



Text Amendment to Allow Fresh Produce and Cottage Foods Sales as a Home Occupation

Planning Board Adoption Draft April 22, 2014

This document presents a **summary** of proposed the Text Amendment. Please see the redline draft for the complete amendment.

Guide for reading the redlined draft:

Text that is **red underlined** is proposed new language.

Text that is **red strikethrough** is proposed deleted language.

Text that is **blue** is text that has been relocated.

Purpose of the Proposed Text Amendment:

1. Add the sale of fresh produce and cottage foods sales as a permitted home occupation in residential zone districts. This will help to bring Denver's regulations in conformance with the State of Colorado Cottage Foods Act.

Summary of Amendments:

ARTICLE 3 – SUBURBAN NEIGHBORHOOD CONTEXT

DIVISION 4.3 – USES AND REQUIRED MINIMUM PARKING

- Amend the list of permitted Home Occupations to include Fresh Produce and Cottage Foods Sales as Permitted Use with Limitations (“L”), with Zoning Permit (“ZP”) required. For the U-SU-Fx and U-SU-Ix zone districts, the home occupation is Not Permitted (“NP”). NOTE: this change to the Use Table is not required for zone districts outside of the Suburban Neighborhood Context since all other Neighborhood Contexts have one category for home occupations that this home occupation would fall under.

ARTICLE 11 – USE LIMITATIONS AND DEFINITIONS

DIVISION 11.8 - USES ACCESSORY TO PRIMARY RESIDENTIAL USES – LIMITATIONS:

- Amend Garden limitations to clarify that sales from a Garden accessory to a primary residential use are allowed, only with approval of a Fresh Produce and Cottage Foods Sales Home Occupation permit.

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

- Amend the limitations applicable to all home occupations to:
 - Clearly organize by topic (e.g. “Residential Use,” “Location,” etc.)
 - Clarify that Fresh Produce and Cottage Foods Sales Home Occupation may operate unenclosed.
 - Clarify that the size restriction does not apply to portions of home occupations operating unenclosed.

- Amend limitations on Food Preparation Home Occupation to clarify that on-premises retail sales are not allowed and to reference the Fresh Produce and Cottage Foods Sales Home Occupation.
- Add limitations for the Fresh Produce and Cottage Foods Sales Home Occupation.

DIVISION 11.12 - USE DEFINITIONS

- Add definition of Fresh Produce and Cottage Foods Sales Home Occupation, which includes a definition of Cottage Foods based on the State of Colorado Cottage Foods Act.
- Amend definition of Food 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			
HOME OCCUPATIONS ACCESSORY TO PRIMARY RESIDENTIAL USES USE CLASSIFICATION													
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	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	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	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	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	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	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	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	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	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	L-ZP	\$11.9; \$11.9.4.9
	Foster Family Care	L-ZP	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	L-ZP	\$11.9; \$11.9.4.11
	Laundering and Pressing	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; \$11.9.4.11-12
	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	L-ZP	\$11.9; \$11.9.4.12-13
	Professional Studio	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; \$11.9.4.13-14
Rooming and/or Boarding	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; \$11.9.4.14-15	
Tutoring Services	NP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	L-ZP	\$11.9; \$11.9.4.15-16	
Unlisted Home Occupations	NP	L-ZPIN	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 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"> • 2 hives per zone lot; • Hives must be in rear 1/3 of zone lot with a 5 foot setback from side and rear zone lot lines; • Hives must be screened so that the bees must surmount a 6 foot barrier, which may be vegetative, before leaving the property; • No outdoor storage of any bee paraphernalia or hive materials not being used as a part of a hive.
Chickens and Ducks	<ul style="list-style-type: none"> • No more than 8 chickens and ducks combined per zone lot. • 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. • On any residential zone lot, the animals shall be maintained in the rear 50% of the Zone Lot Depth. • Slaughtering of the animals as part of keeping such animals is prohibited.
Dwarf Goats	<ul style="list-style-type: none"> • No more than 2 Dwarf Goats, except any number of their offspring younger than 6 months , may be kept per zone lot. • 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. • On any residential Zone Lot, the goats shall be maintained in the rear 50% of the Zone Lot Depth. • Slaughtering of the animals as part of keeping such animals is prohibited.

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, ~~a~~Adult ~~e~~Care ~~h~~Home, ~~small or Large~~ Child Care Home, ~~Small or Large,~~ ~~e~~Craft ~~w~~Work, or ~~a~~Artist ~~s~~Studio, 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

it is clearly proven that such off-street parking provisions should be modified by the Zoning Administrator.

- 11.9.3.8 The Zoning Administrator may fix such reasonable terms and conditions to the granting of a zoning permit found necessary to mitigate adverse impacts on adjacent properties. In addition, each zoning permit approved for a Large Child Care Home shall include the following conditions and requirements:
- A. The proposed home shall provide full-time supervision of the children in the home during hours of operation; and
 - B. The proposed home shall comply with the limitations on external effects as established for primary uses in the district in which it is located.

SECTION 11.9.4 ALL OTHER TYPES

In all Zone Districts, where permitted with limitations, the following types of Home Occupations are allowed subject to compliance with the use-specific limitations listed below.

11.9.4.1 Adult Care Home

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 single-unit dwelling or dwelling unit.

11.9.4.2 Animal Care Services

Animal Care Services, including grooming, care, or boarding of domestic or household animals (but not including retail sales), are allowed as a Home Occupation provided the total number of animals in the dwelling unit is no greater than the maximum number of animals permitted as accessory uses in Section 11.8.6, Keeping of Household Animals, above.

11.9.4.3 Artist Studio

- A. An Artist Studio is allowed as a Home Occupation only to create individual works of art, except that Art Galleries, Retail Sales, and other commercial retail or wholesale sales activities are not allowed as part of the permitted Artist Studio Home Occupation.
- B. In all MU Zone Districts, the restoration of individual works of art is permitted as part of the Artist Studio Home Occupation, provided the use of hazardous or toxic materials within the dwelling unit shall be subject to review and approval by the Fire Department for compliance with the Denver Fire Code.

11.9.4.4 Beauty Shop or Salon

Retail sales of related beauty and grooming supplies and products are prohibited as part of the Home Occupation.

11.9.4.5 Child Care Home, Small

11.9.4.6 Clock and Watch Repair

Retail sales are prohibited as part of the Home Occupation.

11.9.4.7 Craft Work

Retail sales of such craft work are prohibited as part of the Home Occupation.

11.9.4.8 Custom Dressmaking, Millinery, Tailoring, Sewing

Custom dressmaking, millinery, tailoring, or sewing of fabric for custom apparel and custom home furnishings is permitted as a Home Occupation.

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.

- 6. Craft Work**
A Home Occupation where individual pieces are crafted but not mass produced, and which shall consist of one (1) or more of the following: ceramics, inlays, needlework, knitting, weaving, leather work, woodwork, metal work or glass work.
- 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.