



**TO:** Denver City Council  
**FROM:** Sarah Showalter, Senior City Planner  
**DATE:** June 12, 2014  
**RE:** Denver Zoning Code – Text amendment to allow for the Sales of Fresh Produce and Cottage Foods as a Home Occupation.

**Staff Report and Recommendation**

Councilwoman Robin Kniech, with co-sponsors Councilwoman Susan Shepherd and Councilman Albus Brooks, is sponsoring a text amendment to the Denver Zoning Code to allow for the sales of fresh produce and cottage foods as a home occupation in residential zone districts.

Based on the review criteria for text amendments stated in the Denver Zoning Code, Section 12.4.11 (Text Amendment), CPD staff recommends approval of the amendment to the City Council.

**I. Summary and Purpose**

The Denver Zoning Code currently permits a range of home occupations accessory to primary residential uses in residential zone districts. The proposed amendment would add the sales of fresh produce and cottage foods to the current list of home occupations permitted with limitations, thereby bringing Denver’s regulations into conformance with the State of Colorado Cottage Foods Act. The Cottage Foods Act was adopted by the state in 2012 and allows for the limited preparation and sale of non-potentially hazardous cottage foods from the home without food licensing.

A summary of the proposed text amendments is provided in the following table.

<b>Summary of Denver Zoning Code Text Amendments</b>	
<b>Code Location</b>	<b>Proposed Change to Text</b>
<b>Article 3 – Suburban Neighborhood Context</b> Division 4.3 – Uses and Required Parking	Expressly list Fresh Produce and Cottage Foods Sales as a home occupation permitted with limitations in all zone districts, except S-SU-Fx and S-SU-Ix, where the home occupation is not permitted.
<b>Article 11 – Use Limitations and Definitions</b> Division 11.8 – Uses Accessory to Primary Residential Uses	Amend limitations for the Garden use to clarify that sales from a Garden accessory to a primary residential use are allowed, only with approval of Fresh Produce and Cottage Foods Sales Home Occupation permit.
<b>Article 11 – Use Limitations and Definitions</b> Division 11.9 – Home Occupations Accessory to Primary Residential Uses – All Zone Districts	Reorganize limitations applicable to all home occupations by topic.  Clarify that, for the Fresh Produce and Cottage Foods Sales Home Occupation, retail sales may operate unenclosed and utilize temporary, portable furniture such as tables and umbrellas during permitted operating hours only.

Summary of Denver Zoning Code Text Amendments	
Code Location	Proposed Change to Text
<b>Article 11 – Use Limitations and Definitions</b> Division 11.9 – Home Occupations Accessory to Primary Residential Uses – All Zone Districts	Clarify that the exiting size restriction for home occupations of 20% of the dwelling unit area, not to exceed 300 SF, does not apply to portions of home occupations operating unenclosed.
<b>Article 11 – Use Limitations and Definitions</b> Division 11.9 – Home Occupations Accessory to Primary Residential Uses – All Zone Districts	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: <ul style="list-style-type: none"> <li>• Items for sale are limited to fresh produce and/or cottage foods, as defined in Subsection 11.12.8.2.6;</li> <li>• Sales are only allowed from 7am until dusk daily; and</li> <li>• The home occupation permittee must have grown, cultivated, and/or prepared all items for sale.</li> </ul>
<b>Article 11 – Use Limitations and Definitions</b> Division 11.12 – Use Definitions	Add definition of Fresh Produce and Cottage Foods Sales Home Occupation.  Amend definition of Food Preparation Home Occupation to differentiate it from Fresh Produce and Cottage Foods Sales.

## II. Criteria for Review and CPD Analysis

The criteria for review of a proposed text amendment are found in Section 12.4.11.9 of the DZC. CPD analyzed the proposed text amendment for compliance with the review criteria stated below and finds that the proposed 2013 Text Amendment Package satisfies each of the criteria.

### **Text Amendment is Consistent with the City’s Adopted Plans and Policies**

The Text Amendment is consistent with the city’s following adopted plans, strategies, and policies:

#### **Denver Comprehensive Plan 2000:**

##### Land Use:

- Strategy 2-A: (*paraphrased*) [P]roposed revisions should ensure that the Denver Zoning Ordinance will be flexible and accommodating of current and future land use needs, such as home-based business and accessory flats.

##### Neighborhoods:

- Strategy 1-E: Modify land-use recommendations to ensure flexibility to accommodate changing demographics and lifestyles. Allow, and in some places encourage, a diverse mix of housing types and affordable units, essential services, recreation, business and employment, *home-based businesses*, transportation and open space networks [emphasis added]

The proposed text amendment also advances the Mayor's 2020 Sustainability Goals, specifically the goal to grow and process at least 20% of the food purchased in Denver entirely within Colorado.

**A. Text Amendment Furthers the Public Health, Safety, and General Welfare**

This Text Amendment furthers the general public health, safety, and welfare of Denver residents by increasing access to fresh, locally grown and produced food, and by overall continuing to implement the city's adopted comprehensive, land use and sustainability plans through regulatory changes.

**B. The Text Amendment Results in Regulations that are Uniform within Each Zone District**

This text amendment will result in uniform regulations within each zone district.

**III. Public Outreach and Comments**

Below is a summary of the public outreach for this amendment. The public outreach has been coordinated by the bill sponsor, Councilwoman Robin Kniech, and the bill's community sponsors: the Mayor's Food Policy Council and LiveWell Denver.

*January – May 2014:* Bill sponsor and community sponsors attend 23 RNO meetings throughout the city.  
*February 22, 2014:* CPD, bill sponsor, and community sponsors attend Inter-Neighborhood Cooperation (INC) Zoning and Planning Committee for briefing  
*March 5, 2014:* Planning Board Informational Item  
*March 17, 2014:* Redline draft of text amendments posted to website for public review  
*March 25, 2014:* Informational item at LUTI Committee meeting  
*April 22, 2014:* Email notice to all Registered Neighborhood Organizations (RNOs) of scheduled Planning Board public hearing on May 7, with link to updated draft of redline and updated summary  
*May 1, 2014:* Email notice to all RNOs of scheduled LUTI meeting on May 13  
*June 10, 2014:* Email notice to all RNOs of scheduled City Council public hearing on June 16

As of the date of this staff report, CPD and the bill sponsor have received the following written public comments on this Text Amendment:

10 positions of support from Registered Neighborhood Organizations (RNOs)  
3 positions in opposition from RNOs  
10 written letters/emails of support from citizens/organizations  
1 written letter/email in opposition from citizens/organizations

All comments received are attached to this staff report.

Inter-Neighborhood Cooperation (INC) and Greater Park Hill Community, Inc. both voted to support the proposed text amendment but had two recommended changes:

1. Require a 12 month review of the home occupation by City Council for any negative impact to neighborhoods.
2. Revise hours of operation from 7 am to dusk to 10 am to dusk.

The bill sponsor has already committed to give City Council a report on the home occupation one year after ordinance adoption. The Council office and CPD staff coordinated with 3-1-1 and Neighborhood Inspection Services to ensure that any inquiries and complaints related to this home occupation can be tracked over the next year.

#### **IV. Planning Board**

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The Planning Board reviewed this amendment and held a public hearing on May 7, 2014. The Planning Board unanimously recommended approval of this text amendment to the City Council, with the condition that City Council consider applying it citywide. This would entail allowing the fresh produce and cottage food sales home occupation in the S-SU-Fx and S-SU-lx zone districts.

#### **V. CPD Staff Recommendation**

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Based on the criteria for review as described above, CPD Staff recommends **approval** of this Text Amendment to the Denver Zoning Code.