

ORDINANCE NO. 2836

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 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.
- 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
-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 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.
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.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the \_\_\_\_ day of \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
BRUCE A. BROADWATER  
MAYOR

\_\_\_\_\_  
JOHN D.R. CLARK  
ACTING CITY CLERK

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

I, JOHN D.R. CLARK, Acting City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on February 25, 2014, with a vote as follows:

AYES: COUNCIL MEMBERS: (5) BEARD, JONES, NGUYEN, PHAN, BROADWATER  
NOES: COUNCIL MEMBERS: (0) NONE  
ABSENT: COUNCIL MEMBERS: (0) NONE