

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF 2014

COUNCIL BILL NO. 2014-0398  
COMMITTEE OF REFERENCE:  
4 Land Use Transportation and Infrastructure

5  
6 A BILL

7 **For an ordinance amending the Denver Zoning Code to allow fresh produce and**  
8 **cottage food sales as a home occupation.**

9  
10 **WHEREAS**, the City Council has determined that permitting the sale of fresh produce and  
11 cottage foods as a permitted home occupation in most residential zone districts will help promote  
12 health, build on the assets of neighborhoods, foster a citywide sense of community, and conform  
13 with the State of Colorado Cottage Food Act; and

14 **WHEREAS**, the City Council has determined on the basis of evidence and testimony  
15 presented at the public hearing that the amendment set forth herein is in conformance with the  
16 Denver Comprehensive Plan 2000 and all amendments thereto, the Mayor's 2020 Sustainability  
17 Goals, and is reasonably necessary to the promotion of the public health, safety and general  
18 welfare.

19 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**  
20 **DENVER:**

21 **Section 1.** Division 3.4 of the Denver Zoning Code is hereby amended to add Food  
22 Preparation, along with Fresh Produce and Cottage Food Sales, as home occupation uses Permitted  
23 in specific Zone Districts with Limitations requiring a Zoning Permit.

24 **Section 2.** Division 11.8 of the Denver Zoning Code is hereby amended to clarify that sales  
25 from a Garden accessory to a primary residential use are allowable with a Fresh Produce and  
26 Cottage Food Sales Home Occupation Permit.

27 **Section 3.** Division 11.9 of the Denver Zoning Code is hereby amended to organize and  
28 clarify the limitations applicable to all home occupation uses and to incorporate Fresh Produce and  
29 Cottage Food Sales Home Occupation within Division 11.9.

30 **Section 4.** Division 11.12 of the Denver Zoning Code is hereby amended to: add a  
31 definition of Fresh Produce and Cottage Foods Sales Home Occupation; add a definition of Cottage  
32 Foods based on the State of Colorado Cottage Foods Act; and clarify the definition of Food  
33 Preparation Home Occupation to differentiate it from Fresh Produce and Cottage Foods Sales.



KEY: \* = Need Not be Enclosed P = Permitted Use without Limitations L = Permitted Use with Limitations NP = Not Permitted Use  
ZP = Zoning Permit Review ZPIN = Subject to Zoning Permit Review with Informational Notice ZPSE = Subject to Zoning Permit with Special Exception Review  
When no ZP, ZPIN, ZPSE listed = No Zoning Permit required

USE CATEGORY	SPECIFIC USE TYPE • Vehicle Parking Reqmt: # spaces per unit of measurement • Bicycle Parking Reqmt: # spaces per unit of measurement (% Required Spaces in Enclosed Facility /% Required Spaces in Fixed Facility)											APPLICABLE USE LIMITATIONS
		S-SU-Fx S-SU-Ix	S-SU-A S-SU-D S-SU-F S-SU-F1 S-SU-I	S-TH-2.5	S-MU-3 S-MU-5 S-MU-8 S-MU-12 S-MU-20	S-CC-3x S-CC-5x	S-CC-3 S-CC-5	S-MX-2x	S-MX-2	S-MX-3 S-MX-5 S-MX-8 S-MX-12	S-MS-3 S-MS-5	
<b>HOME OCCUPATIONS ACCESSORY TO PRIMARY RESIDENTIAL USES USE CLASSIFICATION</b>												
Home Occupations (Parking is Not Required for Home Occupations Unless Specifically Stated in this Table or in an Applicable Use Limitations)	Adult Care Home	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.1
	Animal Care Services	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.2
	Artist Studio	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.3
	Beauty Shop or Salon	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.4
	Child Care Home, Small	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.5
	Child Care Home, Large	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	\$11.9; §11.9.3
	Clock and Watch Repair	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.6
	Craft Work	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.7
	Custom Dress-making, Millinery, Tailoring, Sewing	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.8
	<u>Food Preparation</u>	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	<del>\$11.9; §11.9.4.9</del>
	Foster Family Care	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; §11.9.4.10
	<u>Fresh Produce and Cottage Foods Sales*</u>	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	<del>\$11.9; §11.9.4.11</del>
	Laundering and Pressing	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; <del>§11.9.4.11-12</del>
	Office, Non-Medical, Non-Dental	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; <del>§11.9.4.12-13</del>
	Professional Studio	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; <del>§11.9.4.13-14</del>
Rooming and/or Boarding	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; <del>§11.9.4.14-15</del>	
Tutoring Services	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; <del>§11.9.4.15-16</del>	
Unlisted Home Occupations	NP	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	L-ZPIN	\$11.9; §11.9.5	

- D. Growing shall be for personal use only by persons residing in the dwelling unit; retail or wholesale sales of goods or products derived from the growing of marijuana and any off-site distribution of such plants or derived products are prohibited.

#### 11.8.4.2 All Residential Zone Districts

In a Residential Zone District, where permitted with limitations, retail or wholesale sales of goods or products derived from a Garden accessory to a primary residential use are prohibited in a Residential Zone District unless permitted as a Fresh Produce and Cottage Foods Sales Home Occupation in a Residential Zone District.

### SECTION 11.8.5 KEEPING OF HOUSEHOLD ANIMALS

#### 11.8.5.1 All Zone Districts

In all Zone Districts, where permitted with limitations:

##### A. Animals Allowed Without a Zoning Permit

The keeping of domestic or household animals is allowed as accessory to a primary dwelling unit use, subject to compliance with the following standards regarding number and kinds of animals:

KIND OF ANIMAL ALLOWED	PERMITTED NUMBER OF ANIMALS ALLOWED / STANDARDS
Dogs	3 maximum
Cats	5 maximum
Combination of dogs and cats	No more than 5 dogs and cats combined provided there are no more than 3 dogs as part of the total.
Rabbits	2 maximum
Pigeons or doves	25 maximum
Horses	No more than 1 horse for each 1/2 acre of zone lot area
Small rodents--Rats, mice, guinea pigs, hamsters and other similar animals	No numerical limit, however, the raising or breeding of these animals for resale is prohibited.
Fish	No numerical limit, however, the raising or breeding of these animals for resale is prohibited.
Small reptiles and amphibians. The types of these animals is regulated by chapter 8 of the Revised Municipal Code	No numerical limit, however, the raising or breeding of these animals for resale is prohibited.
Domestic Honey Bees	<ul style="list-style-type: none"> <li>• 2 hives per zone lot;</li> <li>• Hives must be in rear 1/3 of zone lot with a 5 foot setback from side and rear zone lot lines;</li> <li>• Hives must be screened so that the bees must surmount a 6 foot barrier, which may be vegetative, before leaving the property;</li> <li>• No outdoor storage of any bee paraphernalia or hive materials not being used as a part of a hive.</li> </ul>
Chickens and Ducks	<ul style="list-style-type: none"> <li>• No more than 8 chickens and ducks combined per zone lot.</li> <li>• No structure used to house the animals may be closer than 15 feet to: (1) a structure on an abutting zone lot containing a dwelling unit, and (2) a dwelling unit not the residence of the animal keeper(s) and located in a primary structure on the same zone lot.</li> <li>• On any residential zone lot, the animals shall be maintained in the rear 50% of the Zone Lot Depth.</li> <li>• Slaughtering of the animals as part of keeping such animals is prohibited.</li> </ul>
Dwarf Goats	<ul style="list-style-type: none"> <li>• No more than 2 Dwarf Goats, except any number of their offspring younger than 6 months , may be kept per zone lot.</li> <li>• No structure used to house the animals may be closer than 15 feet to: (1) a structure on an abutting zone lot containing a dwelling unit, and (2) a dwelling unit not the residence of the animal keeper(s) and located in a primary structure on the same zone lot.</li> <li>• On any residential Zone Lot, the goats shall be maintained in the rear 50% of the Zone Lot Depth.</li> <li>• Slaughtering of the animals as part of keeping such animals is prohibited.</li> </ul>

## DIVISION 11.9 HOME OCCUPATIONS ACCESSORY TO PRIMARY RESIDENTIAL USES - ALL ZONE DISTRICTS

### SECTION 11.9.1 INTENT

- 11.9.1.1 Home Occupations are a type of accessory use that accommodates limited business activities conducted incidental to a primary residential use. This Division's allowance for Home Occupations is intended to achieve multiple city goals and objectives, including reducing the number of home-to-work vehicle trips with related improvements in air quality; facilitating small business ventures that contribute to the city's overall economic health; and accommodating demand for certain business services convenient to where prospective clients or customers live. The standards and review procedures applicable to Home Occupations are generally intended to minimize the impact such uses may have on the character and enjoyment of the surrounding residential neighborhood, while furthering the goals and objectives stated herein.
- 11.9.1.2 The Use and Parking Tables in Articles 3 through 9 reference any limitations applicable to allowed primary, accessory, or temporary uses. This Division contains limitations applicable to Home Occupation uses accessory to primary residential uses across multiple Zone Districts and neighborhood contexts.

### SECTION 11.9.2 LIMITATIONS APPLICABLE TO ALL HOME OCCUPATIONS - ALL ZONE DISTRICTS

In addition to any use-specific limitations in this Division 11.9, all Home Occupations in all Zone Districts shall comply with the following general limitations. In case of any conflict between the general limitations in this Section and a more specific use limitation, the more specific use limitation shall apply to the Home Occupation.

#### 11.9.2.1 **Residential Use**

A Home Occupation legally operated in a dwelling unit according to this Section shall be considered, in combination with the primary dwelling unit use, a residential use for all purposes of this Code.

#### 11.9.2.2 **Location**

- A. All Home Occupations shall operate in a completely enclosed structure, except that:
1. A child care home (small or large) may include outdoor play and/or seating areas.
  2. For Fresh Produce and Cottage Foods Sales, retail sales may operate unenclosed.
- B. Home Occupations may operate in the primary dwelling unit structure, or in a detached accessory structure, allowed under this Code.

#### 11.9.2.3 **Personal to Applicant**

- A. Only the person or persons maintaining the dwelling unit as their primary place of residence shall operate the Home Occupation. For purposes of this provision only, "person" shall not include any corporation, partnership, firm, association, joint venture, or other similar legal entity.
- B. A zoning permit for an approved Home Occupation shall automatically expire at such time as the applicant no longer resides at the subject property.

#### 11.9.2.4 **External Evidence and Signage**

- A. If operated inside the primary dwelling unit structure, the Home Occupation shall not have a separate external entrance serving the Home Occupation.

- B. The Home Occupation shall not display or create outside the building any external evidence of the operation of the Home Occupation, except for the following:
1. A child care home (small or large) may include outdoor play and/or seating areas. ~~and~~
  2. For Fresh Produce and Cottage Foods Sales, retail sales may operate unenclosed and utilize temporary, portable furniture such as tables, chairs, and umbrellas during permitted operating hours only.
  3. One non-animated, non-illuminated flat wall or window sign having an area of not more than 100 square inches is allowed for each street frontage of the subject zone lot.

#### 11.9.2.5 **Size**

One or more The Home Occupation(s), whether located within a primary dwelling unit or a detached accessory structure, shall not in the aggregate utilize more than 20 percent of the gross floor area of the dwelling unit primary use, but in no case shall exceed 300 square feet. However, this limitation shall not apply to Foster Family Care, aAdult eCare hHome, small or Large Child Care Home, Small or Large, eCraft wWork, or aArtist sStudio, or to portions of a Home Occupation allowed to operate unenclosed.

#### 11.9.2.6 **Other Limitations**

- A. The Home Occupation shall not have any employees or regular assistants not residing in the primary or accessory dwelling unit located on the subject zone lot, unless specifically allowed or required by the terms of a state or city license necessary to operate the permitted Home Occupation.
- B. The use of hand tools is allowed without limitation.
- C. The use of mechanical equipment is limited to the use of electric motors for power, with a total limitation of not greater than 3 horsepower.
- D. ~~A zoning permit for an approved Home Occupation shall automatically expire at such time as the applicant no longer resides at the subject property.~~

### SECTION 11.9.3 CHILD CARE HOME – LARGE

Large Child Care Home, where allowed with limitations, is allowed as a Home Occupation subject to compliance with the following limitations:

- 11.9.3.1 The applicant shall be the owner or the applicant has written permission of the owner of the subject property.
- 11.9.3.2 The proposed Large Child Care Home is the applicant's primary place of residence.
- 11.9.3.3 The applicant has obtained or will obtain upon granting of the zoning permit all licenses and certifications required by the state and the city.
- 11.9.3.4 The proposed Large Child Care Home complies with the building and fire codes and all regulations established by the City.
- 11.9.3.5 No other Large Child Care Home is located within 400 feet of the proposed Large Child Care Home.
- 11.9.3.6 The proposed Large Child Care Home complies with all the requirements of the Zone District in which it is located, excepting for any legally nonconforming structure.
- 11.9.3.7 The applicant shall implement and maintain an ongoing traffic management program that ensures that the operation of the proposed Home Occupation will not create traffic or parking problems in the neighborhood as a result of either the additional traffic introduced or the drop-off and pick-up of children, and that off-street parking shall be provided for each member of the staff on duty unless

#### **11.9.4.9 Food Preparation**

On-premises retail sales direct to consumers are not permitted. Retail sales are prohibited as part of the this Home Occupation. (For retail sales see Fresh Produce and Cottage Foods Sales Home Occupation).

#### **11.9.4.10 Foster Family Care**

Foster Family Care is allowed as a Home Occupation subject to compliance with the following standards:

- A. The dwelling unit in which the Foster Family Care is proposed is located in a Residential Zone District or Mixed Use Commercial Zone District.
- B. In Zone Districts where Home Occupations of Foster Family Care, rooming and/or boarding, and adult care home are permitted, only one such Home Occupation will be permitted in any one dwelling unit.
- C. The permit is necessary and desirable to provide a service or a facility that would contribute to the general wellbeing of the community.

#### **11.9.4.11 Fresh Produce and Cottage Foods Sales**

Fresh Produce and Cottage Foods Sales is allowed as a Home Occupation subject to compliance with the following standards:

- A. Items for sale are limited to the products defined in Subsection 11.12.8.2.9 Fresh Produce and Cottage Food Sales;
- B. Sales are allowed only from 7:00 a.m. until dusk daily; and
- C. The home occupation permittee must have grown, cultivated, and/or prepared all items for sale.

#### **11.9.4.12 Laundering and Pressing**

#### **11.9.4.13 Office, Non-Medical, Non-Dental**

Office, not including Dental/Medical Office and/or Clinic, is allowed as a Home Occupation subject to compliance with the following standards:

- A. No goods, wares or merchandise shall be commercially created, displayed, exchanged, stored or sold as part of a permitted office Home Occupation.
- B. Professional and personal services provided shall be by appointment only. Walk-in appointments are prohibited.

#### **11.9.4.14 Professional Studio**

- A. Retail sales are prohibited as part of a Professional Studio Home Occupation use.
- B. Instructional or other services provided shall be by appointment only. Walk-in appointments are prohibited.

#### **11.9.4.15 Rooming and/or Boarding**

Rooming and/or Boarding is allowed as a Home Occupation subject to compliance with the following standards:

- A. The dwelling unit shall contain not more than one kitchen.
- B. Number of roomers/boarders allowed - see table below:

**7. Food Preparation**

A Home Occupation where prepared food items that are not Cottage Foods, as defined in Fresh Produce and Cottage Food Sales, are made and assembled for off-premises consumption by others and/or for off-premises sale.

**8. Foster Family Care**

A Home Occupation that provides full-time care of not more than 4 children or 2 adults unrelated to the residents by blood or adoption subject to the licensing requirements of the state. A qualified foster care adult is a person who is placed in the home by an agency of the state or one of its political subdivisions.

**9. Fresh Produce and Cottage Foods Sales**

A Home Occupation where:

- a. Raw, uncut fresh fruits, vegetables, and herbs , excluding marijuana, that were grown in a permitted accessory Garden or primary Urban Garden are sold; and/or
- b. Cottage Foods are prepared and/or sold.

Cottage Foods are defined in the State of Colorado Cottage Foods Act (House Bill 13-1158) unless otherwise prohibited by the Department of Environmental Health. Cottage Foods shall not include any food products made with marijuana.

**10. Office, Non-Medical, Non-Dental**

See Section 11.12.4.6.A, Definition of Office Use Category, but not including Dental / Medical Office or Clinic.

**11. Professional Studio**

See definition of “Professional Studio” in Section 11.12.4.2.B, Specific Arts, Entertainment & Recreation Use Types and Definitions.

**12. Rooming and/or Boarding**

A Home Occupation that provides lodging with or without meals, is available for permanent occupancy only, and which makes no provision for cooking in any of the rooms occupied by paying guests.

## **SECTION 11.12.9 DEFINITIONS OF USES ACCESSORY TO PRIMARY NONRESIDENTIAL USES**

**11.12.9.1 Amusement Devices**

An electronic or mechanical device which operates as a game, contest or amusement of any description and which includes but is not limited to pinball machines, video games, foosball machines or similar devices. This term does not include musical devices, children’s rides, or pool and/or billiard tables.

**11.12.9.2 Automobile Rental Services**

The rental of automobiles under conditions where (1) the storage of all rental automobiles is located on the same zone lot as the office for the automobile rental service, and (2) no mechanical or maintenance work on automobiles shall be done on the premises, and (3) the land area assigned for storage of rental automobiles shall not be included for computation of any required off-street parking space.

**11.12.9.3 Car Wash Bay**

Washing, cleaning, and/or waxing of private automobiles, light trucks and vans, but not commercial fleets, by hand or with manually operated equipment or automatic machinery.