

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANTON ADOPTING AMENDMENT TO TITLE 18 (ZONING) OF THE PLEASANTON MUNICIPAL CODE TO MODIFY CHAPTER 18.08 (DEFINITIONS) AND ADD A NEW CHAPTER 18.105 (COTTAGE FOOD OPERATIONS) ESTABLISHING A PERMIT PROCESS AND PERFORMANCE STANDARDS FOR HOME-BASED FOOD PRODUCTION AND SALES IN RESIDENCES AS FILED UNDER CASE NO. P12-1753

WHEREAS, the State legislature has adopted new laws, AB 1616 and AB 2297 (2012), that require that all cities and counties in California to allow cottage food operations to produce and sell certain foods from residences, including homes and apartments, as a permitted use in residential areas, subject only to reasonable conditions related to spacing and concentration, traffic control, parking and noise control; and

WHEREAS, this ordinance adopts a new Pleasanton Municipal Code definition to Chapter 18.08 for cottage food operations and adds a new Pleasanton Municipal Code Chapter 18.105 Cottage Food Operations for a permit process and performance standards for home-based food production and sales in residence and related matters.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 18 (Zoning) of the Pleasanton Municipal Code is hereby amended by the addition of Section 18.08.117 (Cottage Food Operation) to Chapter 18.08 (Definitions) and the addition of Chapter 18.105 (Cottage Food Operations) as set forth in the attached Exhibit A.

SECTION 2. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation published in the City of Pleasanton, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

SECTION 3. This ordinance shall be effective thirty (30) days after its passage and adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasanton on January 15, 2013 by the following vote.

Ayes: Councilmembers Brown, Cook-Kallio, Pentin, Mayor Thorne
 Noes: None
 Absent: One vacancy
 Abstain: None

 Jerry Thorne, Mayor

ATTEST:

 Karen Diaz, City Clerk

APPROVED AS TO FORM:

 Jonathan Lowell, City Attorney

EXHIBIT A

Title 18 Zoning

Chapter 18.08 Definitions

Section 18.08.117 Cottage Food Operation

"Cottage food operation" means an enterprise within the registered or permitted (by the Alameda County Department of Environmental Health Food Safety Division) area of a private home or apartment, or other multi-family housing (i.e. condominiums or townhomes), where the individual, who proposes to operate the cottage food operation in his or her private residence and is the owner of the cottage food operation, prepares and /or packages cottage food products that are not potentially hazardous foods for direct or indirect sale to consumers. See California Health & Safety Code §113758.

Chapter 18.105 Cottage Food Operations

Chapter 18.105 Cottage Food Operations

18.105.010 Purpose.

18.105.020 Procedure.

18.105.030 Application – required information and maps.

18.105.040 Action of zoning administrator.

18.105.050 Standards.

18.105.060 Additional procedures.

18.105.010 Purpose.

The City is required by 2012 State laws AB 1616 (cottage food operations) and AB 2297 (California retail food code) to allow cottage food operations in residential areas under specific circumstances. This chapter is intended to comply with State law, and adopt the reasonable standards allowed by State law to provide that cottage food operations in residential areas do not create unreasonable impacts.

18.105.020 Procedure.

Applications for cottage food operations shall be processed in accordance with the provisions of this chapter.

18.105.030 Application – required information and maps.

An application for a permit to engage in a cottage food operation shall be filed with the zoning administrator on a form prescribed by the city and shall include the following information and maps:

- A. Name and address of the applicant, who must be the proposed cottage food operator (the individual who proposes to operate the cottage food operation in his or her private residence and is the owner of the cottage food operation) (see Cal. Health & Safety Code §113758(b)(2));
- B. Statement of whether the applicant is the owner or a tenant of the property on which the use is proposed to be located; and if a tenant, the name and contact information for the property owner, landlord, or management company; as well as the signature of the property owner, landlord or management company consenting to the application;

- C. Address or description of the property on which the use is proposed to be located;
- D. Copy of the permit issued by, or application submitted to, the Alameda County Department of Environmental Health Food Safety Division for the proposed cottage food operation;
- E. Description of whether the proposed use will include the involvement of: (i) a family member or household member of the cottage food operator; (ii) a paid or volunteer individual involved with the cottage food products who works for the cottage food operation (see Cal. Government Code §113758);
- F. Statement of whether the proposed use will involve: (i) direct sales to customers of cottage food products at the property; (ii) direct sales to customers off-site; (iii) direct sales at temporary off-site events such as holiday bazaars, bake sales, food swaps, farm stands, etc.; (iv) indirect sales to third party retailers at the property; (v) indirect sales to third party retailers off-site; and (vi) any other mode(s) or location(s) of sales;
- G. Statement of whether any applicable covenants, conditions or restriction applicable to the property allow cottage food operations or similar home occupations;
- H. Statement indicating the precise manner of compliance with each of the applicable provisions of this chapter, together with any other data pertinent to the findings prerequisite to the granting of a permit, prescribed in Section 18.105.050 of this article;
- I. An accurate scale building drawing of the residence showing: (i) areas registered and permitted by, or areas shown on application submitted to, the Alameda County Department of Environmental Health Food Safety Division for cottage food preparation, packaging and related exclusive storage; (ii) all doors and exits; (iii) all vehicle parking spaces;
- J. An accurate scale drawing of the site showing property lines, existing streets, structures, driveways, pedestrian walks, and on- and off-site parking and loading areas;
- K. The zoning administrator may require additional information, plans and drawings if they are necessary to determine whether the proposed use will comply with all of the applicable provisions of this chapter. The zoning administrator may authorize omission of any or all of the plans and drawings required by this section if they are not necessary.

Applicant has the right to request a fee verification for any fee paid pursuant to this chapter. (See Cal. Government Code §51035.)

18.105.040 Action of zoning administrator.

After submittal of the information required by Section 18.105.030 and review of the application for compliance with the standards set forth in Section 18.105.050, the zoning administrator shall approve, approve in modified form, or deny the application. The zoning administrator shall grant the permit if the proposed cottage food operation, as applied for or as modified, complies with the standards set forth in section 18.105.050. Any action of the zoning administrator may be appealed to the planning commission.

18.105.050 Standards.

Cottage food operations shall be required to meet the following requirements:

- A. Spacing. No cottage food operation shall be approved if: (1) the property line of the site of the proposed use is located within 300 feet and on the same street or the corner of a cross-street of the property line of any single family home where another cottage food operation is located; or (2) if the proposed use is located within the same building of an

apartment complex or other multi-family housing (i.e. condominiums or townhomes) where another cottage food operation exists.

B. **Parking and Loading Requirements.** For single family homes, parking spaces in the property's garage or carport (if present) and driveway shall be provided for the actual parking demand created by the use, including parking spaces for the applicant's own vehicles, parking spaces for employees if employees are present, and one parking space for customers if direct sales on the property are proposed. For apartments and multifamily developments, the cottage food operator's designated space(s) shall be available for the actual parking demand created by the use, including parking spaces for the applicant's own vehicles, parking spaces for employees if employees are present, and one parking space for customers if direct sales on the property are proposed. On-site parking in an apartment complex or other multi-family residence requires approval from the property owner, landlord, homeowners association or property manager.

On-street parking spaces may be used for persons picking-up and/or delivering materials for the operation and third party retailers coming to the property if proposed.

If the proposed operation will involve loading of food products into vehicles, such loading may occur anytime within an enclosed garage when the garage door is shut. Hours for loading vehicles outside of a garage are limited from 8:00 a.m. to 6:00 p.m. Monday through Friday, and 10:00 a.m. to 4:00 p.m. on Saturdays and Sundays. Vehicles shall not idle when being loaded.

C. **Noise Control.** Cottage food operations shall not create noise levels in excess of those allowed in the applicable residential areas in the noise element of the general plan or in excess of those allowed in residential property by Chapter 9.04 of this code.

D. **Size.** Cottage food operations shall occupy no more of a residence than the lesser of: (1) thirty percent (30%) of the floor area of the dwelling excluding garage area; or (2) the area permitted by the Alameda County Department of Environmental Health Food Safety Division.

E. **No Signage or Outdoor Sales.** Cottage food operations shall not install or post signage or advertisements identifying the cottage food operation at the site or building where the operation is located. No outdoor sales shall be allowed at the site of the cottage food operation.

F. **No dining.** If direct sales are proposed at the site of the cottage food operation, no third parties or customers shall be permitted to dine at the cottage food operation.

G. **Code Requirements.** While the use of a residence for a cottage food operation shall not constitute a change of occupancy for purposes of building and fire codes, to the extent that building modifications are proposed (e.g. more walls for storage areas, new electrical panel for range) the cottage food operation shall meet all requirements of Title 20 (Buildings and Construction).

18.105.060 Additional procedures.

The regulations concerning effective date of the permit, review or appeal, lapse of permit, suspension and revocation, new application and successors in interest shall be those contained in 18.144.020. Modifications shall be handled by the zoning administrator pursuant to the procedures set forth in this article for new applications.