

RESOLUTION NO. 757 (13)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMPOC RECOMMENDING THAT THE CITY COUNCIL APPROVE A TEXT AMENDMENT TO AMEND ZONING ORDINANCE CHAPTER 17.136 – CHAPTER 17.136 HOME OCCUPATION PERMITS. (PLANNING DIVISION FILE NO. TA 13-01)

WHEREAS, the California State Legislature adopted AB 1616 allowing Cottage Food Operations in residential dwellings effective January 1, 2013; and

WHEREAS, the Planning Commission has considered a Text Amendment to amend Zoning Ordinance *Chapter 17.136 – Home Occupation Permits* as shown in the attached draft Ordinance; and

WHEREAS, the request was considered by the Planning Commission at a duly-noticed public meeting on August 14, 2013; and

WHEREAS, at the meeting of August 14, 2013, City staff was present and answered Planning Commissioners' questions and addressed their concerns; and

WHEREAS, at the meeting of August 14, 2013, Katie Rounds, Cottage Food Operator, and Steve Pepe, representing the Economic Development Committee, spoke in support of the Text Amendment; and

WHEREAS, the Planning Commission has recommended City Council adoption of the Negative Declaration prepared for the Text Amendment, pursuant to the California Environmental Quality Act (CEQA).

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOMPOC RESOLVES AS FOLLOWS:

SECTION 1: After hearing testimony, considering the evidence presented, and due deliberation of the matters presented, the Planning Commission finds that the proposed Text Amendment (TA 13-01) recommended by this Resolution is in accordance with the provisions of the General Plan of the City of Lompoc;

SECTION 2: The proposed modifications are required for the public necessity, convenience and general welfare;

SECTION 3: Pursuant to Public Resources Code Section 21089 and Section 15074 of the California Environmental Quality Act Guidelines, the Initial Environmental Study and Negative Declaration which have been prepared for the proposed Text Amendment show that there is no substantial evidence that the project may have a significant effect on the environment, and therefore it can be found that: the proposed Text Amendment will not result in an adverse impact on the environment;


SECTION 4: The Planning Commission resolves that this Resolution shall be forwarded to the City Council, pursuant to Section 17.132.040 of the Lompoc City Code, with the Commission's recommendation that the Council adopt the attached draft Ordinance approving TA 13-01.

The foregoing Resolution, on motion by Commissioner Fink, seconded by Commissioner Clark, was adopted at the Planning Commission meeting of August 14, 2013 by the following vote:

AYES: Commissioners Fink, Clark, Leach, Rodenhi

NOES: None

ABSENT: Commissioners Cioni



Lucille T. Breese, AICP, Secretary



Ron Fink, Chair

Exhibit A – Draft Ordinance No. XXXX (13)

ORDINANCE NO. XXXX (13)

An Ordinance of the Council of the City of Lompoc,
County of Santa Barbara, State of California,
Amending Lompoc Municipal Code Chapter 17.136 – Home Occupation Permits

THE CITY COUNCIL OF THE CITY OF LOMPOC DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 17.136 of the Lompoc Municipal Code is hereby amended to read as follows:

Chapter 17.136 HOME OCCUPATION PERMITS

Sections:

~~17.136.010 Granted by Community Development Director~~

17.136.020 Intent and Purpose

17.136.025 Definitions

17.136.030 Application Procedure

17.136.040 Special **Operating** Standards

~~17.136.050 Appeal.~~

~~17.136.010 Granted by Community Development Director.~~

~~The Community Development Director may review applications for home occupation permits and, without public hearing, grant the use in whole or in part, with or without conditions, in the place and stead of the Planning Commission and in conformance with this Chapter. Upon such granting of a home occupation permit and the acceptance thereof by the applicant, the granting, including conditions thereon, by the Community Development Director, shall have the same force and effect as though the Planning Commission had granted the permit. In the event that the applicant does not agree with a condition upon or a disapproval of the application or any part of the use, he or she shall, in writing, request a review thereon by the Planning Commission. Upon such request being filed, the decision of the Community Development Director shall be set aside and be null and void as though not rendered. Thereafter, the proceeding shall be as provided in the Zoning Ordinance. (Added during 2008 recodification)~~

17.136.020 Intent and Purpose.

The provisions set forth in this section are intended to allow those uses which are clearly incidental to the use of, and compatible with, **the residential use of the property and** surrounding residential uses. (~~Ord. 1537 § 1, 2006; prior code § 8895~~)

17.136.025 Definitions

- A. General Home Occupation Permit** – any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental to the use of the structure for dwelling purposes and which does not change the character thereof or does not adversely affect the uses permitted in the zone of which it is a part. ~~Home occupation may be engaged in when permitted by these regulations provided the category of home occupation has been approved by the Commission as valid and conforming with the criteria and conditions stated in Chapter 17.136.~~
- B. Cottage Food Operation** – ***An enterprise with gross annual sales limits set forth in subdivision (a) of section 113758 of the Health and Safety Code, is operated by a Cottage Food Operator and having not more than one full-time equivalent cottage food employees, not including a family member of household member of the Cottage Food Operator, and conducted within the Registered or Permitted Area of a private home where the Cottage Food Operator resides and where Cottage Food Products are prepared and/or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to section 113758 subdivision (b), subsections (4) and (5) of the Health and Safety Code. A Cottage Food Operation includes both of the following:***
- 1. Class A Cottage Food Operations** may engage only in direct sales of Cottage Food Products from the Cottage Food Operation or other direct sales venues such as temporary events. A separate permit from the County of Santa Barbara shall be required to operate a temporary food facility at such events. A Class A Cottage Food Operation shall not be open for business unless it is registered with the County of Santa Barbara.
 - 2. Class B Cottage Food Operations** may engage in both direct sales and indirect sales of Cottage Food Products such as a permitted third-party retail food facility. A Class B Cottage Food Operator shall not be open for business unless it obtains a permit from the County of Santa Barbara.
- C. Direct Sales**. A transaction between a Cottage Food Operator and a consumer where the consumer purchases the Cottage Food Product directly from the Cottage Food Operator. Examples include, but are not limited to, holiday bazaars, temporary events, bake sales, food swaps, certified farmers' markets and community-supported agricultural subscriptions.
- D. Indirect Sales**. An interaction between a Cottage Food Operator, a third party retailer, and a consumer, where the consumer purchases Cottage Food Products made by the Cottage Food Operation from a third party retailer that holds a valid permit.
- E. Registered or Permitted Area**, A private home kitchen described and authorized in the permit or registration for the Cottage Food Operation and

used for the preparation, packaging, storage, or handling of Cottage Food Products and related ingredients and/or equipment, and attached rooms within the home that are used exclusively for storage. Detached accessory buildings, including garages and guest quarters, enclosed patios and second units are not included as registered or permitted areas.

17.136.030 Application Procedure.

A. An Application for a Home Use Permit shall be filed with the Zoning Administrator.

1. ~~Shall be filed by owner or authorized agent on forms provided in the Community Development Department;~~ **Planning Division;**
2. ~~Shall include a complete, written description of the proposed use~~ **all information required on the Submittal List for Home Occupation Permit available at the Planning Division or on the City website at http://www.cityoflompop.com/comdev/planning_apps.htm**
3. Shall include a filing fee, adopted by City Council; and
4. Shall include an acknowledgement signed by the applicant, of special standards applicable to home occupation use permit as identified in Section 17.136.040.
5. The application for a Cottage Food Operator shall include a dimensioned site plan and floor plan showing the following:
 - a. **Spacing: No Cottage Food Operator shall be approved if: (1) the property line of the site of the proposed use is located within 300 feet on the same street or the corner of a cross-street of the property line of any single family home where another Cottage Food Operation operates under an existing HUP; or (2) if the proposed use is located within the same building of an apartment complex or other multi-family housing (i.e. condominium or townhome) where another Cottage Food Operation operates under an existing HUP.**
 - b. **Parking and Loading Requirements: For single family homes, parking spaces in the property garage or carport and driveway shall be available for the actual parking demand created by the use, including parking space for the applicant's own vehicles, parking spaces for employee(s) if employees(s) are present, and one parking space for customers if direct sales on the property are proposed. For apartments and multi-family developments, the Cottage Food Operator's designated space(s) shall be available for the actual parking demand created by the use, including parking spaces for the applicant's own vehicles, parking spaces for employee(s) if employee(s) are present, and one parking space for customers if direct sales on the property are proposed. On-site parking in an apartment complex or other multi-family residence require approval from the property owner, landlord, homeowners association or property manager.**
 - c. **Noise Control: Cottage Food Operations shall not create noise levels in**

excess of those allowed in the applicable residential areas in the noise element of the General Plan or in excess of those allowed in LMC Chapter 8.08.

- d. Size: Cottage Food Operations shall occupy no more of a residence than the lesser of (1) thirty percent (30%) of the floor area of the dwelling excluding the garage area; or (2) the area permitted by SBCO.**
- e. No Signage: Cottage Food Operations shall not install or post signage or advertisements identifying the Cottage Food Operation at the site or building where the Cottage Food Operation is located.**
- f. No Outdoor Sales: No outdoor sales shall be allowed at the site of the Cottage Food Operation.**
- g. No Dining: If direct sales are proposed at the site of the Cottage food Operation, no third parties or customers shall be permitted to dine at the Cottage Food Operation.**
- h. Code requirements: While the use of a residence for a Cottage Food Operation shall not constitute a change of occupancy for purposes of building and fire codes, to the extent that building modifications are proposed (e.g. more walls for storage areas, new electrical panel for range) a building permit shall be required from the Building Division.**

B. Permit Issuance and Duration.

- 1. ~~Planning staff~~ **The Zoning Administrator** shall approve, conditionally approve, or deny the home use permit within 72 hours of acceptance of a completed application;
- 2. Upon issuance of the home use permit by ~~Planning staff~~, **the Zoning Administrator**, the applicant shall obtain a business tax certificate from the City Clerk;
- 3. Home occupation permit shall remain valid and in full force unless:
 - a. Applicant/business relocates to a new address, in which case a new home use permit must be obtained; or
 - b. Applicant/business operates in a manner that violates the special standards and results in code enforcement action by the City of Lompoc. In which case, the home use permit may be referred to the Planning Commission for revocation.

(Ord. 1537 § 1, 2006; prior code § 8896)

17.136.040 Special Operating Standards.

A. General Home Occupation Permit

The following special standards shall be conditions of approval for each **general** home occupation use permit. Additional conditions may be imposed by the ~~Community Development Director~~ **Zoning Administrator** if required to insure compatibility with existing neighboring residential uses.

- A. 1. All applicable provisions of the Lompoc Municipal Code are made a part of these conditions of approval in their entirety, as if fully contained herein.
- B. 2. The home occupation shall be located entirely within a residence in a residentially zoned property.
- C. 3. There shall be no employees in connection with the home occupation, within the home at any time including before or after the work day, other than a member of the resident household.
- D. 4. There shall be no use of materials or mechanical equipment not recognized as part of normal household or hobby uses.
- E. 5. There shall be no customers of the business or sales of products on the premises.
- F. 6. The business shall not involve the use of commercial vehicles for delivery of materials to or from the premises other than a vehicle not to exceed the capacity of one ton, owned by the business owner which shall be stored in an entirely enclosed garage.
- G. 7. Storage of materials and/or supplies related to the business, outside the residence, is not permitted.
- H. 8. No signs shall be displayed on the site in connection with the home occupation. There may be advertising on a vehicle that should not exceed three square feet in total. Magnetic signage is recommended.
- I. 9. In no way shall the appearance of the dwelling be altered to identify the business and change the residential character of the existing neighborhood.
- J. 10. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes as defined in the district. (Ord. 1537 § 1, 2006; prior code § 8897.)

B. Cottage Food Industry Operation

Consistent with the operational requirements set forth in California Health and Safety Code Section 114365 et seq., a Cottage Food Operation shall comply with the following:

- 1. All applicable provisions of the Lompoc City Code are made a part of these conditions of approval in their entirety, as if fully contained herein.***
- 2. The Cottage Food Operation shall be registered with the Santa Barbara County Office of Environmental Health and conform with all regulations of AB 1616.***
- 3. Food preparation shall take place entirely within the permitted area of the residence which is the private kitchen area with storage located in the same structure in residentially zoned property.***
- 4. Only foods defined as "non-potentially hazardous" are approved for preparation by CFO's. The California Department of Public Health will establish and maintain a list of approved cottage food categories on their***

website which will be subject to change.

5. There may be one full-time equivalent employee (not counting family members or household members).

6. No signage shall be displayed on the site in connection with the CFO. There may be advertising on a vehicle that should not exceed three (3) square feet in total. Magnetic signage is recommended.

7. Class A CFO's are allowed to engage in "direct sale" (transaction between a CFO operator and a consumer making a direct purchase from the CFO operator), including up to two (2) customers on-site at one time.

8. Class B CFO's may engage in both "direct sale" and "indirect sale" of cottage food products (transaction where a consumer purchases products made by the CFP from a third-party retailer and can be immediately consumed on the premises).

9. No Cottage Food Product preparation, packaging, or handling may occur concurrent with any other domestic activities, including, but not limited to, family meal preparation, guest entertaining or dishwashing.

10. No infants, small children, or pets may be in the Registered or Permitted Area during the preparation, packaging, or handling of any Cottage Food Products.

11. Equipment and utensils used to produce Cottage Food Product shall be clean and maintained in a good state of repair.

12. All food contact surfaces, equipment, and utensils, used for the preparation, packaging, or handling of any Cottage Food Products shall be washed, and sanitized before each use.

13. All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

14. No preparation, packaging, storage, or handling of Cottage Food Products and related ingredients and/or equipment shall occur outside of the Registered or Permitted Area.

15. Smoking shall be prohibited in the Registered or Permitted Area during the preparation, packaging, storing, or handling of Cottage Food Products and related ingredients and equipment.

16. A person with a contagious illness shall refrain from work in the Registered or Permitted Area of the Cottage Food Operation.

17. A person involved in the preparation or packaging of Cottage Food Product shall keep his or her hands clean and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity.

18. Water used during the preparation of Cottage Food Products shall meet potable drinking water standards.

19. A person who prepares or packages Cottage Food Products shall complete a food processor course instructed by the California Department of Public Health within three months of becoming registered or permitted.

20. A Cottage Food Operation shall properly package and label all Cottage Food Products in compliance with the Federal Food, Drug and

Cosmetic Act (21 U.S.C. Section 343 et seq.) and the Department's additional labeling requirements.

17.136.050 Appeal.

Decisions of the Zoning Administrator (or designee) may be appealed to the Planning Commissioner per Section 17.006.020.

