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ORD-22

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October 1, 2013

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending Section 21.51.235 relating to the regulation of cottage food operations read the first time and laid over to the next regular meeting of the City Council for final reading.
(Citywide)

DISCUSSION

Assembly Bill (AB) 1616 was recently adopted to regulate home food preparation businesses known as "Cottage Food" operations. AB 1616 requires the City to allow cottage food operation uses as a permitted use in residential zones. A cottage food operation is essentially a business enterprise at a private home where low risk food products are prepared or packed for sale to consumers. A private home is considered a dwelling, including an apartment or other leased space, where individuals reside. The state law was intended to promote small businesses, and healthier, local, homegrown foods.

The City does have the ability to impose reasonable standards, restrictions and requirements related to a cottage food operation. The intent of the attached ordinance is to bring the City's Municipal Code into conformance with the new state law, while at the same time imposing the type of reasonable restrictions that the City typically applies to other home occupation businesses.

The proposed Ordinance would classify a "Cottage Food Operation" as a "Home Occupation" in the City's Zoning Regulations. As a "Home Occupation," restrictions would also be imposed based upon the number of people able to engage in this type of activity at a particular location (two), commercial signage (none permitted), noise, types of mechanical equipment that can be used in the operation, public safety (i.e., no toxic, explosive or combustible materials to be stored on site), no outside or garage storage of materials, limitations on the number of business visitors per hour and day, and reasonable parking restrictions. In addition, the

residential appearance of the premises could not be altered and the property owner would not be allowed to create a separate entrance to the dwelling for the purpose of accommodating the cottage food operation use.


SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By


MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm

A12-02548

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21.51.235 Home Occupations

A. Intent.

A home occupation permit is intended for home enterprises that are incidental to the use of the dwelling unit and does not change the principal character or use of the dwelling. The home occupation shall be compatible with surrounding residential uses and not have characteristics associated with the use that would reduce the surrounding residents' enjoyment of their neighborhood. As an ancillary activity to those uses permitted in the applicable residential zone in which the subject site is located, the following home based businesses may be conducted at the site:

1. **Professional Office Uses** – A professional office use is a business whose principal product is information, management or design, including but not limited to, accounting, architecture, artist/talent management and promotion, brokerage, business/financial management, computer programming and software development, consulting, direct sales (incl. internet sales), credit/financial counseling, drafting and illustration, engineering, fashion design, interior decoration and design, legal services, marketing and advertising, property management, and writing and editing. The primary means of contact must be by phone, mail, or other electronic form of communication. A professional office use does not include research requiring the use of hazardous materials and equipment.
2. **Instructional Services Uses** – An instructional services use is a business whose principal purpose is to provide cognitive instruction or training, including but not limited to, academic tutoring, musical instrument lessons, dance lessons, sports training, or other similar physical performance training. The maximum number of students at any one time shall be limited to six.
3. **Home Craft Uses** – A home craft use is a business that results in a tangible product including but not limited to, dressmaking, toy making and doll making. Additional uses include artistic products such as sculpting, painting, photography and other similar forms of creative works when such works are produced with the intent of gain or benefit for the participant or another person. Conducting a home craft use does not entitle the owner to sell articles manufactured on-site or in a residential zone.
4. **Cottage Food Operations** – A cottage food operation is an enterprise at a private home where low-risk food products are prepared or packaged for sale to consumers. A cottage food operation is subject to all State of California Health and Safety Code regulations (AB 1616 Food Safety: cottage food operations).

B. Requirements.

A home occupation permit shall only be issued when all of the following requirements are met and maintained:

1. No person other than a resident of the dwelling unit shall be engaged or employed in the home occupation, and the number of residents engaged or employed in the home occupation shall not exceed two.
2. No sign shall be displayed in a manner visible from the outside of the dwelling unit. Vehicles with signs identifying the home occupation shall be parked so that they cannot be seen from the public right-of-way.
3. No mechanical equipment shall be used except that which is necessarily, customarily, or ordinarily used for household or leisure purposes. Such equipment shall not generate noise higher than the noise standards established for the residential uses.
4. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restricted materials shall be used or stored on the site.
5. There shall be no outside operations, storage or display of materials or projects.
6. There shall be no excessive or unsightly storage of materials or supplies for purposes other than those permitted in the residential district in which it is located. A garage may not be used for operations of the business or storage of materials used in the business and must be maintained for parking of automobiles and similar type vehicles.
7. The residential appearance of the premises shall not be altered. Creation of a separate entrance to the dwelling or use of an existing entrance exclusively for the business shall not be permitted.
8. No process shall be used which is hazardous to public health, safety or welfare.
9. Visitors, customers or deliveries to the dwelling shall not exceed that which normally and reasonably occurs for a residence. Visitors and deliveries shall be limited to not more than two business visitors an hour and eight visitors a day, and not more than two deliveries of products or materials a week.
10. The home occupation shall not displace or block the use of parking spaces required for the residential use including any business storage in required garage parking areas.
11. No advertisement shall be placed in any media containing the address of the property.
12. Not more than two vehicles shall be used in the business. Only one vehicle may be commercially licensed.
13. When the person conducting the home occupation serves as an agent or intermediary between outside suppliers and outside customers, all articles, except for samples, shall be received, stored and sold directly to customers at an off-premises location.
14. The home occupation permit shall be valid only for the person to whom it was issued and shall be void when that person moves from the dwelling unit or discontinues the business.

C. Prohibited Home Occupation Uses.

The following uses shall be prohibited as home occupations:

1. Ambulance service
2. Appliance repair
3. Automobile repair, parts, sales, upholstery, detailing, washing, service
4. Beauty salons and barber shops
5. Boardinghouse, bed and breakfast, hotel, time-share unit
6. Carpentry, cabinet makers
7. Ceramics (kiln of six cubic feet or more)
8. Churches, religious instruction
9. Contractor storage yards
10. Food preparation (except cottage food operations per State of California Health and Safety Code regulations (AB 1616 Food Safety: cottage food operations)).
11. Gun sales (including internet) and repair
12. Health clubs, gyms, dance studios, aerobic studios, massage
13. Limousine or pedicab service
14. Medical or dental office
15. Mortician, hearse service
16. Palm reading, fortunetelling
17. Private clubs
18. Religious services
19. Restaurants, taverns
20. Retail sales from site (except direct distribution and internet)
21. Skin care services
22. Tow truck service
23. Welding or machine operation
24. Upholstery
25. Veterinary uses (including care, grooming or boarding).
26. Any use that requires the use of toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restricted materials.
27. Any use that is hazardous to public health, safety or welfare.
28. Any use that changes the residential characteristic of the residence.
29. Other uses the Planning Administrator determines to be similar to those listed above, or which by their operation or nature are not incidental to or compatible with residential activities.

- D. Any home occupation which becomes a non-conforming use as a result of revisions to applicable provisions of this title shall either:
1. Be brought into legal conforming status; or
 2. Be discontinued and removed within three months of becoming a non-conforming use.

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SUBSECTION 21.51.235.C.10; AND BY ADDING SUBSECTION 21.51.235.A.4, RELATING TO COTTAGE FOOD OPERATIONS

The City Council of the City of Long Beach ordains as follows:

Section 1. Section 21.51.235.C.10 of the Long Beach Municipal Code is amended to read as follows:

10. Food preparation (except cottage food operations per State of California Health and Safety Code regulations (AB 1616 Food Safety; cottage food operations).

Section 2. Section 21.51.235.A.4 is added to the Long Beach Municipal Code to read as follows:

4. Cottage Food Operations. A cottage food operation is an enterprise at a private home where low-risk food products are prepared or packaged for sale to consumers. A cottage food operation is subject to all State of California Health and Safety Code regulations (AB 1616 Food Safety; cottage food operations).

Section 3. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by

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the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2013, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor