

Attachment B-3 to Resolution

LRP2011-00010

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE, SECTIONS 22.30.070, 22.30.075, 22.06.030 AND 22.80.030 RELATING TO AGRICULTURAL PROCESSING, OLIVE OIL PROCESSING AND TASTING, AND THE RETAIL SALES OF AGRICULTURAL PRODUCTS FROM FIELD AND FARM STANDS.

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 22.06.030 (Table 2-2) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

LAND USE (1) (2)	PERMIT REQUIREMENT BY L.U.C. (3)						Specific Use Standards
	AG(7)	RL	RR	RS	RSF	RMF	
RETAIL TRADE USES							
Roadside Stands – Permanent	SP	SP	SP(6)				22.30.510
Roadside Standards – Temporary	P	P	SP	SP			22.30.510

LAND USE (1) (2)	PERMIT REQUIREMENT BY L.U.C. (3)							Specific Use Standards
	OP	CR	CS	IND	OS	REC	PF	
RETAIL TRADE USES								
Roadside Stands – Permanent						SP(6)		22.30.510
Roadside Standards – Temporary						SP(6)		22.30.510

SECTION 2: Section 22.06.030 (Table 2-2) of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding the following before Auto, Mobile Home & Vehicle Dealers – Indoor as follows:

LAND USE (1) (2)	PERMIT REQUIREMENT BY L.U.C. (3)						Specific Use Standards
	AG(7)	RL	RR	RS	RSF	RMF	
RETAIL TRADE USES							
Agricultural Retail Sales	SP	SP	SP(6)	SP(6)			22.30.075

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LAND USE (1) (2)	PERMIT REQUIREMENT BY L.U.C. (3)							Specific Use Standards
	OP	CR	CS	IND	OS	REC	PF	
RETAIL TRADE USES								
Agricultural Retail Sales						SP(6)		22.30.075

SECTION 3: Section 22.30.070 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

22.30.070 - Agricultural Processing Uses

Agricultural processing activities, including but not limited to wineries, packing and processing plants, fertilizer plants, commercial composting and olive oil production without the use of solvents, are allowable subject to the following standards.

SECTION 4: Section 22.30.070.A. of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by as follows:

A. Permit requirements.

1. Minor Use Permit approval is required for agricultural processing activities, including but not limited to wineries, packing and processing plants, fertilizer plants, and commercial composting, unless Section 22.08.030 (Project-Based Permit Requirements) or Subsection D. would otherwise require Conditional Use Permit approval.
2. **Olive oil production.** In the Agriculture and Rural Lands land use categories the permit shall be determined by Section 22.06.030, Table 2-3 for olive oil production as allowed by this Section where the 100 percent of the raw materials being processed are grown on the site of the processing facility or on adjacent parcels. Olive oil production facilities as allowed by this Section where any of the raw materials being processed are not grown on the site of the processing facility or on adjacent parcels shall be subject to Minor Use Permit approval.

SECTION 5: Section 22.30.070D of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding new subsection 4 as follows:

4. **Olive oil production.** For the purposes of this section the production of olive oil is the making of edible oil obtained solely from the fruit of the olive tree (*olea europea L.*) and specifically excludes the manufacture of edible oils obtained using solvents or re-esterification processes and any oils resulting from a mixture with other oils except in the making of flavored olive oil. Olive oil processed using solvents is included under “Food and Beverage Products”.

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- a. **Solid waste disposal.** Pomace may be used as fertilizer or soil amendment, provided that such use or other disposal shall occur in accordance with applicable Health Department standards.
 - b. **Liquid waste disposal.** Standards shall be set, where applicable, through Regional Water Quality Control Board discharge requirements developed in compliance with Section 22.10.180 (Water Quality).
 - c. **Setbacks.**
 - (1) **Rural areas.** All structures and outdoor use areas shall be a minimum of 200 feet from each property line and no closer than 500 feet to any existing residence outside of the ownership of the applicant.
 - (2) **Urban and village areas.** As required by Section 22.10.140 et seq.
 - d. **Parking.** None, provided that sufficient usable area is available to permanently accommodate all employee and visitor parking needs entirely on-site.
 - e. **Design standards.** In the Agriculture, Rural Lands or Residential Rural land use categories, all structures associated with olive oil production shall have an exterior design style that is agricultural or residential in nature. Structures shall not use an exterior design style typically associated with large industrial facilities unless the facility is proposed in the Commercial Service or Industrial land use category.
 - f. **Lighting.** All lighting fixtures shall be shielded so that neither the lamp nor the related reflector or interior surface is visible from any location off the project site. All lighting poles, fixtures, and hoods shall be dark colored. No exterior lighting shall be installed or operated in a manner that would emit light, either reflected or directly, in an upward direction.
 - g. **Tasting rooms and retail sales.** Tasting rooms and retail sales shall be clearly incidental, related and subordinate to the primary operation of olive oil production facility. On-site tasting rooms and retail sales of olive oil are subject to Section 22.30. 075 (Agricultural Retail Sales - Farm Stands).
 - h. **Effect on existing olive oil production facilities.** All existing unpermitted olive oil processing facilities in existence on the effective date of this section (January 17, 2013) shall be subject to the standards specified in this Subsection. Required land use permits shall be requested from the County within 18 months of the effective date specified above. If the required land use permit, has not been requested within the time frames set forth in this section, the penalties of Chapter 22.74 (Enforcement) of this Title may apply.
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SECTION 6: Chapter 22.30 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding new Section 22.30.075 as follows:

22.30.075 - Agricultural Retail Sales

These standards apply to the retail sale of agricultural products in structures, or a portion of a structure, constructed or converted for agricultural product merchandising. Hay, grain and feed sales are subject to Section 22.30.210 (Farm Equipment and Supplies). Sales from vehicles and seasonal sales are subject to the applicable provisions of Section 22.30.330 (Outdoor Retail Sales). Sales in the field not involving a structure that requires a building permit, including U-Pick operations, are considered Crop Production and Grazing. The standards of this Section apply in addition to all applicable permit requirements and standards of the County Health Department, and any other applicable Federal and State statutes or regulations. It is recommended that applicants contact the County Health Department as early as possible to determine if any additional standards apply.

A. Limitation on use.

1. **Field Stand.** Field Stands allowed under this section are defined as an open or fully enclosed structure, where 100 percent of the fruits, vegetables, flowers, shell eggs, nuts, raw fiber or honey offered for sale are grown or produced by the operator and the stand is located on the site where the products offered for sale are grown or produced or on another site controlled by the grower. Does not include packaging, processing, sampling or tasting or the sales of any packaged or processed produce or products.
2. **Farm Stand.** Farm Stands allowed under this section are defined as a structure or portion thereof, where at least 50 percent of the floor area of the stand is dedicated to selling fruits, vegetables, flowers, shell eggs, nuts, raw fiber or honey that is grown or produced by the operator and the stand is located on the site where the products offered for sale are grown or produced or the sale of prepackaged non-potentially hazardous food, including olive oil, from a state approved source grown or produced on-site. The remaining 50 percent of the floor area of the stand may be used for the selling of fruits, vegetables, flowers, shell eggs, nuts, raw fiber or honey that is grown off site. The sale of prepackaged non-potentially hazardous food from a state approved source not grown or produced on site and other non-food ancillary items is limited to 50 square feet of storage and sales area and may include bottled water and soft drinks. Food preparation is prohibited except for food sampling or tasting.

B. Design Standards.

1. **Sales Area Limitation.** The floor area of the structure, portion of a structure and/or any outdoor display area shall be limited to a total of 500 square feet unless otherwise authorized by Minor Use Permit approval.
2. **Use of Structures.** Agricultural Retail Sales located in a structure shall be permitted as required by applicable building codes.

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3. **Location.** The principal access driveway to a site with a Field Stand or Farm Stand in a residential land use category shall be located on or within one mile of an arterial or collector. The driveway approach shall conform with current county standards for construction and sight distance.
4. **Setbacks.** Agricultural Retail Sales shall be located a minimum of 50 feet from the front property line, 30 feet from side and rear property lines, but no closer than 400 feet to any existing residence outside the ownership of the applicant. If it is not possible to maintain 400 feet from a residence outside of the ownership of the applicant, the setback can be modified through a Minor Use Permit.
5. **Parking.** One parking space is required per 250 square feet of structure or outdoor display area. Parking shall be provided as follows, with such parking consisting of a minimum of an open area with a slope of 10 percent or less, at a ratio of 400 square feet per car, on a lot free of combustible material, on areas of the site that are not Class I soils as defined by the Natural Resource Conservation Service (NRCS), and outside of the public road right-of-way. Parking areas shall be located in an off-street area accessed by a driveway which conforms to local fire agency standards. The parking area shall be surfaced with crushed rock, Class II aggregate base or similar semi-permanent all weather surface.
6. **Discontinued agricultural use.** In the event that the agricultural use that justified the Agricultural Retail Sales is discontinued for more than one growing season in consultation with Agriculture Department, all use of the site for Agricultural Retail Sales shall be terminated.

C. Notice and hearing requirements.

1. **Public notice.** For stands in the Residential Rural, Residential Suburban and Recreation categories, notice shall be provided to owners of property within 300 feet of the exterior boundaries of the site. The notice shall be provided not less than 10 days before the date of action on the Site Plan Review in compliance with Section 22.62.040. The notice of a Site Plan Review shall declare that the application will be acted on without a public hearing if no request for a hearing is made in compliance with Subsection C.2.
2. **Public hearing.** No public hearing shall be held on the application for a Site Plan Review, unless a hearing is requested by the applicant or other affected person. Such request shall be made in writing to the Director no later than 10 days after the date of the public notice provided in compliance with Subsection C.1. If a public hearing is requested, the Agricultural Retail Sales use shall be subject a Minor Use Permit and the Director shall provide notice of the public hearing for the Minor Use Permit in compliance with Section 22.62.050.

D. Application content.

1. **Site Plan.** A site plan which clearly shows the location of the structure(s) to be used as the Agricultural Retail Sales facility, setbacks to nearest property lines, location of road access and designated parking areas.

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2. **Floor Plans and Architectural Elevations.** A floor plan with dimensions and elevations of the structure(s) to be used.
 3. **Fire Protection.** A fire safety plan that sets forth adequate fire safety measures for the proposed Agricultural Retail Sales facility. Facilities are to be provided as required by the County Fire Department or applicable Fire Agency.
 4. **Water Supply, Sanitation, and Food Preparation.** For Farm Stands, a clearance letter from the County Health Department shall be submitted with the land use permit application that sets forth facilities and permits that are required. The Health Department requirements may include but are not limited to: vermin proof storage, toilet, hand washing facilities and potable water.
- E. Exceptions.** A Conditional Use Permit may be used to modify the limitation on use and the site design standards as set forth in Subsections A. and B.

SECTION 7: Section 22.30.510 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended to delete the entire section.

SECTION 8: Section 22.80.030 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

Ag Processing (land use). Establishments performing a variety of operations on crops after harvest, to prepare them for market on-site or further processing and packaging at a distance from the agricultural area including but not limited to: alfalfa cubing; hay baling and cubing; corn shelling; drying of corn, rice, hay, fruits and vegetables; pre-cooling and packaging of fresh or farm-dried fruits and vegetables; grain cleaning and custom grinding; custom grist mills; custom milling of flour, feed and grain; sorting, grading and packing of fruits and vegetables, tree nut hulling and shelling; cotton ginning; wineries, production of olive oil without the use of solvents, alcohol fuel production; and receiving and processing of green material, other than that produced on-site (commercial composting). Green material is any wastes which are derived from plant material, including but not limited to, leaves, grass clippings, weeds, tree trimmings or shrubbery cuttings. Note: any of the above activities performed in the field with mobile equipment not involving permanent buildings (with the exception of the receiving and processing of green material other than that produced on-site) are included under "Crop Production and Grazing." (SIC: 0723, 0724) Olive oil produced with the use of solvents is included under "Food and Beverage Products".

Food and Beverage Products (land use). Manufacturing establishments producing or processing foods and beverages for human consumption and certain related products. Includes:

- bakery, sugar, and confectionery products
- beverages and liquors (except wineries; see "Ag Processing")
- bottled water production
- canned and preserve fruit and vegetables and related processing
- dairy products processing
- fats and oil products, including rendering plants and olive oil produced with the use of solvents (Olive oil produced without the use of solvents is included under "Ag Processing")

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- grain mill products and by-products
- ice plants
- meat, poultry and seafood slaughtering, and curing, and by-product processing
- miscellaneous food preparation from raw products
- Operations on crops after harvest are included under "Ag Processing." (SIC: Group 20)

Agricultural Retail Sales (land use). The retail sales of agricultural products located on the site of the property where the products being sold were grown. Includes the selling of fruits, vegetables, flowers, shell eggs, nuts, raw fiber or honey, prepackaged non-potentially hazardous food including olive oil and may also include food sampling and or tasting. Does not include hay, grain and feed sales included under “Farm Equipment and Supplies”, field sales of agricultural products when not involving a structure that requires a building permit, included under “Crop Production and Grazing”, and seasonal sales and sales from individual motor vehicles included in “Outdoor Retail Sales”.

SECTION 9: Subsection 22.30.330.F.1.a of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

1. **Time limit.** The length of time during which seasonal sales may occur is as follows.
 - a. **Seasonal products grown on-site.** When the seasonal products sold are produced by an on-site agricultural operation, no time limit applies, provided that such sales are conducted in compliance with Section 22.30.075 (Agricultural Retail Sales) or Crop Production and Grazing when not involving a structure that requires a building permit.

SECTION 10: Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended such that all references to Section 22.30.510 (Roadside Stands) shall be replaced with Section 22.30.075 (Agricultural Retail Sales).

SECTION 11. That this project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption].

SECTION 12. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

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SECTION 13: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 2012, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT: None

ABSTAINING: None

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

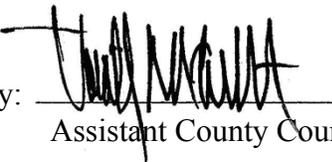
ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

RITA L. NEAL
County Counsel

By: 
Assistant County Counsel

Dated: December 6, 2012