
15 only whole produce grown by the producer, or shell eggs, or both,
16 provided the sales are conducted on premises controlled by the
17 producer.

18 (7) A commercial food processing plant as defined in Section
19 111955.

20 (8) A child day care facility, as defined in Section 1596.750.

21 (9) A community care facility, as defined in Section 1502.

22 (10) A residential care facility for the elderly, as defined in
23 Section 1569.2.

24 (11) A residential care facility for the chronically ill, which has
25 the same meaning as a residential care facility, as defined in Section
26 1568.01.

27 (12) Premises set aside by a beer manufacturer, as defined in
28 Section 25000.2 of the Business and Professions Code, that comply
29 with Section 118375, for the purposes of beer tasting, regardless
30 of whether there is a charge for the beer tasting, if no other
31 beverage, except for beer and prepackaged nonpotentially
32 hazardous beverages, is offered for sale for onsite consumption,
33 and no food, except for crackers or pretzels, is served.

34 SEC. 7. Section 114021 of the Health and Safety Code is
35 amended to read:

36 114021. (a) Food shall be obtained from sources that comply
37 with all applicable laws.

38 (b) Food stored or prepared in a private home shall not be used
39 or offered for sale in a food facility, *unless that food is prepared*

1 *by a cottage food operation that meets the requirements of Article*
2 *5 (commencing with Section 113400) of Chapter 11 of Part 6.*

3 SEC. 8. Section 114023 of the Health and Safety Code is
4 amended to read:

5 114023. Food in a hermetically sealed container shall be
6 obtained from a food processing plant that is regulated by the food
7 regulatory agency that has jurisdiction over the plant, *or from a*
8 *cottage food operation that meets the requirements of Article 5*
9 *(commencing with Section 113400) of Chapter 11 of Part 6.*

10 SEC. 9. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.

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**TOWN OF PARADISE PLANNING COMMISSION
RESOLUTION 13-3**

**A RESOLUTION OF THE PARADISE PLANNING COMMISSION RECOMMENDING
TOWN COUNCIL ADOPTION OF TEXT AMENDMENTS TO CHAPTER 17.33 OF THE
PARADISE MUNICIPAL CODE RELATIVE TO HOME OCCUPATIONS AND COTTAGE FOOD
OPERATIONS**

WHEREAS, the Town of Paradise is legally required to direct and regulate land development and land uses via zoning regulations and other means that are consistent with its current Paradise General Plan as well as current state planning and zoning law; and

WHEREAS, the State of California has adopted legislation known as “The California Homemade Food Act” (Assembly Bill 1616) that requires local zoning ordinances to make certain provisions for “cottage food operations” as defined in California Government Code Section 113400, and

WHEREAS, the Paradise Planning Commission finds that there is a compelling need for the Town Council of the Town of Paradise to adopt the foregoing Paradise Municipal Code (PMC) amendments to regulate cottage food operations consistent with the requirements of State Law, and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on May 21, 2013 to study and consider recommending Town Council adoption of text amendments to PMC Chapter 17.33 as proposed by Town staff; and

WHEREAS, the public review also included review and determination of whether or not the proposed PMC text amendments is an activity that is subject to the provisions of the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission has considered the recommendation of the Town staff, etc., as well as input received during the public hearing; and on the basis of the foregoing, has determined that the text amendments to PMC Chapter 17.33 are warranted at this time in order to regulate cottage food operations consistent with the requirements of State Law.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF PARADISE as follows:

The Planning Commission hereby recommends to the Town Council of the Town of Paradise, adoption of the proposed text amendments to PMC Chapter 17.33 as set forth in

RESOLUTION NO. 13-03

“Exhibit A” attached hereto and made a part of by reference; and recommends to the Town Council that the proposed Paradise Municipal Code text amendments are not subject to the requirements of the California Environmental Quality Act (CEQA) in accordance with the general rule categorical exemption provisions of CEQA Guidelines section 15061.

PASSED AND ADOPTED by the Planning Commission of the Town of Paradise this 21st day of May, 2013 by the Following Vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jody Jones, Chair

ATTEST:

Joanna Gutierrez, Town Clerk

EXHIBIT "A"

SECTION 1. Section 17.33.200 of the Paradise Municipal Code shall be amended as follows:

"Home occupation" means an accessory commercial activity or business service, conducted on the site of a dwelling unit by the inhabitants thereof, in a manner clearly incidental to the residential character of the site, and in accord with the provisions of this chapter, including cottage food operations. It shall not include activities that are limited solely to the use of a desk, telephone and personal computer.

"Home occupation permit" means a nondiscretionary permit issued by the planning director, based upon the specific standards and criteria contained in this chapter, and authorizing the establishment of a home occupation, including a cottage food operation.

"Cottage food operation" when used in this chapter shall have the same meaning as provided for in Health and Safety Code section 113758, as may be amended.

SECTION 2. Section 17.33.300 of the Paradise Municipal Code shall be amended as follows:

17.33.300 - Permit requirements.

It shall be unlawful to establish a home occupation without a Town-issued permit under this Chapter. Home occupations (including cottage food operations, or CFO) shall be permitted as an accessory land use activity related to a dwelling unit subject to obtaining town approval and issuance of a home occupation permit. To apply for a home occupation permit, the following information must be submitted to the town community development department:

- A. A completed home occupation permit application form and detailed plot plan drawn to scale, along with payment of the processing fee in effect at the time of application. If the applicant is not the owner of the property, proof of agency on behalf of or from the property owner must be submitted in writing in order to legally process the application.
- B. A detailed written project description that describes the proposal, the setting of the neighborhood, proximity to neighboring residences, the level of noise generated by the proposal, parking demand of the home occupation, and the anticipated increase in traffic generated by the project.
- C. A written explanation describing how the proposed home occupation complies with the standards and criteria set forth in Section 17.33.500 of this chapter.
- D. Any additional information deemed necessary by the planning director to fully understand the proposed project.

- E. If the property upon which the home occupation would be conducted is afforded access by a private road, the applicant shall submit written evidence indicating that all property owners having legal interest in the private road have no objection to the proposed home occupation.
- F. If the type of proposed home occupation or cottage food operation has the potential to increase wastewater flows (e.g., food processing, catering, hair and nail salons or pet grooming), the application must be accompanied by material evidence showing that the existing sewage disposal system serving the residence has a valid and current Operating Permit issued by the Town of Paradise.

SECTION 3. Section 17.33.500 of the Paradise Municipal Code shall be amended as follows:

17.33.500 - Required standards and criteria.

The planning director shall grant a permit for a home occupation as an accessory residential use on property zoned for residential use, provided that the use complies with all of the following standards and criteria:

- A. The location of the home occupation is the principal residence of the applicant and is clearly incidental and secondary to the use of the property for residential purposes.
- B. No major structural changes are proposed which will significantly alter the character of the residence or change its occupancy classification pursuant to the California Uniform Building Code.
- C. Any traffic or parking needs generated by the proposed home occupation would not be out of character with the existing traffic levels and ~~patterns~~ parking demands of the surrounding residential neighborhood.
- D. The proposed home occupation shall not create levels of new light and glare inconsistent with existing amounts of light and glare within the surrounding residential.
- E. The proposed home occupation shall not adversely increase noise levels or noise durations beyond permissible residential noise levels or noise durations within the surrounding neighborhood as regulated by the Paradise Municipal Code.
- F. The proposed home occupation shall not generate vibration, dust, odor, heat, solid waste, electrical interference or other characteristics in excess of that customarily associated with similar residential uses in the surrounding neighborhood.

- G. Employment shall be limited to members of the family residing on the premises, and to one additional full-time equivalent nonresident employee. In no event may more than one part time employee be working at any one time.
- H. The total floor area used for the home occupation, including area within accessory buildings, may be as large as fifty (50) percent of the net floor area of the dwelling unit, but shall in no case exceed seven hundred fifty (750) square feet; provided however that a cottage food operation shall be restricted to the registered or permitted area of the residence as approved by the Butte County Environmental Health Department.
- I. Signs shall be limited to one unlighted sign and not larger than six (6) square feet in area. Such sign may be attached flat on the building wall or may be located elsewhere on the site except in a required yard setback area.
- J. No equipment, materials or products associated with the home occupation use shall be stored or displayed where visible from off the premises.
- K. The proposed home occupation shall not involve the storage or use of other than a minimal quantity of five (5) or fewer gallons of toxic, explosive or flammable materials; provided all such materials shall be subject to approval by the town fire chief.
- L. A proposed home occupation that generates public traffic use in addition to the existing level of traffic use of a private road easement affording its access shall not be permitted unless written consent ~~thereof~~ to such use is provided by all property owners having legal interest in the private road easement.
- M. Any proposed home occupation affording access by use of a private road easement shall be conducted in a manner that shall not overburden the vehicular use of the private road easement.
- N. Any cottage food operation (CFO) shall meet the following additional requirements:
1. The requirements set out in Health and Safety Code Sections 114365, 114365.2 and 114365.5.
 2. A CFO shall be restricted to the primary kitchen of the residence.
 3. A CFO shall comply with the restrictions on gross annual sales as set forth in Health and Safety Code section 113758, as may be amended.
 4. A CFO shall obtain and maintain a registration and/or operating permit from the Butte County Environmental Health Department. A copy of such registration/permit must be furnished to the Town of Paradise within fifteen days of its issuance.

5. No CFO shall conduct sales in an attached garage, detached accessory structure or outside of the dwelling.
6. If direct sales are proposed at the site of the CFO, no third parties or customers shall be permitted to dine at the CFO.