

OPPOSED to CB14-0398

From: Troy Moore [<mailto:troy@milehighcomp.com>]
Sent: Thursday, May 15, 2014 9:53 AM
To: denc - City Council
Cc: troy@milehighcomp.com
Subject: Opposed to Cottage Food Amendment (East Denver)
Importance: High

Dear Hon City Council Members;

After reviewing the proposed Cottage Food Amendments, I would like to express my opposition to such an amendment. "Adding" such to a list of already allowable home based business that attract consumers into a neighborhood only adds to more frustration of residents trying to enjoy their home and peace without the constant flow of vehicle traffic, unknown pedestrians and other inherent issues that come with having a "home based" business that allows people to sale goods and services FROM their resident.

Zoning Ordinances were established to separate business from residential. Every time someone adds another "allowable" business to be run out of their resident, it shortens the separation between "residential" and "commercial" areas.

It has been proven in the past, that even with the already allowable businesses from within a residents household, that abuses take place. Illegal Signage's, Operation Hours (cars coming in at all hours of the day and night), other services not permitted to operate but cloaked by the permitted operation, etc.

It's found more common that regulatory enforcement is not in place or able to correct non-compliant permits because lack of time and money to investigate and handle complaints from neighbors.

Next, someone will want to sell Chicken and goat milk from their home. Where does it stop?

I HIGHLY recommend that you vote NO to the Cottage Food Amendment.

Thank you.

Troy Moore
President
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From: troy moore [mailto:Troy@tkproperties.org]
Sent: Monday, June 02, 2014 11:11 PM
To: Kniech, Robin L. - City Council
Cc: Susman, Mary Beth - City Council; troy@tkproperties.org
Subject: RE: Residential Food Sales
Importance: High

Hello Councilwoman Kniech;

Thank you for taking time out and addressing some of the concerns we have with this proposed ordinance. I appreciate your attachment and it's good to see that other neighborhoods share similar concerns.

I will not dispute that our City has done a great job at handling complaints. Our 311 system works very well and our inspectors have done and continue to do a fabulous job at addressing concerns when they arise.

I was asked by several people why this has to be a "for profit" ordinance and not one of sharing? Those same people are skeptic that someone or more others would capitalize on this ordinance and go beyond its regulatory guidelines and intentions. There are a lot of people (including myself) that think worst case scenarios or play devil's advocate. When you are introducing something new that can potentially change our living experiences from what we bought into to something that we haven't agreed to, can make it very unsettling to those who like to keep their neighborhoods as neighborhoods. Each year, someone wants to add more and more allowable home based ideas to what someone can do from home. Many residents in our community are worried that we are getting away from what residences are intended for and tightening the separation between commercial and residential.

While the growing season may be short, and you don't expect any problems, you cannot guaranty that problems will arise from these types of businesses or that people will follow the guidelines set forth in the ordinance. Example of this is when we had a resident that starting growing lots of tomato plants in their yard, then one day, they put out 2 signs that said TOMATOES \$.25, then the following weekend, there were 5 signs that said TOMATOES AHEAD-TOMATOES AT NEXT TURN-CHEAP TOMATOES-FRESH TOMATOES-STOP HERE FOR TOMATOES and we had people parking all over Monaco and 4th trying to get cheap tomatoes. This little enterprise was causing problems and people felt like they lived on a rural road in Alabama. We ultimately had to call code enforcement and get them to stop. This was a problem. The ordinance you are speaking of opens this door and we will again be complaining about traffic, parking and other issues.

The general consensus is that this ordinance does not fit for all neighborhoods. Example of this is East Denver. Majority of people I speak to DO NOT want this ordinance. They do not want people coming into their neighborhoods to buy food or goods. They don't want to worry when cars pull up to figure out who is parking in front of their house and they don't want to look at "signage" staring at them when they view from their residence. I can totally relate to these concerns. Most people agree that neighborhoods should not be an attraction for purpose of retail on any level.

Someone asked me why is this ordinance not restricted for areas within 5 blocks of a commercial zone? People who live within 5 blocks are adapted to commercial works including traffic, parking, pedestrian flow and signage's. Why can't this ordinance be tested in areas of the City rather than made city wide?

And why are we passing an ordinance for a small minority-example; allowable animals for food ordinance that was passed in 2010? The question came up; How many actual chickens and goats are in yards in Lowry, Hilltop, Crestmoor, Mayfair Park, Mayfair, Montclair, Bellevue Hale, Congress Park and Cherry Creek North? The answer is obvious-very little to none, which is why we don't have problems.

The majority of our members (80%) feel this is not a good ordinance to approve as its purpose does not support a majority need or benefit.

IMO, I concur with most of our members. We like the separation between residential and commercial and ask that you vote no on this ordinance or amend this ordinance to restrict its allowable areas.

Thank you for listening to our concerns.

Troy

Troy Moore
President-Mayfair Park RNO

Oppose
Bear Valley

April 13, 2014

Ms. Robin Kniech
Councilwomen
Denver, Co

RE: Legislation for Cottage Food sales in residential areas of Denver, Co

Dear Ms. Kniech,

This past month the Bear Valley Improvement Association had our monthly neighborhood meeting with the residents of Bear Valley. Bear Valley has approximately 1550 homes located in Southwest Denver. Councilwomen Jeanne Faatz discussed the proposed legislation for Cottage Food sales in Denver residential neighborhoods and asked for a vote on this matter. 100% of the home owners who were in attendance voted not to approve this new legislation.

Here were their concerns. Excessive traffic and trash in the neighborhood. Who will monitor the food quality? Who will be responsible if someone gets sick and decides to sue someone for food poisoning? Will the home owners leave the food stands up permanently? What will be sold? This could lead to other sales of material not closely regulated.

In conclusion we admire the "Green" approach and the idea of Urban Farming but there are too many unknowns that could create a lot of issues and we do not feel this is a good idea. So on behalf of the Bear Valley residents in Southwest Denver we do not support the proposed legislation for Cottage Food sales in residential areas in Denver.

Sincerely,

Ben Blanchard
President
BVIA

CITY COUNCIL
City and County of Denver

Councilwoman Robin Kniech
City Council At-Large
80202
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1437 Bannock St. #488
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April 23, 2014

Dear members of the Bear Valley Improvement Association,

Thank you for your letter regarding the proposed Fresh Produce and Cottage Food Sales Ordinance as a home occupation. I have been attempting to contact as many neighborhood organizations as possible in order to communicate both the intention and the logistics of the ordinance. We especially reached out to the designated contact for Bear Valley on several occasions in March in an attempt to attend the April meeting and were not successful. So we regret that we were not given the opportunity to present to your members before you discussed this ordinance in April.

Below I have addressed the questions and concerns listed in your letter and I would ask that this response be shared with all the members of your organization via any email listserv and/or newsletter you may use, or photocopied and distributed at your next meeting. I would also welcome the chance to visit an upcoming meeting in person.

The proposed ordinance is based on the Colorado Cottage Foods Act, passed by the Colorado Legislature in 2012, which allowed the sale of carefully researched, low-risk fresh produce and cottage foods by individuals in Colorado. The proposed ordinance is intended to implement the state law locally in Denver. With regard to your concerns, please find my responses below.

1. Questions about additional traffic due to the ordinance:
 - a. Many Denver residents already grow vegetables in their backyards or in community garden plots. The proposed ordinance would allow those residential producers willing to pay for a zoning permit to sell *their* own products directly to consumers, under a one producer, one consumer model. There will be no deliveries or traffic from suppliers, as these producers are only allowed to sell what they grow or prepare themselves. Employees are strictly prohibited, so there will be no traffic or parking required by employees. In addition, because producers, like all home occupations, will be strictly prohibited from displaying any signage on lawns, street corners or anywhere other than one, 100 square inch sign in their window or door, there is no mechanism by which these producers will be driving traffic from other streets to their homes.

Lastly, because producers can only sell what they grow or prepare, and the growing season in Colorado is short, the supply of food that residents have to sell is naturally limited (in addition to

Councilwoman Kniech

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limits in the state law for each product), further limiting the potential for traffic due to limited supply. Many cities in Colorado, including suburban communities like Wheat Ridge that are very similar to SW Denver have similar ordinances in effect and have seen no problems from traffic or parking. Most purchasers are neighbors who walk from nearby because they like the idea of buying from neighbors.

2. Questions about food quality, safety and investigation:

- a. It is important to note that whole, uncut produce is scientifically documented to be a very low risk food. All fruits and vegetables require washing as the number one method of preventing health concerns, and this rule applies the same for grocery stores, farmers markets and home grown vegetables. Due to the low risk of fresh uncut produce, there are no specific inspection requirements for fresh fruits and vegetables sellers – the government does not inspect farmers markets or community supported/delivered produce or this new home occupation.
- b. For cottage foods, the ordinance requires sellers to take food safety education classes and follow labeling rules to ensure food can be traced in case of concerns. The state law was intentionally designed to prohibit foods that are associated with risk (cheeses, canned vegetables, etc.). Foods that are allowed are scientifically proven to be low risk, such as jams that are low risk due to high degrees of acidity from the fruit.
- c. If anyone has concerns about the safety of food they bought from a home producer, they would call 311 and report it to the Dept. of Environmental Health the same way they would report concerns about a restaurant or grocery store. Public Health Inspectors have a protocol that they go through to investigate all reported food poisoning cases. Should it be determined that the item purchased from a residential sale is the cause of the food poisoning, DEH has the power to take action to protect public safety and the seller could face legal risks in the same way that any producer who fails to follow proper food handling guidelines might be at risk.

4. Questions about permanent stands:

- a. There will be NO permanent stands. The zoning code generally and this ordinance specifically both prohibit permanent structures. It also prohibits leaving any temporary outdoor furniture used during the day from being left up at night, stating that these items can only be used “during permitted hours.”

5. Concerns about what will be sold and will this lead to other retail sales:

- a. The proposed ordinance would allow the sale of fresh produce and cottage foods only. Food is a unique item, unlike any other product, in that it is essential for human life and it is a factor in major city goals such as lowering obesity and risk of disease by increasing access to healthy food. There are no similar city goals related to the need for other specific retail products. Please see the attached handout for a specific list of permitted cottage foods. Any food including marijuana is strictly prohibited.
- b. I respect that the residents who attended your meeting did not feel that they needed an ordinance like this, but we have heard from hundreds of residents in dozens of neighborhoods, including families living in Southwest Denver, who do support having this choice. I hope that the answers to these questions helps to dispel some myths that may have arisen about what the ordinance does and does not allow, and helps to alleviate some concerns, even if it does not change your position.

I do appreciate your participation in the dialogue and thank you for considering and distributing this response.

Sincerely,

Councilwoman Robin Kniech

withhold support

----- Forwarded message -----

From: L BOGUE <reddogarts@msn.com>

Date: Wed, May 7, 2014 at 8:16 AM

Subject: Zoning Text Amendment re Cottage Foods as a Home Occupation

To: "rezoning@denvergov.org" <rezoning@denvergov.org>

Cc: "pompondana@gmail.com" <pompondana@gmail.com>, "dencc@denvergov.org" <dencc@denvergov.org>

The Board of Trustees of the Bellevue-Hale Neighborhood Association, in its regular monthly meeting on Wednesday evening, March 26th, 2014, reviewed the proposed Denver Zoning Code Text Amendment which would allow for the Sales of Fresh Produce and Cottage Foods as a Home Occupation. **After considerable discussion, our Board voted unanimously (by a vote of 10-0) to withhold our support of the proposed Zoning Text Amendment.** In reaching our decision, we discussed, among other things, the following:

- 1) Denver's current permitted Home Occupations do NOT allow the creation, display, exchange, storage, or sales of chattels or goods, and require no external evidence of the Home Occupation - in contrast to what would be allowed if this Zoning Text Amendment is approved.
- 2) How will sales of marijuana and related edibles in fact be restricted and controlled. Are there regulations and enforcement mechanisms in place to police and prevent such sales, and does the City have the financial wherewithal to control such sales?
- 3) At this point, there are insufficient standards to address all of the potential issues arising from retail sales allowed by this Amendment -- how sales will be regulated, the potential health impacts, and personal safety issues. A system that is already stretched thin with monitoring existing restaurants and food vendors would be hard-pressed to effectively monitor and ensure compliance with the high volume number of Cottage Foods permits that could be granted if this Amendment is approved.
- 4) Our goal of maintaining the integrity of our residential neighborhood is not consistent with retail sales of produce and food products.
- 5) Allowing retail sales, depending on the success of the enterprise, may result in properties developing the characteristic of retail stores.
- 6) Retail sales of any type are contrary to the residential character of our neighborhood and violate the purpose and intent of residential zoning.
- 7) Retail businesses, as opposed to customary home occupations, will increase both pedestrian and vehicular traffic and are likely to result in a more intensive use of the enterprise which may result in properties developing the characteristics of retail stores.

We concluded that the proposed Amendment has the strong potential to compromise the basic purposes of Denver's Zoning Code and presents the very real possibility of creating problems in our neighborhood that would far outweigh any benefits that might be achieved by passage of the

Amendment. We are deeply committed to preserving the residential character of our neighborhood. **Because of these very real concerns our Board voted unanimously (by a vote of 10-0) to withhold our support of the proposed Zoning Text Amendment.** We encourage you to consider our concerns as outlined above in rendering your decision on this issue.

Sincerely,

Laurie Bogue
President, Bellevue Hale Neighborhood Association

CITY COUNCIL
City and County of Denver

Councilwoman Robin Kniech
City Council At-Large
kniechatlarge@denvergov.org
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1437 Bannock St. #488
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May 19, 2014

Dear members of the Bellevue Hale Neighborhood Association,

Thank you for your letter regarding the proposed Fresh Produce and Cottage Food Sales Ordinance as a home occupation. Together with community representatives from the Denver Sustainable Food Policy Council, we have been attempting to contact as many neighborhood organizations as possible in order to communicate both the intention and the logistics of the ordinance. Specifically, we reached out to the designated contact for Bellevue Hale Neighborhood Association in March in an attempt to attend a meeting and did not receive a response, so I regret that no one involved in shaping the ordinance was present to answer your questions before the vote was taken.

Below I have addressed some of the questions and concerns listed in your letter. **I ask that this response be shared with all the members of your organization** via any email listserv and/or newsletter you may use, or photocopied and distributed at your next meeting.

The proposed ordinance is based on the Colorado Cottage Foods Act, passed by the Colorado Legislature in 2012, which allowed the sale of carefully researched, low-risk fresh produce and cottage foods by individuals in Colorado. The proposed ordinance is intended to implement the state law locally in Denver. With regard to your concerns, please find my responses below.

1. "Denver's current permitted Home Occupations do NOT allow the creation, display, exchange, storage, or sales of chattels or goods, and require no external evidence of the Home Occupation - in contrast to what would be allowed if this Zoning Text Amendment is approved."
 - a. You are correct that in general, most current home occupations do not allow for any external evidence of the home occupation, except for the small sign that can be affixed to the home. There are however, several exceptions, including the child care home occupation which is allowed to have outdoor play and/or seating areas. The proposed Fresh Produce and Cottage Sales amendment would allow visible display of the home occupation during permitted operation hours **only**. The ordinance specifically requires any visible sign of the home occupation such as portable furniture, to be removed each evening after dusk. Failure to comply with this requirement, or use of unauthorized furniture, would be subject to NIS inspection for a zoning violation.

- b. I also respect that you may have concern about sale of food leading to any other home sales. We debated this matter in the City Council Land Use committee, and there is a strong and unique case to be made for access to fresh food that cannot be made for other products. It is a necessity for human life, and we have specific city goals related to health and local sourcing of food that this ordinance advances. We have no other city goals related to access to crafts or other products, and there is no intention on the part of the Council sponsors nor the CPD staff that reviewed the ordinance to consider any further expansions.
2. “How will sales of marijuana and related edibles in fact be restricted and controlled. Are there regulations and enforcement mechanisms in place to police and prevent such sales, and does the City have the financial wherewithal to control such sales?”
 - a. There are currently regulations and enforcement mechanisms in place, which prohibit anyone, regardless of this ordinance, from selling products that include marijuana absent a retail license from the city and the state. The proposed ordinance explicitly emphasizes the prohibition of any sale of marijuana products.
 - b. Anyone reported for selling a marijuana infused product would be investigated for three or more violations: 1) Zoning code violation, 2) Operating a business without a license – city and state, and 3) criminal violations.
 - c. Denver Police have already received reports and investigated reports of unauthorized marijuana edibles, demonstrating both that enforcement resources and capabilities exist, but also that these issues are largely unrelated to the proposed ordinance. I share deep concerns about marijuana edible safety and regulation, and believe we need greater restrictions from the state to complement our local enforcement efforts. But I believe the potential for illegal sale of edibles is far greater in private, unregulated markets than it would be in a home occupation that is operated with a public zoning permit.
3. “At this point, there are insufficient standards to address all of the potential issues arising from retail sales allowed by this Amendment -- how sales will be regulated, the potential health impacts, and personal safety issues.”
 - a. It is important to note that public health experts at the state and city conclude that whole, uncut produce is a very low risk food. All fruits and vegetables require washing as the number one method of preventing health concerns, and this rule applies the same for grocery stores, farmers markets and home grown vegetables. Growing of vegetables in foreign countries with different chemical standards than the United States, transportation of fruits and vegetables over long distances, and handling by machinery all introduce far greater risk of food safety in the food purchased from grocery stores than the scientific risk of human-handled, uncut fruits and vegetables.

- b. Due to the low risk of fresh uncut produce, there are no specific inspection requirements for *any* fresh fruits and vegetables sellers. Denver does not inspect farmers markets or community supported/delivered produce cooperatives, which sell directly to consumers and restaurants, so we have not proposed a new/higher inspection regime for this new occupation. The proposed ordinance applies the same standards to all growers and sellers, based on solid scientific analysis of extremely low risk.
 - c. For cottage foods, the ordinance requires sellers to take food safety education classes and follow labeling rules to ensure food can be traced in case of concerns. The state law was intentionally designed to prohibit foods that are associated with risk (cheeses, canned vegetables, etc.). Foods that are allowed are scientifically proven to be low risk, such as jams that are low risk due to high degrees of acidity from the fruit.
 - d. Denver *does* have resources and a method for investigating any concerns that may arise in spite of these considerations. If anyone has concerns about the safety of food they bought from a home producer, they would call 311 and report it to the Dept. of Environmental Health the same way they would report concerns about a restaurant or grocery store. Public Health Inspectors have a protocol that they go through to investigate all reported food poisoning cases. Should it be determined that the item purchased from a residential sale is the cause of the food poisoning, DEH has the power to take action to protect public safety and the seller could face legal risks in the same way that any producer who fails to follow proper food handling guidelines might be at risk. All affected department in fact have been handling such cases since the passage of the Cottage Food Sales Act, Denver is simply taking steps to formally legalize what is already allowed in Colorado through this proposed ordinance
4. "Our goal of maintaining the integrity of our residential neighborhood is not consistent with retail sales of produce and food products. Allowing retail sales, depending on the success of the enterprise, may result in properties developing the characteristic of retail stores. Retail sales of any type are contrary to the residential character of our neighborhood and violate the purpose and intent of residential zoning."
- a. The Cottage Food Sales Act, on which this ordinance is largely based, restricts the sale of individual products to \$5,000, limiting the scale of production. Since the ordinance only allows producers to become sellers, individuals are limited to their own home or plot at a community garden for cultivatable land. Furthermore, Colorado's weather and short growing season is a natural limitation on the volume of food that residents could grow and sell. These limiting factors will naturally mitigate the potential for some of the concerns you describe, such as traffic or parking.
 - b. Please see my response under 1.b above regarding the sale of *any* products.

In conclusion, I hope that these responses have quelled some of your concerns regarding the details of the proposal. As I described above, I understand and respect your concerns about allowing *any* sales in a residential zone district. The City Council has heard from many other neighborhoods and residents, however, who feel that the kind of small-scale, food access and neighbor-to-neighbor interaction this ordinance will foster are *positives* for their community. We have also heard from families for whom this food, or extra income, will make a difference in their lives and health. Additionally, the City and County of Denver has a long-standing policy of requiring a uniformity of zone districts across the city. For these reasons I believe it is important for the City Council to support this zoning text amendment.

In an attempt to address concerns like yours, I have worked with city departments to create a tracking system in the 3-1-1 system for the various kinds of complaints we may receive – compliance with zoning limitations on hours, traffic, signage, furniture, food quality etc. I am committed to sharing the results of these complaints at the close of one year and will address any systematic concerns if they arise through amendments or other approaches.

I do appreciate your participation in the dialogue and thank you for considering and distributing this response.

Sincerely,

A handwritten signature in cursive script that reads "Robin Kniech".

Councilwoman Robin Kniech