

ORDINANCE NO. 4179

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING SECTIONS .062., 530., 530.2, AND 530.3, OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF POMONA TO ESTABLISH REGULATIONS FOR COTTAGE FOOD OPERATIONS

WHEREAS, the State Legislature enacted Assembly Bills 1616 and 2297, which amend the California Government Code and the California Health and Safety Code to allow Cottage Food Operators to prepare and package certain types of foods in their residences, and then sell such food either from their residences or from other locations; and

WHEREAS, pursuant to Assembly Bill 1616's amendments to the California Government Code, the City of Pomona (the "City") is required to amend the Comprehensive Zoning Ordinance of the City of Pomona ("Pomona Zoning Ordinance") to allow Cottage Food Operations in residences; and

WHEREAS, this Ordinance shall only serve to allow uses expressly stated in the amendments; and the addition of Cottage Food Operations as an allowed Home Occupation shall not result in allowing uses that are otherwise prohibited by the Pomona Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. That the City Council, exercising their independent judgment, finds that the proposed amendments are exempt per Section 15061(b)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15061(b)(3) exempts projects where it can be determined that the activity does not have the potential to cause a significant direct effect on the environment. The City Council determines that the proposed Code Amendments do not, in themselves, potentially cause physical changes in the environment.

SECTION 2. That Pomona Zoning Ordinance, "Specific definitions," Section .062., is hereby amended to add the following:

Cottage Food Operation. An enterprise that is registered with, or permitted by, the County of Los Angeles, Department of Public Health, as a "Cottage Food Operation," as defined in California Health and Safety Code Section 113758, as may be amended.

SECTION 3. Sections .530 of the Pomona Zoning Ordinance is hereby amended to read as follows:

Sec. .530. Home occupations.

The following regulations shall apply to the conduct of a home occupation in any residential zone:

A. *Permit—Application.*

1. *Permit.* A home occupation permit shall be required prior to conducting any home occupation. The planning division may issue a home occupation permit providing the following procedure is complied with.
2. *Application.* The home occupation applicant shall file an application for his request as provided by the planning division giving all the required information.

B. *Permit not Transferable.* A Home Occupation Permit is not transferable. A permit for each new home occupation must be applied for. **Notwithstanding the foregoing, a Home Occupation Permit for a Cottage Food Operation is not transferable between: 1) persons; 2) locations; 3) change in Class; and 4) types of distribution.**

C. *Limitation on Type of Home Occupation.* A home occupation shall be limited to an office. **Notwithstanding the foregoing, a home occupation registered with or permitted by the Los Angeles County Department of Public Health as Cottage Food Operation shall operate in a manner consistent with the restrictions imposed by the County of Los Angeles, Department of Public Health.**

D. *No Employment.* No person shall be employed other than members of the resident family. **Notwithstanding the foregoing, a Cottage Food Operation may have one (1) employee, not including a family member or household member of the Cottage Food Operator. In no event may more than one part-time employee be working at any one time at a Cottage Food Operation.**

E. *Limitation on Number of Home Occupations.* There shall be not more than one home occupation in any dwelling unit.

F. Notwithstanding any provisions of this section to the contrary, any use not deemed detrimental to the subject area which is conducted by physically handicapped persons or by persons for therapy, provided that in either case the applicant's claim for handicap or therapy is supported by a written statement by a medical doctor or in the event that the applicant is receiving services from an authorized rehabilitation agency by a written statement from this agency. In all cases it is subject to a conditional use permit.

G. *Sales.* No goods or products shall be sold or displayed on the premises. **Notwithstanding the foregoing, Cottage Food Operations may sell food products permitted of the type and in the manner consistent with the Class of operation as permitted by the County of Los Angeles, Department of Public Health.**

H. *No Use of Commercial Delivery Vehicles.* The use of commercial vehicles for the delivery of materials or equipment to or from the premises is expressly prohibited. **Notwithstanding the foregoing, a Cottage Food Operation may have delivery of materials or equipment subject to the following limitations:**

- 1) No deliveries by any commercial vehicle may occur from 6:00pm until 8:00am;
 - 2) No more than one (1) delivery vehicle may visit the site at the same time, and no more than three (3) commercial vehicles may visit the site per day;
 - 3) All delivery vehicles must comply with local residential parking, stopping, noise, and size restrictions.
- I. *Storage.* There shall be no storage of materials, supplies, and/or equipment in a garage, accessory buildings, or outdoors. Notwithstanding the foregoing, Cottage Food Operations may store food and associated products in the manner consistent with requirements of the County of Los Angeles, Department of Public Health, and with all applicable State, County, and local laws. Stock-in-trade shall not change the residential use of any room.
- J. *Signs.* No signs or other advertising of the premises shall be permitted.
- K. *Limitation on Area.* A home occupation shall be confined entirely to one room in the dwelling and the entrance to such space shall be within the dwelling. Notwithstanding the foregoing, a home occupation as a Cottage Food Operation may cover only the Registered or Permitted Area, as permitted by the County of Los Angeles, Department of Public Health. No garage or accessory building shall be used for a home occupation.
- L. *No Remodeling.* No addition or remodeling is permitted in connection with the home occupation.
- M. *Clientele.* No pedestrian or vehicular traffic shall be generated by the use. No customers, clients or other persons may visit the premises for business purposes. Notwithstanding the foregoing, a Cottage Food Operation may have customers visit the permitted site in the manner consistent with requirements of the County of Los Angeles, Department of Public Health.
- N. *Utilities.* There shall be no utility connection added or established to serve the use.
- O. *Appearance and Conduct.* In no way shall the appearance of the structure be altered or the conduct of the home occupation within the structure be such that the structure may be reasonably recognized as serving a nonresidential use, either by color, lighting, signs, sounds, noises, vibrations, or any other similarity.
- P. *Limitation on Equipment and Material.* There shall be no use of material or mechanical equipment not recognized as being part of reasonable household material and equipment. Any use of commercial kitchen equipment for Cottage Food Operations shall comply with all Federal, State, and local laws.

SECTION 4. Section 530.2 of the Pomona Zoning Ordinance is hereby amended to read as follows:

Sec. .530.2. Uses permitted as home occupations.

The following uses are permitted as home occupations providing all home occupation regulations are met:

- A. Dressmaking, millinery, and other home sewing work.
- B. Handicraft, weaving and other arts and crafts.
- C. Laundering and ironing.
- D. Offices such as the following could be permitted provided all the other provisions and regulations of the home occupation section are met:
 - 1. Professional;
 - 2. Janitorial service;
 - 3. Gardening service.
- E. Cottage Food Operations as defined by Sec. .062. Notwithstanding the foregoing, permitting Cottage Food Operations as home occupations shall not result in allowing uses that are otherwise prohibited by the Pomona Zoning Code.**

SECTION 5. Section 530.3 of the Pomona Zoning Ordinance is hereby amended to read as follows:

Sec. .530.3.- Uses expressly prohibited as home occupations.

The following uses are expressly prohibited as home occupations:

- A. Electrician shops;
- B. Plumber shops;
- C. Repair or fix-it shops;
- D. Uses which entail food handling, processing or packing, ~~specialized minor cooking, baking;~~ **with the exception of properly registered or permitted Cottage Food Operations;**
- E. Uses which entail repair, servicing or manufacture of motorized vehicles and/or body and fender repairing;
- F. Uses which entail the harboring, training, raising, or grooming of dogs, cats, or other animals;
- G. Those which do not meet the provisions of the home occupation regulations;
- H. Those which, in the judgment of the city planner, would constitute an objectionable use of residentially zoned property due to potential noise, increased pedestrian and vehicular traffic, or any other conditions which might interfere with the general welfare and environment of the surrounding residential area.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or circumstance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof nor other applications of the ordinance which can be given effect without invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 7. The City Clerk shall attest and certify the passage and adoption of this ordinance, causing it to be posted as required by law, and it shall become effect thirty days after its adoption.

APPROVED AND ADOPTED THIS 3RD DAY OF MARCH 2014.

ATTEST:

CITY OF POMONA:

Eva M. Buice, City Clerk

Elliott Rothman, Mayor

APPROVED AS TO FORM:

Arnold Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF POMONA)

I, EVA M. BUICE, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced at the Regular Meeting of the City Council of the City of Pomona held on the 24th day of February 2014, and adopted at a Regular Meeting on the 3rd day of March 2014 by the following vote:

AYES: Nolte, Robledo, Carrizosa, Lantz, Escobar, Martin, Mayor Rothman

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Pomona, California, this _____ of _____, 2014.

Eva M. Buice, City Clerk