

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To: Matthew Fertal  
From: Susan Emery  
Dept: City Manager  
Dept: Community Development  
Subject: CONSIDER AMENDMENT  
NO. A-173-14 TO AMEND TITLE 9  
OF THE MUNICIPAL CODE TO  
ESTABLISH REGULATIONS  
PERTAINING TO PERMITTING AND  
OPERATION OF COTTAGE FOOD  
OPERATIONS, AND A RESOLUTION  
ESTABLISHING A COTTAGE FOOD  
PERMIT APPLICATION FEE (PUBLIC  
HEARING MATTER)  
Date: February 25, 2014

OBJECTIVE

To transmit a recommendation from the Planning Commission to amend Title 9 of the City's Municipal Code to establish standards, restrictions, and requirements pertaining to the permitting and operation of Cottage Food Operations, pursuant to the California Homemade Food Act (AB 1616), and to obtain City Council approval of a Resolution establishing a Cottage Food Permit Application fee.

BACKGROUND

AB 1616 allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens referred to as "cottage food operations" (CFOs), for direct or indirect sale to consumers. Pursuant to the new law, cities are authorized to establish reasonable standards, restrictions, and requirements pertaining to CFOs concerning spacing and concentration, traffic control, parking, and noise control, and to require a CFO to obtain a non-discretionary permit.

On January 16, 2014, the Planning Commission held a Public Hearing and considered Amendment No. A-173-14 to amend Title 9 of the Garden Grove Municipal Code to establish standards, restrictions, and requirements pertaining to the permitting and operation of CFOs in the City consistent with the California Homemade Food Act. No members of the public spoke regarding the proposed Amendment. Following the Public Hearing, the Planning Commission voted five (Yes) - one (No) - one (Abstain) to adopt Resolution No. 5803-14 recommending that the City Council approve Amendment No. A-173-14.

## DISCUSSION

The proposed amendment to Title 9 of the Municipal Code will establish standards, restrictions, and requirements pertaining to the permitting and operation of CFOs, pursuant to AB 1616.

### Cottage Food Operations and Cottage Food Products

The California Homemade Food Act allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens referred to as CFOs, for direct or indirect sale to consumers. The list of allowed "cottage food products" is maintained by the California Department of Public Health and generally includes items that do not require refrigeration to keep them safe or prevent bacterial growth. The most current list of foods approved by the California Department of Public Health is attached.

### State and County Regulations Governing Cottage Food Operations

All cottage food operators are subject to specified requirements and limitations set out in AB 1616, which include the following:

- A CFO may only have one full-time equivalent employee, not including the operator's family or household members.
- CFOs may not have gross sales greater than \$35,000 in 2013, \$45,000 in 2014, and \$50,000 in 2015 and beyond.
- Cottage food preparation may not occur in the home kitchen concurrent with other domestic activities, such as family meal preparation, dishwashing, kitchen cleaning, or guest entertainment.
- There cannot be any infants, small children, or pets in the kitchen during cottage food preparation, packaging, or handling.
- The operator must keep all kitchen equipment and utensils clean and in good repair.
- Food contact surfaces, equipment, and utensils must be washed and sanitized before each use.
- Food preparation and food and equipment storage areas must be maintained free of rodents and insects.

- Smoking is prohibited in the kitchen during food preparation and packaging.
- Individuals with contagious illnesses may not be in cottage food kitchens.
- All individuals involved in cottage food preparation must wash their hands before food preparation and packaging.
- All water used in the cottage food process must be potable water.
- Anyone who prepares or packages cottage food products must complete a food processor course provided by the Department of Health within three months of becoming registered.
- A CFO must label all its products in compliance with the Federal Food, Drug, and Cosmetic Act.

Pursuant to AB 1616, the County of Orange Health Care Agency is the local enforcement agency responsible for registering or permitting and inspecting CFOs in Orange County and ensuring that the CFOs comply with all Health and Safety Code requirements. State law requires all CFOs to be registered or permitted by their local environmental health agency before commencing business and establishes a two-tier cottage food operator registration and permitting system:

**"Class A"** cottage food operators are those operations that sell CFO prepared foods directly to the public (at the home where the CFO is located or at special events such as holiday bazaars, bake sales, food swaps, or certified farmers' markets).

**"Class B"** cottage food operators are those operations that sell CFO prepared foods either indirectly through third-party retailers such as restaurants and stores or both directly to the public as well as indirectly to the public via sale to retail food facilities such as restaurants and markets.

Requirements are different for "Class A" and "Class B" CFOs. "Class A" CFOs must submit a completed self-certification checklist approved by the County when they submit their registration application verifying that the CFO conforms to applicable California Health and Safety Code requirements. "Class B" operations must submit a permit application and be inspected prior to obtaining a permit from the County. Both "Class A" registrations and "Class B" permits from the County must be renewed annually. The County may inspect the permitted or registered area of the private home in which a CFO prepares, handles, or stores food prior to issuing a permit to a "Class B" CFO and on the basis of a consumer complaint where there is

reason to suspect that adulterated or otherwise unsafe food has been produced by the CFO or that the CFO has violated provisions of law related to CFOs. The Cottage Food Operation Information Bulletin from the County of Orange Health Care Agency is attached for further information.

#### Authority of Cities to Regulate CFOs

Pursuant to Government Code Section 51035, cities may not entirely prohibit CFOs in residential dwellings. However, cities may establish reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control, and may require a CFO to obtain a permit, which must be granted if the CFO complies with applicable standards, restrictions, and requirements. Cities that require CFOs to obtain a permit must provide applicants with information regarding necessary permits and fees and the anticipated time required to process the application. In the absence of the City adopting the proposed ordinance, CFOs will be allowed to operate in accordance with AB 1616 without any City restrictions or requirements.

Pursuant to Government Code Section 51035, use of a residence for the purposes of a CFO shall not constitute a change of occupancy for purposes of the State Housing Law or local building and fire codes, and CFOs shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.

#### Proposed Land Use Code Amendments to Address CFOs

Amendment No. A-173-14 would establish regulations consistent with the new State law designed to allow Garden Grove residents to operate CFOs out of their homes in accordance with the California Homemade Food Act, while minimizing negative impacts on neighbors and protecting public health and safety. The proposed regulations would be implemented through amendments to Title 9 (i) to add pertinent definitions to Chapter 9.04, (ii) to amend the land use tables in Chapters 9.04, 9.08, and 9.18 to add "Cottage Food Operations" as a permitted incidental use to any legally established residential dwelling unit in residential and mixed use zones; and (iii) to establish identical standards, restrictions, and requirements in Chapters 9.08, 9.12, and 9.18 pertaining to the permitting and operation of CFOs in the City. The proposed regulations are summarized below:

- All CFO operators in the city would be required to apply for and obtain a Cottage Food Operation Permit from the City. Permit applications would be considered by the Zoning Administrator, who would be required to issue the Permit within thirty (30) days of receipt of a complete application if the applicant is in compliance with all applicable standards, restrictions, and

requirements. CFO Permits would be non-transferable and would continue to be valid for so long as (i) the Permit has not been revoked by the Zoning Administrator, (ii) the Cottage Food Operator continues to reside at and operate a CFO from the dwelling unit described in the application, (iii) the Cottage Food Operator continues to maintain a valid registration or permit issued by the County Health Care Agency for the CFO, (iv) the express authorization of each owner of the dwelling unit or such owner's authorized agent, if required, has not been rescinded, and (v) the Cottage Food Operator maintains a current business operation tax certificate from the City.

- In order to mitigate potential adverse impacts on neighboring residences associated with noise, traffic, and parking, CFOs involving customer visitation or in-person direct sales transactions would not be permitted to be conducted within a dwelling unit on a lot located within five hundred (500) feet of another lot where a lawful CFO is located and at which customer visitation and in-person direct sales transactions are authorized.
- If the dwelling unit in which the CFO is conducted is owned by someone other than the Cottage Food Operator, the express written authorization of the property owner would be required.
- The Cottage Food Operator would be required to obtain and maintain a valid City business operation tax certificate and County registration or permit for the CFO and to comply with all applicable requirements of the Health and Safety Code and other laws.
- Changes or alterations of the outside appearance of a dwelling unit or premises in conjunction with the conduct of a CFO would be prohibited, and no additional exterior signage beyond that otherwise authorized pursuant to Chapter 9.20 of the Garden Grove Municipal Code would be permitted.
- All preparation, packaging, display, or handling of Cottage Food Products and related ingredients and equipment would be required to be confined to the kitchen, and all storage and other CFO-related activities would be required to be conducted indoors within the "Registered or Permitted Area" defined in the CFO's County-issued registration or permit.
- CFOs would be required to conform to the noise control standards for residential uses set forth in Chapter 8.47 of the Garden Grove Municipal Code, and to prevent noise, odor, smoke, vibration, and other similar intrusions from the CFO from affecting neighboring dwelling units.

- Direct sales of Cottage Food Products to customers from a dwelling unit would be limited to appointments only between the hours of 9:00 a.m. and 5:00 p.m., and on-site consumption of Cottage Food Products by customers would be prohibited.
- Commercial deliveries to or from the dwelling unit associated with CFOs would be limited to no more than one (1) per day, between the hours of 9:00-a.m. and 5:00 p.m.
- CFOs would be subject to all parking standards and restrictions applicable to residential uses, and pedestrian or vehicular traffic or parking needs generated by a CFO would be limited to that which is considered normal for the zoning district or neighborhood in which the CFO is located.
- Only the Cottage Food Operator, immediate family or household members of the Cottage Food Operator, and no more than one (1) full-time equivalent employee would be permitted to participate in the conduct of a CFO.
- CFOs would be required to maintain refuse containers of sufficient number and size and would be responsible for arranging for more or larger refuse containers and/or more frequent solid waste removal if necessitated by the CFO.

Adoption of the proposed Resolution will require any person who wished to operate a CFO to obtain a permit.

The City may charge a fee in an amount necessary to recover its estimated reasonable costs to process and review each permit application and to determine whether the applicant is compliant with all requirements. Anticipated costs to the City include staff time to receive and process the permit application and associated materials costs.

Staff has evaluated the time and costs that will be involved in these tasks and determined that the anticipated minimum cost to review, process, and evaluate each application is approximately \$100. Accordingly, staff recommends that the permit fee be set at \$100. A breakdown of staff's cost evaluation is attached.

FISCAL IMPACT

Adoption of the proposed Resolution would result in receipt by the City of \$100 in revenue for each permit application submitted to offset costs in staff time to process, review, and approve each application.

RECOMMENDATION

It is recommended that the City Council take the following actions:

- Conduct a Public Hearing;
- Introduce and conduct the first reading of the attached ordinance approving Amendment No. A-173-14, establishing regulations pertaining to permitting and operation of Cottage Food Operations, as recommended by the Planning Commission; and
- Adopt the proposed Resolution establishing a Cottage Food Operation Permit Application Fee.



SUSAN EMERY  
Community Development Director



By: Allison Mills  
Neighborhood Improvement Manager

**Approved for Agenda Listing**



**Matthew Fertal**  
City Manager

- Attachment 1: List of Approved Cottage Foods  
Attachment 2: Cottage Food Operation Informational Bulletin  
Attachment 3: Planning Commission Staff Report dated January 16, 2014  
Attachment 4: Planning Commission Resolution No. 5803-14  
Attachment 5: Planning Commission Minute Excerpt of January 16, 2014  
Attachment 6: Proposed Cottage Food Ordinance  
Attachment 7: Resolution



## Approved Cottage Foods

Cottage food operations are allowed to produce certain non-potentially hazardous foods. These are foods that do not support the rapid growth of bacteria that would make people sick when held outside of refrigeration temperatures. The list of approved cottage food categories and their ethnic variations, which cottage food operations are allowed to produce, are listed below. The list will be maintained and updated by the California Department of Public Health (CDPH) on its Internet website as necessary.

CDPH may add to or delete food products from the approved products list. Notice of any change, reason for the change, the authority for the change, and the nature of the change to the approved food products list will be posted on the CDPH website and shall become effective thirty (30) days after the notice is posted.

### Approved Food Products List (January 1, 2013):

- (1) Baked goods, without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
  - (2) Candy, such as brittle and toffee.
  - (3) Chocolate-covered nonperishable foods, such as nuts and dried fruits.
  - (4) Dried fruit.
  - (5) Dried pasta.
  - (6) Dry baking mixes.
  - (7) Fruit pies, fruit empanadas, and fruit tamales.
  - (8) Granola, cereals, and trail mixes.
  - (9) Herb blends and dried mole paste.
  - (10) Honey and sweet sorghum syrup.
  - (11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
- \*see below
- (12) Nut mixes and nut butters.
  - (13) Popcorn.
  - (14) Vinegar and mustard.
  - (15) Roasted coffee and dried tea.
  - (16) Waffle cones and pizzelles.

\*Jams, jellies, preserves, and fruit butter: Cottage food operations which produce jams, jellies, preserves, and other related products must be sure that their products meet the legal established standards of identity requirements for those products as set forth in 21 CFR Part 150. The purpose of the regulation is to maintain the integrity of the food product to ensure consumers consistently get what they expect. The product name and ingredients listed on the label must be factual and comply with the legal definitions and standards of identity or the product may be considered misbranded. Products made with other ingredients that are not defined in 21 CFR 150 cannot be produced by cottage food operations. Addition of other ingredients or alteration of ingredient profiles changes the chemistry of the food, which can allow the growth of various bacteria and toxins under the right conditions. For example, addition of peppers (i.e. jalapeno pepper) to make pepper jelly is not supported by 21 CFR 150 and the addition of this low acid ingredient could cause the formation of botulism toxin in the product if the proper controls are not used.





# HEALTH CARE AGENCY/PUBLIC HEALTH ENVIRONMENTAL HEALTH INFORMATIONAL BULLETIN

## Cottage Food Operation Information

As of January 1, 2013, California law allows certain foods to be made from home. This document provides basic information for anyone considering starting a Cottage Food business. For more detailed information please visit our web page at <http://ocfoodinfo.com/cottage>.

### What foods can I make in my home?

This law allows only specific foods. The state keeps a list of food products you are allowed to make. Some examples include muffins, cookies, nuts, candies, roasted coffee beans, and popcorn. An updated list of approved food products can be found at <http://www.cdph.ca.gov/programs/Pages/fdbCottageFood.aspx>.

### Do I Need A Permit?

Yes, the new law allows for two different options, Class A and Class B.

**Class A** is for selling food directly to individuals such as customers at a community event. Class A requires the operator to register with the local health department. There is no inspection with a Class A registration.

**Class B** is for selling to retailers who will then resell the food. For example, you sell food to a market who resells it to their customers. Class B requires the operator to obtain a permit from the local health department. There is a yearly inspection in order to obtain a Class B permit.

A permit may also be required for the location where cottage food is sold outside the home, such as a booth at a community event.

### Do I have to take any classes?

You and all others that are a part of your operation must take an approved food safety class within 90 days of obtaining your permit or registration. You can find a list of State-approved classes at <http://www.cdph.ca.gov/programs/Pages/fdbCottageFood.aspx>.

### How do I get a permit?

Prior to applying for registration or a permit, check with your local government for any local requirements. You may apply for a registration or permit by completing the application packet. The packet is available at the Environmental Health office or online at <http://ocfoodinfo.com/cottage>. You will need to renew your registration or permit each year and also if you change the types of food, or relocate to a different home.

### How much does Class A Registration or a Class B Permit cost?

The current fee for registration or a permit will be based on the time needed to review and process the application and, if necessary, the time spent on inspections. The fee amount will be \$26.75 per 15 minutes or a fraction thereof. Under normal circumstances most reviews should take no more than 45 minutes for a Class A registration and no more than 2 ½ hours for the Class B permit, which includes the one inspection with related program activities.

### What restrictions are there?

You can only make and store food in your kitchen and an attached storage room that is only used for your home operation. You may only hire up to one full-time employee. Annual gross sales may not exceed the following.

\$35,000 during the 2013 calendar year

\$45,000 during the 2014 calendar year

\$50,000 per calendar year from 2015 and on

### Am I subject to complaint investigations? Do I need to grant access into my home?

Environmental Health may investigate any complaint received concerning cottage food operations. If your cottage food operation is the subject of a complaint, you must allow a representative of Environmental Health in your cottage food operation to conduct an inspection.

### Are there labeling requirements?

Yes, all Cottage food operations must meet specified requirements relating to labeling under Sherman Law and conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens.

### Where can I get more information?

To obtain additional information, please visit the following websites:

Orange County Environmental Health at: [www.ocfoodinfo.com](http://www.ocfoodinfo.com)

California Department of Public Health at: <http://www.cdph.ca.gov/programs/Pages/fdbCottageFood.aspx>

# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.1.	<b>SITE LOCATION:</b> Citywide
<b>HEARING DATE:</b> January 16, 2014	<b>GENERAL PLAN:</b> N/A
<b>CASE NO.:</b> Amendment No. A-173-14	<b>ZONE:</b> N/A
<b>APPLICANT:</b> City of Garden Grove	<b>APN:</b> N/A
<b>OWNER:</b> N/A	<b>CEQA DETERMINATION:</b> Exempt

## **REQUEST:**

A request for Planning Commission recommendation to City Council to amend Title 9 of the City of Garden Grove's Municipal Code to establish standards, restrictions, and requirements pertaining to the permitting and operation of Cottage Food Operations, pursuant to the California Homemade Food Act, Chapter 415, Statutes of 2012.

## **BACKGROUND:**

On September 21, 2012, the California Homemade Food Act (AB 1616) was passed into law and became effective on January 1, 2013. The law allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens referred to as "cottage food operations" (CFOs), for direct or indirect sale to consumers.

The proposed amendment will amend Title 9 of the Garden Grove Municipal Code to establish standards, restrictions, and requirements pertaining to the permitting and operation of CFOs in the City consistent with the California Homemade Food Act.

## **DISCUSSION:**

### Cottage Food Operations and Cottage Food Products

The California Homemade Food Act, Chapter 415, Statutes of 2012 (AB 1616), which became effective January 1, 2013, allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens referred to as "cottage food operations" (CFOs), for direct or indirect sale to consumers. The list of allowed "cottage food products" is maintained by the California Department of Public Health and generally includes items that do not require refrigeration to keep them safe or prevent bacterial growth. A copy of AB 1616 and the most current list of foods approved by the California Department of Public Health are attached.

State and County Regulations Governing Cottage Food Operations

All cottage food operators are subject to specified requirements and limitations set out in the California Health and Safety Code, which include the following:

- A cottage food operation may only have one full-time equivalent employee, not including the operator's family or household members. (Health & Safety Code, § 113758(a).)
- Cottage food operations may not have gross sales greater than \$35,000 in 2013, \$45,000 in 2014, and \$50,000 in 2015 and beyond. (Health & Safety Code, § 113758(a).)
- Cottage food preparation may not occur in the home kitchen concurrent with other domestic activities, such as family meal preparation, dishwashing, kitchen cleaning, or guest entertainment. (Health & Safety Code, § 114365(a)(1)(A)(i).)
- There cannot be any infants, small children, or pets in the kitchen during cottage food preparation, packaging, or handling. (Health & Safety Code, § 114365(a)(1)(A)(ii).)
- The operator must keep all kitchen equipment and utensils clean and in good repair. (Health & Safety Code, § 114365(a)(1)(A)(iii).)
- Food contact surfaces, equipment, and utensils must be washed and sanitized before each use. (Health & Safety Code, § 114365(a)(1)(A)(iv).)
- Food preparation and food and equipment storage areas must be maintained free of rodents and insects. (Health & Safety Code, § 114365(a)(1)(A)(v).)
- Smoking is prohibited in the kitchen during food preparation and packaging. (Health & Safety Code, § 114365(a)(1)(A)(vi).)
- Individuals with contagious illnesses may not be in cottage food kitchens. (Health & Safety Code, § 114365.2(a).)
- All individuals involved in cottage food preparation must wash their hands before food preparation and packaging. (Health & Safety Code, § 114365.2(b).)
- All water used in the cottage food process must be potable water. (Health & Safety Code, § 114365.2(c).)
- Anyone who prepares or packages cottage food products must complete a food processor course provided by the Department of Health within three months of becoming registered. (Health & Safety Code, § 114365.2(d).)

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- A cottage food operation must label all its products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C § 343 et seq.). (Health Safety Code, § 114365.2(e).)

Pursuant to AB 1616, the County of Orange Health Care Agency is the local enforcement agency responsible for registering or permitting and inspecting CFOs in Orange County and ensuring that the CFOs comply with all Health and Safety Code requirements. State law requires all cottage food operations to be registered or permitted by their local environmental health agency before commencing business and establishes a two-tier cottage food operator registration and permitting system:

**"Class A"** cottage food operators are those operations that sell CFO prepared foods directly to the public (at the home where the cottage food operation is located or at special events such as holiday bazaars, bake sales, food swaps, or certified farmers' markets).

**"Class B"** cottage food operators are those operations that sell CFO prepared foods either indirectly through third-party retailers such as restaurants and stores or both directly to the public as well as indirectly to the public via sale to retail food facilities such as restaurants and markets.

Requirements are different for "Class A" and "Class B" cottage food operations. "Class A" cottage food operations must submit a completed self-certification checklist approved by the County when they submit their registration application verifying that the cottage food operation conforms to applicable California Health and Safety Code requirements. "Class B" operations must submit a permit application and be inspected prior to obtaining a permit from the County. Both "Class A" registrations and "Class B" permits from the County must be renewed annually. The County may inspect the permitted or registered area of the private home in which a cottage food operation prepares, handles, or stores food prior to issuing a permit to a "Class B" CFO and on the basis of a consumer complaint where there is reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated provisions of law related to cottage food operations. The Cottage Food Operation Information Bulletin from the County of Orange Health Care Agency is attached for further information.

#### Authority of Cities to Regulate CFOs

Pursuant to Government Code Section 51035, cities may not entirely prohibit cottage food operations in residential dwellings. However, cities may establish reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control, and may require a CFO to obtain a permit, which must be granted if the CFO complies with applicable standards, restrictions, and requirements. Cities that require CFOs to obtain a permit must provide applicants with information regarding necessary permits and fees and the anticipated time required to process the application.

Pursuant to Government Code Section 51035, use of a residence for the purposes of a cottage food operation shall not constitute a change of occupancy for purposes of the State Housing Law or local building and fire codes, and cottage food operations shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.

#### Proposed Land Use Code Amendments to Address CFOs

Staff is proposing that the City adopt regulations consistent with the new State law designed to allow Garden Grove residents to operate CFOs out of their homes in accordance with the California Homemade Food Act, while minimizing negative impacts on neighbors and protecting public health and safety. The proposed regulations would be implemented through amendments to Title 9 (i) to add pertinent definitions to Chapter 9.04, (ii) to amend the land use tables in Chapters 9.04, 9.08, and 9.18 to add "Cottage Food Operations" as a permitted incidental use to any legally established residential dwelling unit in residential and mixed use zones; and (iii) to establish identical standards, restrictions, and requirements in Chapters 9.08, 9.12, and 9.18 pertaining to the permitting and operation of CFOs in the City. The proposed regulations are summarized below:

- All CFO operators in the City would be required to apply for and obtain a Cottage Food Operation Permit from the City. Permit applications would be considered by the Zoning Administrator, who would be required to issue the Permit within thirty (30) days of receipt of a complete application if the applicant is in compliance with all applicable standards, restrictions, and requirements. CFO Permits would be non-transferable and would continue to be valid for so long as (i) the Permit has not been revoked by the Zoning Administrator, (ii) the Cottage Food Operator continues to reside at and operate a CFO from the dwelling unit described in the application, (iii) the Cottage Food Operator continues to maintain a valid registration or permit issued by the County Health Care Agency for the CFO, (iv) the express authorization of each owner of the dwelling unit or such owner's authorized agent, if required, has not been rescinded, and (v) the Cottage Food Operator maintains a current business operation tax certificate from the City.
- In order to mitigate potential adverse impacts on neighboring residences associated with noise, traffic, and parking, CFOs involving customer visitation or in-person direct sales transactions would not be permitted to be conducted within a dwelling unit on a lot located within two hundred (200) feet of another lot that takes direct access from the same public street on which a lawful CFO is located and at which customer visitation and in-person direct sales transactions are authorized.
- If the dwelling unit in which the CFO is conducted is owned by someone other than the Cottage Food Operator, the express written authorization of the property owner would be required.

- The Cottage Food Operator would be required to obtain and maintain a valid City business operation tax certificate and County registration or permit for the CFO and to comply with all applicable requirements of the Health and Safety Code and other laws.
- Changes or alterations of the outside appearance of a dwelling unit or premises in conjunction with the conduct of a CFO would be prohibited, and no additional exterior signage beyond that otherwise authorized pursuant to Chapter 9.20 of the Garden Grove Municipal Code would be permitted.
- All preparation, packaging, display, or handling of Cottage Food Products and related ingredients and equipment would be required to be confined to the kitchen, and all storage and other CFO-related activities would be required to be conducted indoors within the "Registered or Permitted Area" defined in the CFO's County-issued registration or permit.
- CFOs would be required to conform to the noise control standards for residential uses set forth in Chapter 8.47 of the Garden Grove Municipal Code, and to prevent noise, odor, smoke, vibration, and other similar intrusions from the CFO from affecting neighboring dwelling units.
- Direct sales of Cottage Food Products to customers from a dwelling unit would be limited to appointments only between the hours of 7:00 a.m. and 8:00 p.m., and on-site consumption of Cottage Food Products by customers would be prohibited.
- Commercial deliveries to or from the dwelling unit associated with CFOs would be limited to no more than one (1) per day, between the hours of 8:00 a.m. and 6:00 p.m.
- CFOs would be subject to all parking standards and restrictions applicable to residential uses, and pedestrian or vehicular traffic or parking needs generated by a CFO would be limited to that which is considered normal for the zoning district or neighborhood in which the CFO is located.
- In accordance with California Health and Safety Code Section 113758, only the Cottage Food Operator, immediate family or household members of the Cottage Food Operator, and no more than one (1) full-time equivalent employee would be permitted to participate in the conduct of a CFO.
- CFOs would be required to maintain refuse containers of sufficient number and size and would be responsible for arranging for more or larger refuse containers and/or more frequent solid waste removal if necessitated by the CFO.

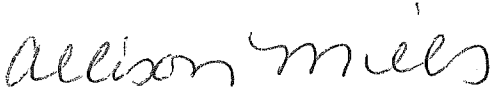
**RECOMMENDATION:**

Staff recommends that the Planning Commission:

- Adopt the attached Resolution recommending approval of Amendment No. A-173-14 to the City Council.



Karl Hill  
Planning Services Manager



Allison Mills  
Code Enforcement Manager

Attachments: AB 1616  
List of Approved Cottage Foods  
Cottage Food Operation Informational Bulletin  
Resolution No. 5803-14

## RESOLUTION NO. 5803-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THAT THE CITY COUNCIL APPROVE AMENDMENT NO. A-173-14, A CODE AMENDMENT TO ESTABLISH STANDARDS, RESTRICTIONS, AND REQUIREMENTS PERTAINING TO THE PERMITTING AND OPERATION OF COTTAGE FOOD OPERATIONS.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on January 16, 2013, does hereby recommend the City Council approve Amendment No. A-173-14, a Land Use Code text amendment to Chapters 9.04, 9.08, 9.12, and 9.18 of Title 9 of the Garden Grove Municipal Code to establish standards, restrictions, and requirements pertaining to the permitting and operation of Cottage Food Operations pursuant to the California Homemade Food Act.

BE IT FURTHER RESOLVED that the Planning Commission recommends the City Council find that the proposed Code Amendment is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

BE IT FURTHER RESOLVED in the matter of Amendment No. A-173-14, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by the City of Garden Grove.
2. The City of Garden Grove proposes to amend Chapters 9.04, 9.08, 9.12, and 9.18 of Title 9 of the Garden Grove Municipal Code, as shown in the draft Ordinance attached as Exhibit "A" to this Resolution, to establish standards, restrictions, and requirements pertaining to the permitting and operation of cottage food operations pursuant to the California Homemade Food Act.
3. Pursuant to the proposed Code Amendment, cottage food operations will be permitted in residential and mixed use zones as an incidental use to any legally established residential dwelling units, provided specified distance and concentration limits are satisfied, certain standards, restrictions and requirements are complied with, and an administrative permit is obtained from the Zoning Administrator.
4. The Community Development Department has determined that the proposed Code Amendment is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title



14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

5. Existing land use, zoning, and General Plan Land Use designations of the areas affected by this Code Amendment have been reviewed.
6. Report submitted by City staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on January 16, 2014, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter during its meeting of January 16, 2014.

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Section 9.32.030, are as follows:

FACTS:

The California Homemade Food Act, Chapter 415, Statutes of 2012 (AB 1616), which became effective January 1, 2013, allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens referred to as "cottage food operations" (CFOs), for direct or indirect sale to consumers. The list of allowed "cottage food products" is maintained by the California Department of Public Health and generally includes items that do not require refrigeration to keep them safe or prevent bacterial growth, including the following:

- Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas;
- Candy, such as brittle or toffee;
- Chocolate-covered nonperishable foods, such as nuts and dried fruit;
- Dried fruit;
- Dried pasta;
- Dry baking mixes;
- Fruit pies, fruit empanadas, and fruit tamales;
- Granola, cereals, and trail mixes;
- Herb blends and dried mole paste;
- Honey and sweet sorghum syrup;
- Jams, jellies, preserves, and fruit butter;
- Nut mixes and nut butters;
- Popcorn;
- Vinegar and mustard;
- Roasted coffee and dried tea; and

- Waffle cones and pizzelles.

All cottage food operators are subject to specified requirements and limitations set out in the California Health and Safety Code, which include the following:

- A cottage food operation may only have one full-time equivalent employee, not including the operator's family or household members. (Health & Safety Code, § 113758(a).)
- Cottage food operations may not have gross sales greater than \$35,000 in 2013, \$45,000 in 2014, and \$50,000 in 2015 and beyond. (Health & Safety Code, § 113758(a).)
- Cottage food preparation may not occur in the home kitchen concurrent with other domestic activities, such as family meal preparation, dishwashing, kitchen cleaning, or guest entertainment. (Health & Safety Code, § 114365(a)(1)(A)(i).)
- There cannot be any infants, small children, or pets in the kitchen during cottage food preparation, packaging, or handling. (Health & Safety Code, § 114365(a)(1)(A)(ii).)
- The operator must keep all kitchen equipment and utensils clean and in good repair. (Health & Safety Code, § 114365(a)(1)(A)(iii).)
- Food contact surfaces, equipment, and utensils must be washed and sanitized before each use. (Health & Safety Code, § 114365(a)(1)(A)(iv).)
- Food preparation and food and equipment storage areas must be maintained free of rodents and insects. (Health & Safety Code, § 114365(a)(1)(A)(v).)
- Smoking is prohibited in the kitchen during food preparation and packaging. (Health & Safety Code, § 114365(a)(1)(A)(vi).)
- Individuals with contagious illnesses may not be in cottage food kitchens. (Health & Safety Code, § 114365.2(a).)
- All individuals involved in cottage food preparation must wash their hands before food preparation and packaging. (Health & Safety Code, § 114365.2(b).)
- All water used in the cottage food process must be potable water. (Health & Safety Code, § 114365.2(c).)
- Anyone who prepares or packages cottage food products must complete a food processor course provided by the Department of Health within three months of becoming registered. (Health & Safety Code, § 114365.2(d).)
- A cottage food operation must label all its products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C § 343 et seq.). (Health Safety Code, § 114365.2(e).)

Pursuant to AB 1616, the County of Orange Health Care Agency is the local enforcement agency responsible for registering or permitting and inspecting CFOs in Orange County and ensuring that the CFOs comply with all Health and Safety Code requirements. State law requires all cottage food operations to be registered or

permitted by their local environmental health agency before commencing business and establishes a two-tier cottage food operator registration and permitting system: 1) "Class A" cottage food operators are those operations that sell CFO prepared foods directly to the public (at the home where the cottage food operation is located or at special events such as holiday bazaars, bake sales, food swaps, or certified farmers' markets), and 2) "Class B" cottage food operators are those operations that sell CFO prepared foods either indirectly through third-party retailers such as restaurants and stores or both directly to the public as well as indirectly to the public via sale to retail food facilities such as restaurants and markets. There are different requirements for "Class A" and "Class B" cottage food operations. "Class A" cottage food operations must submit a completed self-certification checklist approved by the County when they submit their registration application verifying that the cottage food operation conforms to applicable California Health and Safety Code requirements. "Class B" operations must submit a permit application and be inspected prior to obtaining a permit from the County. Both "Class A" registrations and "Class B" permits from the County must be renewed annually. The County may inspect the permitted or registered area of the private home in which a cottage food operation prepares, handles, or stores food (1) prior to issuing a permit to a "Class B" CFO and (2) on the basis of a consumer complaint where there is reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated provisions of law related to cottage food operations.

Pursuant to Government Code Section 51035, cities may not prohibit cottage food operations in residential dwellings. However, cities may establish reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control, and may require a CFO to obtain a permit, which must be granted if the CFO complies with applicable standards, restrictions, and requirements. Cities that require CFOs to obtain a permit must provide applicants with information regarding necessary permits and fees and the anticipated time required to process the application. Pursuant to Government Code Section 51035, use of a residence for the purposes of a cottage food operation shall not constitute a change of occupancy for purposes of the State Housing Law or local building and fire codes, and cottage food operations shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.

Pursuant to Amendment No. A-173-14, the City seeks to amend Chapters 9.04, 9.08, 9.12, and 9.18 of the Land Use Code to expressly allow cottage food operations as an incidental use to any legally established residential dwelling unit in residential and mixed use zones consistent with the requirements of State law. The proposed Amendment would establish standards, restrictions, and requirements pertaining to the permitting and operation of CFOs in the City consistent with the California Homemade Food Act, including the following:

- All CFO operators in the City would be required to apply for and obtain a Cottage Food Operation Permit from the City. Permit applications would be considered by the Zoning Administrator, who would be required to issue the Permit within thirty (30) days of receipt of a complete application if the applicant is in compliance with all applicable standards, restrictions, and requirements. CFO Permits would be non-transferrable and would continue to be valid for so long as (i) the Permit has not been revoked by the Zoning Administrator, (ii) the Cottage Food Operator continues to reside at and operate a CFO from the dwelling unit described in the application, (iii) the Cottage Food Operator continues to maintain a valid registration or permit issued by the County Health Care Agency for the CFO, (iv) the express authorization of each owner of the dwelling unit or such owner's authorized agent, if required, has not been rescinded, and (v) the Cottage Food Operator maintains a current business operation tax certificate from the City.
- In order to mitigate potential adverse impacts on neighboring residences associated with noise, traffic, and parking, CFOs involving customer visitation or in-person direct sales transactions would not be permitted to be conducted within a dwelling unit on a lot located within five hundred (500) feet of another lot on which a lawful CFO is located and at which customer visitation and in-person direct sales transactions are authorized.
- If the dwelling unit in which the CFO is conducted is owned by someone other than the Cottage Food Operator, the express written authorization of the property owner would be required.
- The Cottage Food Operator would be required to obtain and maintain a valid City business operation tax certificate and County registration or permit for the CFO and to comply with all applicable requirements of the Health and Safety Code and other laws.
- Changes or alterations of the outside appearance of a dwelling unit or premises in conjunction with the conduct of a CFO would be prohibited, and no additional exterior signage beyond that otherwise authorized pursuant to Chapter 9.20 of the Garden Grove Municipal Code would be permitted.
- All preparation, packaging, display, or handling of Cottage Food Products and related ingredients and equipment would be required to be confined to the kitchen, and all storage and other CFO-related activities would be required to be conducted indoors within the "Registered or Permitted Area" defined in the CFO's County-issued registration or permit.
- CFOs would be required to conform to the noise control standards for residential uses set forth in Chapter 8.47 of the Garden Grove Municipal Code, and to prevent noise, odor, smoke, vibration, and other similar intrusions from the CFO from affecting neighboring dwelling units.
- Direct sales of Cottage Food Products to customers from a dwelling unit would be limited to appointments only between the hours of 9:00 a.m. and 5:00 p.m., and on-site consumption of Cottage Food Products by customers would be prohibited.

- Commercial deliveries to or from the dwelling unit associated with CFOs would be limited to no more than one (1) per day, between the hours of 9:00 a.m. and 5:00 p.m.
- CFOs would be subject to all parking standards and restrictions applicable to residential uses, and pedestrian or vehicular traffic or parking needs generated by a CFO would be limited that which is considered normal for the zoning district or neighborhood in which the CFO is located.
- In accordance with California Health and Safety Code Section 113758, only the Cottage Food Operator, immediate family or household members of the Cottage Food Operator, and no more than one (1) full-time equivalent employee would be permitted to participate in the conduct of a CFO.
- CFOs would be required to maintain refuse containers of sufficient number and size and would be responsible for arranging for more or larger refuse containers and/or more frequent solid waste removal if necessitated by the CFO.

#### FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, policies, and elements of the General Plan. The proposed Amendment includes amendments to Chapters 9.04, 9.08, 9.12, and 9.18 to expressly allow cottage food operations as an incidental use to any legally established residential dwelling unit in residential and mixed use zones, subject to obtaining an administrative permit and compliance with reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control, consistent with State law. The General Plan does not prohibit or discourage incidental uses such as cottage food operations, and the proposed amendments are consistent with several specific policies set forth in the General Plan, including the following: (i) Policy ED-2.1, which provides for the City to support a business friendly environment for new businesses to locate and existing businesses to flourish; (ii) Policy ED-2.2, which encourages the City to continue to enhance programs which work toward retaining and expanding businesses in Garden Grove; (iii) Policy LU-1.3, which calls for the City to encourage a wide variety of retail and commercial services in appropriate locations; (v) Policy LU-1.6, which provides for the City to encourage workplace development in close proximity to residences in mixed use areas; and (vi) Policy LU-2.1, which provides for the protection of residential areas from the effects of potentially incompatible uses.
2. The Amendment is deemed to promote the public health, safety and welfare. Consistent with State law, the proposed Land Use Code amendments will require the operators of cottage food operations to obtain an administrative permit from the Zoning Administrator and to comply with applicable federal, state, and local laws and reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control. The proposed amendments are designed to allow Garden Grove residents to take

advantage of the benefits contemplated by the California Homemade Food Act, while minimizing negative impacts on neighbors and protecting public health and safety.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and findings set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

- 1. The Amendment possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (Code Amendment). Accordingly, the Planning Commission recommends City Council approval of the proposed amendments to Chapters 9.04, 9.08, 9.12, and 9.18 of Title 9 of the Garden Grove Municipal Code, as generally shown in the draft Ordinance attached as Exhibit "A" to this Resolution.
- 2. The Planning Commission recommends the approval of Amendment No. A-173-14, to establish standards, restrictions, and requirements pertaining to the permitting and operation of Cottage Food Operations, as generally set forth in Exhibit "A".

Adopted this 16<sup>th</sup> day of January, 2014

ATTEST:

/s/ GARY LAZENBY  
CHAIR

/s/ JUDITH MOORE  
SECRETARY

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS:  
CITY OF GARDEN GROVE )

I, JUDITH MOORE, Secretary of the City of Garden Grove Planning Commission, do hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Garden Grove, California, at a meeting held on January 16, 2014, by the following vote:

AYES:	COMMISSIONERS:	(5)	ALEJANDRO, BRIETIGAM, LAZENBY, MARGOLIN, SILVA
NOES:	COMMISSIONERS:	(1)	ZAMORA
ABSTAIN:	COMMISSIONERS:	(1)	NGUYEN

/s/ JUDITH MOORE  
SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is February 6, 2014.

DRAFT MINUTE EXCERPT

GARDEN GROVE PLANNING COMMISSION

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PUBLIC HEARING – AMENDMENT NO. A-173-14. City of Garden Grove, Citywide.

Applicant: City of Garden Grove

Date: January 16, 2014

Request: To amend Title 9 of the City of Garden Grove Municipal Code to establish standards, restrictions, and requirements pertaining to the permitting and operation of Cottage Food Operations, pursuant to the California Homemade Food Act, Chapter 415, Statutes of 2012. The project is exempt pursuant to CEQA Section 15061(b)(3) – It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Action: Public Hearing held. Speakers: None.

Action: Resolution No. 5803-14 adopted with amendments in regard to appointment times, delivery times, and the distance requirement.

Motion: Brietigam Second: Margolin

Ayes: (5) Alejandro, Brietigam, Lazenby, Margolin, Silva

Noes: (1) Zamora

Abstain: (1) Nguyen



## EXHIBIT "A"

## ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-173-14 ESTABLISHING STANDARDS, RESTRICTIONS, AND REQUIREMENTS PERTAINING TO THE PERMITTING AND OPERATION OF COTTAGE FOOD OPERATIONS.

**City Attorney Summary**

***This Ordinance approves a text amendment to Chapters 9.04, 9.08, 9.12, and 9.18 of Title 9 of the Garden Grove Municipal Code to establish standards, restrictions, and requirements pertaining to the permitting and operation of Cottage Food Operations consistent with the California Homemade Food Act. Pursuant to the Ordinance, Cottage Food Operations would be an expressly permitted incidental use to any legally established residential dwelling unit in residential and mixed use zones, subject to obtaining an administrative permit and compliance with applicable federal, state, and local law and reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control.***

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, the subject case, initiated by the City of Garden Grove, proposes to amend Chapters 9.04, 9.08, 9.12, and 9.18 of Title 9 of the Garden Grove Municipal Code to establish standards, restrictions, and requirements pertaining to the permitting and operation of Cottage Food Operations pursuant to the California Homemade Food Act;

WHEREAS, following a public hearing held on January 16, 2014, the Planning Commission adopted Resolution No. 5803-14 recommending approval of Amendment No. A-173-14; and

WHEREAS, pursuant to a legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on February 25, 2014, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter;

WHEREAS, the City Council hereby makes the following findings regarding Amendment No. A-173-14:

A. The proposed Code Amendment is internally consistent with the goals, policies, and elements of the General Plan. The proposed Amendment includes amendments to Chapters 9.04, 9.08, 9.12, and 9.18 to expressly allow cottage food operations as an incidental use to any legally established residential dwelling unit in

residential and mixed use zones, subject to obtaining an administrative permit and compliance with reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control, consistent with State law. The General Plan does not prohibit or discourage incidental uses such as cottage food operations, and the proposed amendments are consistent with several specific policies set forth in the General Plan, including the following: (i) Policy ED-2.1, which provides for the City to support a business friendly environment for new businesses to locate and existing businesses to flourish; (ii) Policy ED-2.2, which encourages the City to continue to enhance programs which work toward retaining and expanding businesses in Garden Grove; (iii) Policy LU-1.3, which calls for the City to encourage a wide variety of retail and commercial services in appropriate locations; (v) Policy LU-1.6, which provides for the City to encourage workplace development in close proximity to residences in mixed use areas; and (vi) Policy LU-2.1, which provides for the protection of residential areas from the effects of potentially incompatible uses.

B. The proposed Code Amendment will promote the public health, safety and welfare. Consistent with State law, the proposed Land Use Code amendments will require the operators of cottage food operations to obtain an administrative permit from the Zoning Administrator and to comply with applicable federal, state, and local laws and reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control. The proposed amendments are designed to allow Garden Grove residents to take advantage of the benefits contemplated by the California Homemade Food Act, while minimizing negative impacts on neighbors and protecting public health and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1: The above recitals are true and correct.

SECTION 2: The City Council finds that the proposed Code Amendment is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3: Amendment No. A-173-14 is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5803-14, a copy of which is on file in the Office of the City Clerk, and which is incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 4: Subsection C of Section 9.04.060 (Definitions) of Chapter 9.04 of Title 9 of the Garden Grove Municipal Code is hereby amended by adding the following definitions for "Cottage Food Operation"; "Cottage Food Operation Permit"; "Cottage Food Operation Registered or Permitted Area"; "Cottage Food Operator"; and "Cottage Food Products" to the current list of definitions, to be placed in alphabetical order, and to read as follows:

"Cottage Food Operation" shall have the same meaning as provided for in California Health and Safety Code Section 113758, as it may be amended from time to time. Without limiting the foregoing, a Cottage Food Operation is an enterprise within the Registered or Permitted Area of a dwelling unit where the Cottage Food Operator resides and where Cottage Food Products are prepared or packaged for direct and/or indirect sale to consumers.

"Cottage Food Operation Permit" means an administrative permit issued to a Cottage Food Operator by the Zoning Administrator authorizing operation of a Cottage Food Operation.

"Cottage Food Operation Registered or Permitted Area" means that portion of a dwelling unit (i) that contains the dwelling unit's kitchen used for the preparation, packaging, storage, or handling of Cottage Food Products and related ingredients or equipment, or both, and attached rooms within the dwelling unit that are used exclusively for storage, and (ii) that is expressly identified in the registration or permit issued to the Cottage Food Operator by the County of Orange Health Care Agency.

"Cottage Food Operator" shall have the same meaning as provided for in California Health and Safety Code Section 113758, as it may be amended from time to time. Without limiting the foregoing, a Cottage Food Operator is an individual who operates a Cottage Food Operation in his or her dwelling unit and is the owner of the Cottage Food Operation.

"Cottage Food Products" shall have the same meaning as provided for in California Health and Safety Code Section 113758, as it may be amended from time to time. Without limiting the foregoing, Cottage Food Products are non-potentially hazardous foods, which are foods unlikely to grow harmful bacteria or other toxic microorganisms at room temperature, that are prepared for public consumption in the kitchen of a Cottage Food Operation.

**SECTION 5:** Table 1, entitled "Garden Grove Land Use Matrix" of, Subsection 9.08.020.030 (Uses Permitted) of Section 9.08.020 of Chapter 08 of Title 9 of the Garden Grove Municipal Code is hereby amended to add "Cottage Food Operation" to the current list of residential uses, to be placed in alphabetical order, as follows:

<b>ZONES USES</b>	<b>R-1</b>
<b>RESIDENTIAL</b>	
Cottage Food Operation	P*

**SECTION 6:** Subsection 9.08.020.050 (Special Operating Conditions and Development Standards) of Section 9.08.020 of Chapter 8 of Title 9 of the Garden Grove Municipal Code is hereby amended to add new special operating conditions for "Cottage Food Operations" to the current list of conditional uses and other uses requiring special consideration, to read as follows, to be placed in alphabetical order, and to subsequently re-number the subsection accordingly:

**"B. Cottage Food Operations.** Cottage Food Operations are allowed as an incidental use to a residential use, subject to a Cottage Food Operation permit and the following conditions:

**1. Deemed Incidental Use.** Subject to the provisions of this Subsection, a Cottage Food Operation for which a valid Cottage Food Operation Permit has been issued shall be considered an incidental use to any legally established residential dwelling unit, notwithstanding any other provision of this Title. A Cottage Food Operation may only be conducted in a dwelling unit in which the Cottage Food Operator resides and shall at all times be accessory and subordinate to the primary residential use of the dwelling unit.

**2. Cottage Food Operation Permit.**

- a. **Permit Required.** No person shall operate a Cottage Food Operation within the City without a valid Cottage Food Operation Permit issued pursuant to this Section.
- b. **Permit Application.** A request for a Cottage Food Operation Permit shall be submitted in writing by the Cottage Food Operator on an application form prescribed by the Community Development Director, and shall be accompanied by payment of an application processing fee or deposit, in the amount established by City Council resolution, and any additional information the Zoning Administrator reasonably concludes is necessary to properly evaluate the request and to render a decision.

- c. Information Available to Applicant. Upon request by an applicant for a Cottage Food Operation Permit, the Community Development Department shall provide the applicant with the following:
- i. A list of the permits and fees that are required by the City, including information about other permits that may be required by other departments in the City or by other public agencies.
  - ii. Information about the anticipated length of time for reviewing and processing the application.
  - iii. Information on the breakdown of any individual fees charged in connection with the issuance of the Cottage Food Operation Permit.
  - iv. If a deposit is required to cover the cost of the Cottage Food Operation Permit, information about the estimated final cost to the applicant of the Cottage Food Operation Permit, and procedures for receiving a refund from the portion of the deposit not used.
  - v. The address(es) of any Cottage Food Operation associated with a valid Cottage Food Operation Permit(s) previously issued by the City that would cause the applicant to be ineligible for a Cottage Food Operation Permit pursuant to the spacing and concentration limits set forth in subsection 3.
- d. Review of Application. All applications for a Cottage Food Operation Permit shall be considered by the Zoning Administrator. Upon receipt of an application for a Cottage Food Operation, a notice shall be sent to the adjoining property owners describing the nature of the request and advising that any comments should be submitted no later than ten days from the date the notice was sent out. A public hearing is not required in connection with the Zoning Administrator's review. The decision of the Zoning Administrator shall be final. The Zoning Administrator shall cause a Cottage Food Operation Permit to be issued to the applicant within thirty (30) days of receipt of a complete application unless the Zoning Administrator makes one or more of the following findings:
- i. The applicant has failed to submit a complete application and/or provide all of the information reasonably requested or necessary for the Zoning Administrator to determine whether a Cottage Food Operation Permit should be issued.
  - ii. The applicant has failed to demonstrate that he or she can or will operate a Cottage Food Operation in accordance with all

applicable standards, restrictions, and requirements set forth in subsection 4.

- iii. The Cottage Food Operation is proposed to be located within a dwelling unit that does not satisfy the spacing and concentration limits set forth in subsection 3.
- iv. The Cottage Food Operation is proposed to be located within a dwelling unit owned by someone other than the Cottage Food Operator, and the express written authorization of the owner of the dwelling unit or such owner's authorized agent has not been obtained and provided by the applicant.
- e. Permit Non-Transferrable. A Cottage Food Operation Permit shall only be issued to a Cottage Food Operator and shall not be transferrable to any other person or dwelling unit and shall not run with the land or constitute a transferrable property right.
- f. Term of Permit. A Cottage Food Operation Permit issued pursuant to this Chapter shall continue to be valid for so long as (i) the Cottage Food Operation Permit has not been revoked, (ii) the Cottage Food Operator continues to reside at and operate a Cottage Food Operation from the dwelling unit described in the application, (iii) the Cottage Food Operator continues to maintain a valid registration or permit issued by the County of Orange Health Care Agency for the Cottage Food Operation, (iv) the express authorization of each owner of the dwelling unit or such owner's authorized agent, if required, has not been rescinded, and (v) the Cottage Food Operator maintains a current business operation tax certificate from the City. The failure of a Cottage Food Operator to renew or obtain a new business operation tax certificate for the Cottage Food Operation within ninety (90) days of its expiration shall be deemed intent to abandon the Cottage Food Operation Permit and shall cause the Cottage Food Operation Permit to automatically expire.
- g. Permit Limitations. Issuance by the City of a Cottage Food Operation Permit shall not be deemed to supersede, or to authorize the conduct of, a Cottage Food Operation in violation of, (i) any applicable federal, state, or local law; (ii) any registration or permit issued to the Cottage Food Operator by the County of Orange Health Care Agency; or (iii) any lease, rental agreement, and/or recorded covenants, conditions, and/or restrictions applicable to the property on which the Cottage Food Operation is located.
- h. Revocation of Permit. The Zoning Administrator, after giving notice to the Cottage Food Operator at the address of the Cottage Food

Operation identified in the application and giving a reasonable opportunity for hearing, may revoke any Cottage Food Operation Permit pursuant to the provisions of this Chapter upon a determination that the provisions of this Chapter are being violated or that no Cottage Food Operation is currently being conducted within the dwelling unit. The Zoning Administrator, or his or her designee, may, at any time, request in writing a Cottage Food Operator previously issued a Cottage Food Operation Permit to verify and/or provide documentation demonstrating that a Cottage Food Operation continues to be conducted at the dwelling unit associated with the Cottage Food Operation Permit in compliance with the provisions of this Chapter. Failure to provide such verification and/or documentation within fifteen (15) days of the date of such request shall constitute evidence of the Cottage Food Operator's intent to discontinue the rights granted by the Cottage Food Operation Permit. The decision of the Zoning Administrator to revoke a Cottage Food Operation Permit shall be final.

- 3. Spacing and Concentration Limits.** In order to mitigate potential adverse impacts on neighboring residences associated with noise, traffic, and parking, no Cottage Food Operation Permit shall be issued for a Cottage Food Operation proposed to be conducted within a dwelling unit on a lot located within five hundred (500) feet of another lot on which a lawful Cottage Food Operation is located and at which customer visitation and in-person direct sales transactions are authorized. The foregoing spacing limitation shall not apply if the applicant for a Cottage Food Operation Permit certifies and agrees in writing, under penalty of perjury, that no customer visitation or in-person direct sales transactions shall be authorized to occur at the dwelling unit.
- 4. Standards, Restrictions, and Requirements Applicable to All Cottage Food Operations.** All Cottage Food Operations shall comply at all times with the standards, restrictions and requirements set forth in this Section.

  - a. **Property Owner Permission Required.** If the dwelling unit in which the Cottage Food Operation is conducted is owned by someone other than the Cottage Food Operator, the express written authorization of each owner of the dwelling unit or such owner's authorized agent is required.
  - b. **Business Operation Tax Certificate.** The Cottage Food Operator shall obtain and maintain a valid business operation tax certificate from the City for the Cottage Food Operation.
  - c. **Compliance with Applicable Laws.** The Cottage Food Operation shall comply with all applicable food preparation, packaging, and/or

labeling, operational, and other requirements set forth in the California Health and Safety Code and/or other federal, state or local statutes, ordinances, or regulations.

- d. Gross Annual Sales. The Cottage Food Operation shall comply with the restrictions on gross annual sales as set forth in California Health and Safety Code Section 113758, as it may be amended from time to time.
- e. County Registration or Permit. The Cottage Food Operator shall not conduct the Cottage Food Operation at the dwelling unit without a valid registration or permit issued to the Cottage Food Operator by the County of Orange Health Care Agency in accordance with California Health and Safety Code Section 114365. A copy of such registration or permit shall be provided to the Zoning Administrator in conjunction with a request for a Cottage Food Operation Permit or within fifteen (15) days of initial issuance of such registration or permit, whichever is later. If such registration or permit is subsequently renewed or modified by the County of Orange Health Care Agency, the Cottage Food Operator shall provide a copy of such renewed or modified registration or permit to the Community Development Department and the Business Tax Department within fifteen (15) days of such renewal or modification. The Cottage Food Operator shall comply with all terms and conditions of such registration or permit for so long as the Cottage Food Operation is being conducted from the dwelling unit.
- f. Alteration of Unit Appearance Prohibited. There shall be no change or alteration of the outside appearance of the dwelling unit or premises in conjunction with the conduct of the Cottage Food Operation. No additional exterior signage beyond that otherwise authorized pursuant to Chapter 9.20 of the Garden Grove Municipal Code is permitted.
- g. Cottage Food Operation Activities and Storage. All activities associated with the Cottage Food Operation shall be conducted wholly within a fully enclosed building. No garage, carport or other required parking area shall be used for the conduct of the Cottage Food Operation. Storage of all ingredients, equipment, and Cottage Food Products associated with the Cottage Food Operation shall be confined to the Registered or Permitted Area. All preparation, packaging, display, or handling of Cottage Food Products and related ingredients and equipment shall be confined to the kitchen of the dwelling unit. All activities associated with the Cottage Food Operation shall conform to the noise control standards for residential uses set forth in Chapter 8.47 of the Garden Grove Municipal Code, and noise, odor, smoke, vibration, and other



similar intrusions from the Cottage Food Operation shall not affect neighboring dwelling units.

- h. On-Site Sales and Consumption of Cottage Food Products. Direct sales of Cottage Food Products to customers from the dwelling unit shall be by prior appointment between the hours of 9:00 a.m. and 5:00 p.m. only. On-site dining or consumption of Cottage Food Products by customers of the Cottage Food Operation is prohibited.
- i. Deliveries. Commercial deliveries to or from the dwelling unit associated with the Cottage Food Operation shall be limited to no more than one (1) per day, between the hours of 9:00 a.m. and 5:00 p.m. Except for vehicles associated with mail or package delivery services, neither deliveries of materials to the Cottage Food Operation, nor deliveries of Cottage Food Products from the Cottage Food Operation, shall involve the use of commercial vehicles, as defined in Section 9.04.060.
- j. Traffic and Parking. The Cottage Food Operation shall not attract or generate pedestrian or vehicular traffic or parking needs beyond that which is considered normal for the zoning district or neighborhood in which it is located. The Cottage Food Operation shall be subject to all parking standards and restrictions applicable to residential uses within the zoning district in which the Cottage Food Operation is located.
- k. Employees. In accordance with California Health and Safety Code Section 113758, only the Cottage Food Operator, immediate family or household members of the Cottage Food Operator, and no more than one (1) full-time equivalent employee other an immediate family or household member of the Cottage Food Operator shall participate in the conduct of the Cottage Food Operation. No more than one (1) full or part-time employee or independent contractor other than immediate family or other household members who reside at the dwelling unit may be engaged in work at the dwelling unit related to the Cottage Food Operation at any one time.
- l. Solid Waste Removal. Refuse containers of sufficient number and size shall be available for the necessary storage and disposal of solid waste and/or recyclable materials generated by the Cottage Food Operation, and all refuse containers shall be emptied and solid waste and recyclable materials removed at a frequency sufficient to satisfy public health and safety needs and avoid the creation of a public nuisance. The Cottage Food Operator shall be responsible for arranging for more or larger refuse containers and/or more frequent removal if necessitated by the Cottage Food Operation."

**SECTION 7:** Table 1, entitled "Garden Grove Land Use Matrix" of, Subsection 9.12.020.030 (Uses Permitted) of Section 9.12.020 of Chapter 12 of Title 9 of the Garden Grove Municipal Code is hereby amended to add "Cottage Food Operation" to the current list of residential uses, to be placed in alphabetical order, as follows:

<b>ZONES USES</b>	<b>R-2</b>	<b>R-3</b>
<b>RESIDENTIAL</b>		
Cottage Food Operation	P*	P*

**SECTION 8:** Subsection 9.12.020.050 (Special Operating Conditions and Development Standards) of Section 9.12.020 of Chapter 12 of Title 9 of the Garden Grove Municipal Code is hereby amended to add new special operating conditions for "Cottage Food Operations" to the current list of conditional uses and other uses requiring special consideration, to read as follows, to be placed in alphabetical order, and to subsequently re-number the subsection accordingly:

**"B. Cottage Food Operations.** Cottage Food Operations are allowed as an incidental use to a residential use, subject to a Cottage Food Operation permit and the following conditions:

**1. Deemed Incidental Use.** Subject to the provisions of this Subsection, a Cottage Food Operation for which a valid Cottage Food Operation Permit has been issued shall be considered an incidental use to any legally established residential dwelling unit, notwithstanding any other provision of this Title. A Cottage Food Operation may only be conducted in a dwelling unit in which the Cottage Food Operator resides and shall at all times be accessory and subordinate to the primary residential use of the dwelling unit.

**2. Cottage Food Operation Permit.**

- a. Permit Required. No person shall operate a Cottage Food Operation within the city without a valid Cottage Food Operation Permit issued pursuant to this Section.
- b. Permit Application. A request for a Cottage Food Operation Permit shall be submitted in writing by the Cottage Food Operator on an application form prescribed by the Community Development Director, and shall be accompanied by payment of an application processing fee or deposit, in the amount established by City Council resolution, and any additional information the Zoning Administrator reasonably concludes is necessary to properly evaluate the request and to render a decision.

- c. Information Available to Applicant. Upon request by an applicant for a Cottage Food Operation Permit, the Community Development Department shall provide the applicant with the following:
  - i. A list of the permits and fees that are required by the City, including information about other permits that may be required by other departments in the City or by other public agencies.
  - ii. Information about the anticipated length of time for reviewing and processing the application.
  - iii. Information on the breakdown of any individual fees charged in connection with the issuance of the Cottage Food Operation Permit.
  - iv. If a deposit is required to cover the cost of the Cottage Food Operation Permit, information about the estimated final cost to the applicant of the Cottage Food Operation Permit, and procedures for receiving a refund from the portion of the deposit not used.
  - v. The address(es) of any Cottage Food Operation associated with a valid Cottage Food Operation Permit(s) previously issued by the City that would cause the applicant to be ineligible for a Cottage Food Operation Permit pursuant to the spacing and concentration limits set forth in subsection 3.
- d. Review of Application. All applications for a Cottage Food Operation Permit shall be considered by the Zoning Administrator. Upon receipt of an application for a Cottage Food Operation, a notice shall be sent to the adjoining property owners describing the nature of the request and advising that any comments should be submitted no later than ten days from the date the notice was sent out. A public hearing is not required in connection with the Zoning Administrator's review. The decision of the Zoning Administrator shall be final. The Zoning Administrator shall cause a Cottage Food Operation Permit to be issued to the applicant within thirty (30) days of receipt of a complete application unless the Zoning Administrator makes one or more of the following findings:
  - i. The applicant has failed to submit a complete application and/or provide all of the information reasonably requested or necessary for the Zoning Administrator to determine whether a Cottage Food Operation Permit should be issued.
  - ii. The applicant has failed to demonstrate that he or she can or will operate a Cottage Food Operation in accordance with all

applicable standards, restrictions, and requirements set forth in subsection 4.

- iii. The Cottage Food Operation is proposed to be located within a dwelling unit that does not satisfy the spacing and concentration limits set forth in subsection 3.
- iv. The Cottage Food Operation is proposed to be located within a dwelling unit owned by someone other than the Cottage Food Operator, and the express written authorization of the owner of the dwelling unit or such owner's authorized agent has not been obtained and provided by the applicant.
- e. Permit Non-Transferrable. A Cottage Food Operation Permit shall only be issued to a Cottage Food Operator and shall not be transferrable to any other person or dwelling unit and shall not run with the land or constitute a transferrable property right.
- f. Term of Permit. A Cottage Food Operation Permit issued pursuant to this Chapter shall continue to be valid for so long as (i) the Cottage Food Operation Permit has not been revoked, (ii) the Cottage Food Operator continues to reside at and operate a Cottage Food Operation from the dwelling unit described in the application, (iii) the Cottage Food Operator continues to maintain a valid registration or permit issued by the County of Orange Health Care Agency for the Cottage Food Operation, (iv) the express authorization of each owner of the dwelling unit or such owner's authorized agent, if required, has not been rescinded, and (v) the Cottage Food Operator maintains a current business operation tax certificate from the City. The failure of a Cottage Food Operator to renew or obtain a new business operation tax certificate for the Cottage Food Operation within ninety (90) days of its expiration shall be deemed intent to abandon the Cottage Food Operation Permit and shall cause the Cottage Food Operation Permit to automatically expire.
- g. Permit Limitations. Issuance by the City of a Cottage Food Operation Permit shall not be deemed to supersede, or to authorize the conduct of, a Cottage Food Operation in violation of, (i) any applicable federal, state, or local law; (ii) any registration or permit issued to the Cottage Food Operator by the County of Orange Health Care Agency; or (iii) any lease, rental agreement, and/or recorded covenants, conditions, and/or restrictions applicable to the property on which the Cottage Food Operation is located.
- h. Revocation of Permit. The Zoning Administrator, after giving notice to the Cottage Food Operator at the address of the Cottage Food

Operation identified in the application and giving a reasonable opportunity for hearing, may revoke any Cottage Food Operation Permit pursuant to the provisions of this Chapter upon a determination that the provisions of this Chapter are being violated or that no Cottage Food Operation is currently being conducted within the dwelling unit. The Zoning Administrator, or his or her designee, may, at any time, request in writing a Cottage Food Operator previously issued a Cottage Food Operation Permit to verify and/or provide documentation demonstrating that a Cottage Food Operation continues to be conducted at the dwelling unit associated with the Cottage Food Operation Permit in compliance with the provisions of this Chapter. Failure to provide such verification and/or documentation within fifteen (15) days of the date of such request shall constitute evidence of the Cottage Food Operator's intent to discontinue the rights granted by the Cottage Food Operation Permit. The decision of the Zoning Administrator to revoke a Cottage Food Operation Permit shall be final.

- 3. Spacing and Concentration Limits.** In order to mitigate potential adverse impacts on neighboring residences associated with noise, traffic, and parking, no Cottage Food Operation Permit shall be issued for a Cottage Food Operation proposed to be conducted within a dwelling unit on a lot located within five hundred (500) feet of another lot on which a lawful Cottage Food Operation is located and at which customer visitation and in-person direct sales transactions are authorized. The foregoing spacing limitation shall not apply if the applicant for a Cottage Food Operation Permit certifies and agrees in writing, under penalty of perjury, that no customer visitation or in-person direct sales transactions shall be authorized to occur at the dwelling unit.
- 4. Standards, Restrictions, and Requirements Applicable to All Cottage Food Operations.** All Cottage Food Operations shall comply at all times with the standards, restrictions and requirements set forth in this Section.

  - a. Property Owner Permission Required. If the dwelling unit in which the Cottage Food Operation is conducted is owned by someone other than the Cottage Food Operator, the express written authorization of each owner of the dwelling unit or such owner's authorized agent is required.
  - b. Business Operation Tax Certificate. The Cottage Food Operator shall obtain and maintain a valid business operation tax certificate from the City for the Cottage Food Operation.
  - c. Compliance with Applicable Laws. The Cottage Food Operation shall comply with all applicable food preparation, packaging, and/or

labeling, operational, and other requirements set forth in the California Health and Safety Code and/or other federal, state or local statutes, ordinances, or regulations.

- d. Gross Annual Sales. The Cottage Food Operation shall comply with the restrictions on gross annual sales as set forth in California Health and Safety Code Section 113758, as it may be amended from time to time.
- e. County Registration or Permit. The Cottage Food Operator shall not conduct the Cottage Food Operation at the dwelling unit without a valid registration or permit issued to the Cottage Food Operator by the County of Orange Health Care Agency in accordance with California Health and Safety Code Section 114365. A copy of such registration or permit shall be provided to the Zoning Administrator in conjunction with a request for a Cottage Food Operation Permit or within fifteen (15) days of initial issuance of such registration or permit, whichever is later. If such registration or permit is subsequently renewed or modified by the County of Orange Health Care Agency, the Cottage Food Operator shall provide a copy of such renewed or modified registration or permit to the Community Development Department and the Business Tax Department within fifteen (15) days of such renewal or modification. The Cottage Food Operator shall comply with all terms and conditions of such registration or permit for so long as the Cottage Food Operation is being conducted from the dwelling unit.
- f. Alteration of Unit Appearance Prohibited. There shall be no change or alteration of the outside appearance of the dwelling unit or premises in conjunction with the conduct of the Cottage Food Operation. No additional exterior signage beyond that otherwise authorized pursuant to Chapter 9.20 of the Garden Grove Municipal Code is permitted.
- g. Cottage Food Operation Activities and Storage. All activities associated with the Cottage Food Operation shall be conducted wholly within a fully enclosed building. No garage, carport or other required parking area shall be used for the conduct of the Cottage Food Operation. Storage of all ingredients, equipment, and Cottage Food Products associated with the Cottage Food Operation shall be confined to the Registered or Permitted Area. All preparation, packaging, display, or handling of Cottage Food Products and related ingredients and equipment shall be confined to the kitchen of the dwelling unit. All activities associated with the Cottage Food Operation shall conform to the noise control standards for residential uses set forth in Chapter 8.47 of the Garden Grove Municipal Code, and noise, odor, smoke, vibration, and other

similar intrusions from the Cottage Food Operation shall not affect neighboring dwelling units.

- h. On-Site Sales and Consumption of Cottage Food Products. Direct sales of Cottage Food Products to customers from the dwelling unit shall be by prior appointment between the hours of 9:00 a.m. and 5:00 p.m. only. On-site dining or consumption of Cottage Food Products by customers of the Cottage Food Operation is prohibited.
- i. Deliveries. Commercial deliveries to or from the dwelling unit associated with the Cottage Food Operation shall be limited to no more than one (1) per day, between the hours of 9:00 a.m. and 5:00 p.m. Except for vehicles associated with mail or package delivery services, neither deliveries of materials to the Cottage Food Operation, nor deliveries of Cottage Food Products from the Cottage Food Operation, shall involve the use of commercial vehicles, as defined in Section 9.04.060.
- j. Traffic and Parking. The Cottage Food Operation shall not attract or generate pedestrian or vehicular traffic or parking needs beyond that which is considered normal for the zoning district or neighborhood in which it is located. The Cottage Food Operation shall be subject to all parking standards and restrictions applicable to residential uses within the zoning district in which the Cottage Food Operation is located.
- k. Employees. In accordance with California Health and Safety Code Section 113758, only the Cottage Food Operator, immediate family or household members of the Cottage Food Operator, and no more than one (1) full-time equivalent employee other an immediate family or household member of the Cottage Food Operator shall participate in the conduct of the Cottage Food Operation. No more than one (1) full or part-time employee or independent contractor other than immediate family or other household members who reside at the dwelling unit may be engaged in work at the dwelling unit related to the Cottage Food Operation at any one time.
- l. Solid Waste Removal. Refuse containers of sufficient number and size shall be available for the necessary storage and disposal of solid waste and/or recyclable materials generated by the Cottage Food Operation, and all refuse containers shall be emptied and solid waste and recyclable materials removed at a frequency sufficient to satisfy public health and safety needs and avoid the creation of a public nuisance. The Cottage Food Operator shall be responsible for arranging for more or larger refuse containers and/or more frequent removal if necessitated by the Cottage Food Operation."

**SECTION 9:** Table 9.18-1, entitled "Use Regulations for the Mixed Use Zones" of Section 9.18.020 (Uses Permitted) of Chapter 18 of Title 9 of the Garden Grove Municipal Code is hereby amended to add "Cottage Food Operation" to the current list of miscellaneous residential and incidental to residential uses, to be placed in alphabetical order, as follows:

TABLE 9.18-1 MIXED USE ZONES AND LAND USE REGULATIONS	P C I	Permitted By Right Conditional Use Permit Required Permitted as an Incidental Use Not Permitted						
		ZONES						
		GGMU	CC				NMU	AR
Permitted Uses	-1, -2, and 3	-1	-2	-3	-OS			
<b>Miscellaneous Residential and Incidental to Residential</b>								
Cottage Food Operations	I	I	I	I		I	I	See Section 9.18.030.125 (Cottage Food Operations)

**SECTION 10:** Section 9.18.030 (Specific Uses - Special Operating Conditions and Development Standards) of Chapter 18 of Title 9 of the Garden Grove Municipal Code is hereby amended to add Subsection 9.18.030.125, to read as follows:

**"SECTION 9.18.030.125: Cottage Food Operations.** Cottage Food Operations are allowed as an incidental use to a residential use, subject to a Cottage Food Operation permit and the following conditions:

**A. Deemed Incidental Use.** Subject to the provisions of this Subsection, a Cottage Food Operation for which a valid Cottage Food Operation Permit has been issued shall be considered an incidental use to any legally established residential dwelling unit, notwithstanding any other provision of this Title. A Cottage Food Operation may only be conducted in a dwelling unit in which the Cottage Food Operator resides and shall at all times be accessory and subordinate to the primary residential use of the dwelling unit.

**B. Cottage Food Operation Permit.**

1. Permit Required. No person shall operate a Cottage Food Operation within the city without a valid Cottage Food Operation Permit issued pursuant to this Section.
2. Permit Application. A request for a Cottage Food Operation Permit shall be submitted in writing by the Cottage Food Operator on an application form prescribed by the Community Development Director, and shall be accompanied by payment of an application processing fee or deposit, in



the amount established by City Council resolution, and any additional information the Zoning Administrator reasonably concludes is necessary to properly evaluate the request and to render a decision.

3. Information Available to Applicant. Upon request by an applicant for a Cottage Food Operation Permit, the Community Development Department shall provide the applicant with the following:
  - a. A list of the permits and fees that are required by the City, including information about other permits that may be required by other departments in the City or by other public agencies.
  - b. Information about the anticipated length of time for reviewing and processing the application.
  - c. Information on the breakdown of any individual fees charged in connection with the issuance of the Cottage Food Operation Permit.
  - d. If a deposit is required to cover the cost of the Cottage Food Operation Permit, information about the estimated final cost to the applicant of the Cottage Food Operation Permit, and procedures for receiving a refund from the portion of the deposit not used.
  - e. The address(es) of any Cottage Food Operation associated with a valid Cottage Food Operation Permit(s) previously issued by the City that would cause the applicant to be ineligible for a Cottage Food Operation Permit pursuant to the spacing and concentration limits set forth in subsection C.
4. Review of Application. All applications for a Cottage Food Operation Permit shall be considered by the Zoning Administrator. Upon receipt of an application for a Cottage Food Operation, a notice shall be sent to the adjoining property owners describing the nature of the request and advising that any comments should be submitted no later than ten days from the date of the notice was sent out. A public hearing is not required in connection with the Zoning Administrator's review. The decision of the Zoning Administrator shall be final. The Zoning Administrator shall cause a Cottage Food Operation Permit to be issued to the applicant within thirty (30) days of receipt of a complete application unless the Zoning Administrator makes one or more of the following findings:
  - a. The applicant has failed to submit a complete application and/or provide all of the information reasonably requested or necessary for the Zoning Administrator to determine whether a Cottage Food Operation Permit should be issued.

- b. The applicant has failed to demonstrate that he or she can or will operate a Cottage Food Operation in accordance with all applicable standards, restrictions, and requirements set forth in subsection D.
  - c. The Cottage Food Operation is proposed to be located within a dwelling unit that does not satisfy the spacing and concentration limits set forth in subsection C.
  - d. The Cottage Food Operation is proposed to be located within a dwelling unit owned by someone other than the Cottage Food Operator, and the express written authorization of the owner of the dwelling unit or such owner's authorized agent has not been obtained and provided by the applicant.
5. Permit Non-Transferrable. A Cottage Food Operation Permit shall only be issued to a Cottage Food Operator and shall not be transferrable to any other person or dwelling unit and shall not run with the land or constitute a transferrable property right.
6. Term of Permit. A Cottage Food Operation Permit issued pursuant to this Chapter shall continue to be valid for so long as (i) the Cottage Food Operation Permit has not been revoked, (ii) the Cottage Food Operator continues to reside at and operate a Cottage Food Operation from the dwelling unit described in the application, (iii) the Cottage Food Operator continues to maintain a valid registration or permit issued by the County of Orange Health Care Agency for the Cottage Food Operation, (iv) the express authorization of each owner of the dwelling unit or such owner's authorized agent, if required, has not been rescinded, and (v) the Cottage Food Operator maintains a current business operation tax certificate from the City. The failure of a Cottage Food Operator to renew or obtain a new business operation tax certificate for the Cottage Food Operation within ninety (90) days of its expiration shall be deemed intent to abandon the Cottage Food Operation Permit and shall cause the Cottage Food Operation Permit to automatically expire.
7. Permit Limitations. Issuance by the City of a Cottage Food Operation Permit shall not be deemed to supersede, or to authorize the conduct of, a Cottage Food Operation in violation of, (i) any applicable federal, state, or local law; (ii) any registration or permit issued to the Cottage Food Operator by the County of Orange Health Care Agency; or (iii) any lease, rental agreement, and/or recorded covenants, conditions, and/or restrictions applicable to the property on which the Cottage Food Operation is located.
8. Revocation of Permit. The Zoning Administrator, after giving notice to the Cottage Food Operator at the address of the Cottage Food Operation identified in the application and giving a reasonable opportunity for

hearing, may revoke any Cottage Food Operation Permit pursuant to the provisions of this Chapter upon a determination that the provisions of this Chapter are being violated or that no Cottage Food Operation is currently being conducted within the dwelling unit. The Zoning Administrator, or his or her designee, may, at any time, request in writing a Cottage Food Operator previously issued a Cottage Food Operation Permit to verify and/or provide documentation demonstrating that a Cottage Food Operation continues to be conducted at the dwelling unit associated with the Cottage Food Operation Permit in compliance with the provisions of this Chapter. Failure to provide such verification and/or documentation within fifteen (15) days of the date of such request shall constitute evidence of the Cottage Food Operator's intent to discontinue the rights granted by the Cottage Food Operation Permit. The decision of the Zoning Administrator to revoke a Cottage Food Operation Permit shall be final.

- C. Spacing and Concentration Limits.** In order to mitigate potential adverse impacts on neighboring residences associated with noise, traffic, and parking, no Cottage Food Operation Permit shall be issued for a Cottage Food Operation proposed to be conducted within a dwelling unit on a lot located within five hundred (500) feet of another lot on which a lawful Cottage Food Operation is located and at which customer visitation and in-person direct sales transactions are authorized. The foregoing spacing limitation shall not apply if the applicant for a Cottage Food Operation Permit certifies and agrees in writing, under penalty of perjury, that no customer visitation or in-person direct sales transactions shall be authorized to occur at the dwelling unit.
- D. Standards, Restrictions, and Requirements Applicable to All Cottage Food Operations.** All Cottage Food Operations shall comply at all times with the standards, restrictions and requirements set forth in this Section.
1. **Property Owner Permission Required.** If the dwelling unit in which the Cottage Food Operation is conducted is owned by someone other than the Cottage Food Operator, the express written authorization of each owner of the dwelling unit or such owner's authorized agent is required.
  2. **Business Operation Tax Certificate.** The Cottage Food Operator shall obtain and maintain a valid business operation tax certificate from the City for the Cottage Food Operation.
  3. **Compliance with Applicable Laws.** The Cottage Food Operation shall comply with all applicable food preparation, packaging, and/or labeling, operational, and other requirements set forth in the California Health and Safety Code and/or other federal, state or local statutes, ordinances, or regulations.

4. **Gross Annual Sales.** The Cottage Food Operation shall comply with the restrictions on gross annual sales as set forth in California Health and Safety Code Section 113758, as it may be amended from time to time.
5. **County Registration or Permit.** The Cottage Food Operator shall not conduct the Cottage Food Operation at the dwelling unit without a valid registration or permit issued to the Cottage Food Operator by the County of Orange Health Care Agency in accordance with California Health and Safety Code Section 114365. A copy of such registration or permit shall be provided to the Zoning Administrator in conjunction with a request for a Cottage Food Operation Permit or within fifteen (15) days of initial issuance of such registration or permit, whichever is later. If such registration or permit is subsequently renewed or modified by the County of Orange Health Care Agency, the Cottage Food Operator shall provide a copy of such renewed or modified registration or permit to the Community Development Department and the Business Tax Department within fifteen (15) days of such renewal or modification. The Cottage Food Operator shall comply with all terms and conditions of such registration or permit for so long as the Cottage Food Operation is being conducted from the dwelling unit.
6. **Alteration of Unit Appearance Prohibited.** There shall be no change or alteration of the outside appearance of the dwelling unit or premises in conjunction with the conduct of the Cottage Food Operation. No additional exterior signage beyond that otherwise authorized pursuant to Chapter 9.20 of the Garden Grove Municipal Code is permitted.
7. **Cottage Food Operation Activities and Storage.** All activities associated with the Cottage Food Operation shall be conducted wholly within a fully enclosed building. No garage, carport or other required parking area shall be used for the conduct of the Cottage Food Operation. Storage of all ingredients, equipment, and Cottage Food Products associated with the Cottage Food Operation shall be confined to the Registered or Permitted Area. All preparation, packaging, display, or handling of Cottage Food Products and related ingredients and equipment shall be confined to the kitchen of the dwelling unit. All activities associated with the Cottage Food Operation shall conform to the noise control standards for residential uses set forth in Chapter 8.47 of the Garden Grove Municipal Code, and noise, odor, smoke, vibration, and other similar intrusions from the Cottage Food Operation shall not affect neighboring dwelling units.
8. **On-Site Sales and Consumption of Cottage Food Products.** Direct sales of Cottage Food Products to customers from the dwelling unit shall be by prior appointment between the hours of 9:00 a.m. and 5:00 p.m. only. On-site dining or consumption of Cottage Food Products by customers of the Cottage Food Operation is prohibited.

9. Deliveries. Commercial deliveries to or from the dwelling unit associated with the Cottage Food Operation shall be limited to no more than one (1) per day, between the hours of 9:00 a.m. and 5:00 p.m. Except for vehicles associated with mail or package delivery services, neither deliveries of materials to the Cottage Food Operation, nor deliveries of Cottage Food Products from the Cottage Food Operation, shall involve the use of commercial vehicles, as defined in Section 9.04.060.
10. Traffic and Parking. The Cottage Food Operation shall not attract or generate pedestrian or vehicular traffic or parking needs beyond that which is considered normal for the zoning district or neighborhood in which it is located. The Cottage Food Operation shall be subject to all parking standards and restrictions applicable to residential uses within the zoning district in which the Cottage Food Operation is located.
11. Employees. In accordance with California Health and Safety Code Section 113758, only the Cottage Food Operator, immediate family or household members of the Cottage Food Operator, and no more than one (1) full-time equivalent employee other than immediate family or household member of the Cottage Food Operator shall participate in the conduct of the Cottage Food Operation. No more than one (1) full or part-time employee or independent contractor other than immediate family or other household members who reside at the dwelling unit may be engaged in work at the dwelling unit related to the Cottage Food Operation at any one time.
12. Solid Waste Removal. Refuse containers of sufficient number and size shall be available for the necessary storage and disposal of solid waste and/or recyclable materials generated by the Cottage Food Operation, and all refuse containers shall be emptied and solid waste and recyclable materials removed at a frequency sufficient to satisfy public health and safety needs and avoid the creation of a public nuisance. The Cottage Food Operator shall be responsible for arranging for more or larger refuse containers and/or more frequent removal if necessitated by the Cottage Food Operation.

SECTION 11: Within sixty (60) days of the effective date of this Ordinance, all existing Cottage Food Operations in the City shall apply for a Cottage Food Operation Permit and otherwise conform to all provisions of this Ordinance, provided, however, that any such existing Cottage Food Operation with a valid registration or permit issued to the Cottage Food Operator by the County of Orange Health Care Agency shall not be subject to the distance or concentration limits established by this Ordinance.

SECTION 12: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 13: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

**RESOLUTION NO.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ESTABLISHING A COTTAGE FOOD OPERATION PERMIT APPLICATION FEE**

WHEREAS, concurrently with the adoption of this Resolution, the City Council of the City of Garden Grove has introduced an Ordinance to establish regulations pertaining to the permitting and operation of Cottage Food Operations pursuant to the California Homemade Food Act, which regulations would be contained in Garden Grove Municipal Code Sections 9.08.020.050, 9.12.020.050, and 9.18.030.125; and

WHEREAS, pursuant to these regulations, any person wishing to operate a Cottage Food Operation within the city would be required to submit an application for a Cottage Food Operation Permit for review by the Zoning Administrator, along with an application processing fee or deposit in an amount established by City Council resolution; and

WHEREAS, the purpose of the Cottage Food Operation Permit application fee is to recover the City's costs associated with the processing, review, and evaluation of applications for a Cottage Food Operation Permit; and

WHEREAS, City staff has conducted an evaluation to determine the estimated costs of processing, review, and evaluation of Cottage Food Operation Permits and estimates the reasonable costs to be no less than \$100 per application; and

WHEREAS, the City Council finds that the estimated reasonable cost of processing, review, and evaluation of Cottage Food Operation Permits to be no less than \$100 per application; and

WHEREAS, City Council conducted a noticed public hearing regarding the Cottage Food Operation Permit application fee prior to adoption of this Resolution.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY RESOLVES, DETERMINES, AND FINDS AS FOLLOWS:

SECTION 1. A fee of \$100 shall be charged per Cottage Food Operation Permit application submitted pursuant to Garden Grove Municipal Code Sections 9.08.020.050, 9.12.020.050, or 9.18.030.125.

SECTION 2. This Resolution shall take effect on the effective date of an Ordinance adopted by the City Council establishing regulations pertaining to the permitting and operation of Cottage Food Operations.

SECTION 3. The City Council finds that, in accordance with Section 21080(b)(8) of the California Public Resources Code, the Cottage Food Operation Permit application fee is only for the purpose of meeting operating expenses and is, therefore, exempt from compliance with the California Environmental Quality Act.