



Sonoma County Planning Commission STAFF REPORT

FILE: ORD21-0003
DATE: September 2, 2021
TIME: At or after 1:05 p.m.
STAFF: Eric Gage, Project Planner

A Board of Supervisors hearing on the project will be held at a later date and will be noticed at that time.

SUMMARY

Applicant: County of Sonoma (File No. ORD21-0003)
Address: Countywide, except Coastal Zone
Supervisory District(s): All
Description: Amend the Zoning Code to make permanent Code modifications approved through urgency ordinance. These include provisions allowing for home occupations without a land use permit and allowing restaurant take-out without additional land use permitting.
CEQA Review: Exempt, CEQA Guidelines Section 15061(b)(3), exempting activities where it can be seen with certainty that there is no possibility that the activity may have an adverse effect on the environment, and Class 1 and Class 4 Categorical Exemptions, for existing structures and minor alterations to land.
General Plan Land Use: All, except Coastal Zone
Ordinance Reference: Sonoma County Code Chapter 26 – Sonoma County Zoning Regulations

RECOMMENDATION

Approve a resolution finding the proposed ordinance is categorically exempt from CEQA and recommend that the Sonoma County Board of Supervisors adopt the ordinance amending the Sonoma County Zoning Code to remove the permit requirement for home occupations, and allow restaurant take out by right in zones where restaurants are allowed.

EXECUTIVE SUMMARY

The urgency ordinance approved on July 7, 2020 (Ord. No. 6315) authorized temporary regulatory relief measures to support the local economy while complying with the public health order. The urgency ordinance provided flexibility to businesses needing to comply with the provisions of COVID-related health orders such as social distancing and reduced capacities. The urgency ordinance was written to remain in effect until 30 days



after the termination of physical distancing requirements, or until the ordinance was revoked by the Board of Supervisors, whichever occurred first. The temporary ordinance is still in effect. During this time, staff has had time to evaluate the environmental impacts of these modified business operations and conclude that the current project is exempt from CEQA.

As part of an ongoing effort to modernize the Zoning Code, staff has evaluated the provisions of the urgency ordinance to recommend specific permit streamlining measures to make permanent with minimal impacts. The staff recommendation includes:

- Eliminate the zoning permit requirement for home occupations (i.e. working from home)
- Eliminate the restriction of one home occupation per dwelling
- Adding take-out service as a by-right use for restaurants

The proposed Zoning Code changes will support a more resilient local economy, providing additional job security and flexibility to working residents and businesses in the post-pandemic recovery.

PROJECT CONTEXT

Background

The COVID-19 pandemic and Shelter in Place Orders have caused significant ongoing disruption to many aspects of daily life, including the local economy and business environment. In 2020 as businesses reopened after closure of all non-essential businesses, they were required to modify operations and accommodate physical distancing requirements to slow the spread of COVID-19. In July 2020, the Board of Supervisors approved an urgency ordinance to provide immediate flexibility for businesses to remain open while implementing health safety requirements. The ordinance addressed temporary modifications such as expansion into outdoor spaces, and expanded business hours. The ordinance also included, business encroachment into parking areas and public right-of-ways, permit exemptions for home occupations, and agricultural tours and activities.

The urgency ordinance was worded to sunset 30 days after the termination of social distancing measures or revocation by the Board, whichever occurred first. In anticipation of the ordinance’s eventual sunset, staff prepared Zoning Code revisions to eliminate permit requirements for home occupations and restaurant take-out.

Zoning Code Modernization Program

In February 2021, the Board of Supervisors approved changes to the County’s zoning code described as Phase 1 and 2 of the Zoning Code Modernization Program. The goal of those changes was to make the code easier to read and use, and to update older regulations to comply with current federal and state law. The proposed revisions are consistent with the goals of that ongoing initiative, to improve the code for ease of use and to streamline permit processes, reducing delays and costs to applicants.



History

The table below summarizes key events relating to these revisions.

| Date | Event/Milestone |
|-------------------------|--|
| March 17, 2020 | Sonoma County Health Officer ordered all individuals living in the County to shelter in place, except to provide or receive certain essential services, and work for essential businesses and governmental services (Order No. C-19-03). |
| March 31, 2020 | Health Officer extended the shelter in place order and established social distancing protocol for businesses. |
| June 5, 2020 | Health Officer issued Order No. C19-14 allowed additional businesses and activities to reopen, including dine-in restaurants, hair salons, outdoor recreation businesses, and limited personal services. |
| July 7, 2020 | Board of Supervisors approved an urgency ordinance to allow temporary business modifications during the COVID-19 pandemic. |
| February 9, 2021 | Board of Supervisors approved changes to the Zoning Code under Phase 1 and 2 of the Zoning Code Modernization Program. |
| May 10, 2021 | SB 389, a bill that would make permanent restaurant sale of alcohol to go was passed unanimously by the California State Senate on May 10, 2021. |
| June 3, 2021 | Governor Newsom extended pandemic regulatory relief to restaurants, allowing outdoor dining and to-go alcoholic beverages through the end of 2021. |

General Plan Consistency

The General Plan’s policies recognize existing commercial uses, supports new commercial uses in Urban Service Areas, and encourages development that reduces VMT and other traffic impacts. The proposed Zoning Code revisions to make permanent modifications to business operations are consistent with these policies. The revisions will contribute to economic recovery from pandemic recession and a more resilient economy post-pandemic. They will provide employment flexibility and greater financial stability to County residents.

Policy CT-1k: Encourage development that reduces VMT, decreases distances between jobs and housing, reduces traffic impacts, and improves housing affordability.

Policy LU-6i: Provide expanded opportunities for a mix of residential and commercial or industrial use in Urban Service Areas.

ANALYSIS

The proposed revisions include eliminating additional land use permitting requirements for two use types.

Restaurant Take-out

Restaurants are allowed by-right in Industrial Park (MP), Neighborhood Commercial (C1), Retail Business and Service (C2), Limited Commercial (LC), and Recreation and Visitor-Serving Commercial (K) Zoning Districts . However, a use permit is required for restaurants in C1, C2, and LC to provide take-out meals for customers. This permitting requirement has been deemed redundant of existing standards and code enforcement activities. Presumably, restaurant take-out has the potential to increase demand for parking by patrons picking up prepared meals. However, these patrons are only on the premises long enough to pick up their order. In addition, the Zoning Code does not require additional parking for restaurants that provide take-out service. Since the implementation of the temporary ordinance, no complaints have been reported to code enforcement



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regarding unpermitted restaurant take-out. Additional research into Code Enforcement complaint data did not identify any complaints specific to unpermitted restaurant take-out extending back to approximately 2006. The proposed text revisions would eliminate the use permit requirement for restaurant take-out through the. Note that the restaurants impacted by this change are primarily existing restaurants, as a use permit is also required for restaurants selling alcohol in C1, LC, and K zones.

Home Occupations

The Zoning Code currently requires people working from home to first obtain a zoning permit to establish a home office. Sonoma County Code Section 26-88-121 restricts allowable types of home occupations (such as prohibiting gun sales and hair salons), establishes design and development standards (such as prohibiting utility modification and requiring adequate parking), and mandates operating standards (such as setting hours of operation and limiting visits and deliveries). Applicants and property owners must also sign affidavits agreeing to the applicable operating requirements and development standards for home occupations listed in the zoning code. The affidavit requirement has been deemed redundant of existing operational requirements and code enforcement activities as residents are already required to comply with the standards of the county code. The proposed ordinance would eliminate the zoning permit and affidavit requirements. The update would also eliminate the code restriction of one home occupation per dwelling to accommodate more than one resident working from home. All other code standards governing home occupations would remain and thus there will not be any new impacts to the surrounding residential areas. Further, the County suspended the permitting and affidavit requirements during the COVID-19 pandemic and while most residents were working from home the County did not get an increase in complaints related to home occupations.

State Laws on To-Go Alcohol Sales

On March 19, 2020, the California Alcoholic Beverage Commission (ABC) issued a notice of regulatory relief to reduce transmission of COVID-19 and to support restaurants and other businesses with licenses to sell alcohol. The notice relaxed requirements on how alcoholic beverages may be sold to the public, including provisions legalizing the sale of beer, wine, and pre-mixed cocktails for take-out or delivery.

Under the ABC regulatory relief, the sale of alcoholic beverages to go was temporary. A bill that would make the temporary change permanent was passed unanimously by the California State Senate on May 10, 2021, with senators expressing the need to secure jobs and expedite economic recovery. The bill must still be approved by the state assembly and the governor. On June 3, 2021, Governor Newsome announced the extension of the ABC regulatory relief through the end of 2021, encouraging local jurisdictions to extend and expand economic opportunities for these businesses.

The County's temporary business modifications and the proposed Zoning Code permanent revisions for restaurant take out support these statewide measures.

Environmental Analysis

The project is exempt from CEQA based on CEQA Guidelines Section 15061(b)(3) (common sense exemption), exempting activities where it can be seen with certainty that there is no possibility that the activity may have an adverse effect on the environment, Section 15301 (Class 1 / Existing Facilities) exempting activities that consist of permitting existing private facilities involving negligible or no expansion of use, and Section 15304(e) (Class 4 / Minor Alterations to Land) exempting activities that include minor temporary use of land having negligible or no permanent effects on the environment. This Ordinance is exempt under these provisions because home



occupations will be subject to the same design, development, and operational standards ensuring no additional impacts on neighboring residential uses; because allowing for take-out services within an existing restaurant involves only a negligible expansion of use that can be accommodated without modifications to the facility and does not have an added adverse effect on the environment. Since adoption of Urgency Ord. No. 6315, no code enforcements complaints have been received pertaining to home occupations or restaurant take-out.

RECOMMENDATIONS

Staff Recommendation

Approve a resolution finding the proposed ordinance is categorically exempt from CEQA and recommend that the Sonoma County Board of Supervisors adopt the ordinance amending the Sonoma County Zoning Code to remove the permit requirement for home occupations, and allow restaurant take out by right in zones where restaurants are allowed.

ATTACHMENTS

1. Draft Resolution
2. Proposed Zoning Code Text Amendments
3. Draft Board Ordinance