



Legislation Text

File #: CPC CA 16-00086, **Version:** 4

Ordinance No. 16-97 amending Section 1503 (Home Occupation Permit Standards and Criteria) of Part 15 (Home Occupations) of Article 5 (Administration and Procedures) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, relating to the production and sales of plants, fruits, vegetables and cottage foods.

Presenter:

Peter Wysocki, Director of Planning & Community Development

Summary:

The proposed ordinance is sponsored by the Colorado Springs Food Advisory Board. The proposed ordinance aims to amend the home occupation standards of City Code as outlined in City Code Section 7.5.1503 to allow limited road-side sales and residential cultivation of fruits, vegetables and cottage foods as a home occupation.

Previous Council Action:

The ordinance had its first reading at the September 27, 2016 Council meeting with an approval vote of 7:1:1 (Councilmember Collins voted against the ordinance and Councilmember Murray was absent). Second reading is scheduled for the October 11, 2016 Council meeting.

Background:

For full staff analysis, please see the attached Planning Commission staff report.

Cottage foods are regulated by Colorado Revised Statute § 25-4-1614, originally adopted in 2012 and amended with State Bill 16-58 effective May 4, 2016. That bill highlighted the importance of homemade foods and urban farming. Since its original adoption in 2012, there have been several Colorado communities, including Denver, that have expanded their zoning codes to clearly define allowances for home occupations to allow the production and sale of cottage foods and uncut, raw fruits and vegetables.

The specific foods allowed per the Cottage Foods Act are outlined per State Statute § 25-4-1614 and include:

“A limited range of foods that have been produced, processed, or packaged that are non-potentially hazardous and do not require refrigeration. These foods include pickled fruits and vegetables, spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies, preserves, fruit butter, flour, and baked goods, including candies, fruit empanadas, and tortillas, and other non-potentially hazardous foods.”

This may include up to 250 dozen eggs per month if produced on premises.

While current City Code and home occupation standards currently allow for the cultivation of plants, fruits and vegetables on-premise, the Code does not allow vegetable stands in residential areas. Therefore, there is no permitting process to display and sell these cottage foods from the property.

In January of 2016, the Colorado Springs Food Policy Advisory Board began to discuss their perceived deficiencies in City Code related to residential road-side farm stands. They engaged Councilwoman Gaebler to begin a discussion on how the City could support cottage foods in a more progressive way. The letter from the Food Policy Advisory Board is attached as FIGURE 3.

With this discussion, Councilwoman Gaebler collaborated with the Food Policy Advisory Board, and engaged staff to look at code requirements related to home occupation allowances. The summary of that process and the proposed code changes and impact are outlined in the following sections of this report.

While there are no objective data to measure the outcomes, healthy initiatives such as promotion of locally grown, produced and sold foods has social, economic and community benefits. As cities across the country vie for business retention/expansion, strong labor force and healthy lifestyles, access to healthy foods can become part of an economic development strategy. Although not the primary objective, this ordinance may have an indirect benefit by fostering the City's image as a healthy and desirable place to live and conduct business.

Residential food stands provide direct and walkable access to healthy foods in areas where they are most sought after - residential neighborhoods. Staff anticipates that use of this home occupation provision would be somewhat limited given that a number of neighborhoods have private covenants that would prohibit such activity.

Financial Implications:

There are no direct financial implications resulting from the proposed ordinance as the review of the additional home occupation applications and investigation of any alleged violations will be performed by existing staff.

Board/Commission Recommendation:

On August 18, 2016, the City Planning Commission recommended adoption of this ordinance to City Council with a vote of 5 to 1. The descending vote was by Commissioner Markewich. Commissioner Markewich was in support of the concept and generally in support of the proposed ordinance. However, Commissioner Markewich voted "no" because he felt that the ordinance should include a requirement for the home occupation petitioner to provide a food handling safety verification/certification from an applicable agency. The majority of the Commission did not support Commissioner Markewich's amendment.

Staff initially recommended denial of the ordinance. However, after public testimony and robust discussion by the Planning Commission, the Commission voted to recommend approval of the ordinance to the City Council. Staff's concerns remain as outlined in the Planning Commission staff report.

Stakeholder Process:

The proposed ordinance was reviewed by CONO and El Paso County Health Department. Neither of

the organizations opposes the ordinance as written.

Alternatives:

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration

Proposed Motion:

Approve an ordinance amending section 1503 (Home Occupation Permit Standards and Criteria of Part 15 (Home Occupations of Article 5 (Administration and Procedures of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, relating to the production and sales of plants fruits, vegetables and cottage foods.

An ordinance amending Section 1503 (Home Occupation Permit Standards and Criteria) of Part 15 (Home Occupations) of Article 5 (Administration and Procedures) of Chapter 7 (Planning, Development and Building) of the code of the City of Colorado Springs 2001, as amended, relating to the production and sales of plants, fruits, vegetables and cottage foods.