

**LEMOORE PLANNING COMMISSION**  
**Regular Meeting**  
**AGENDA**  
**Lemoore Council Chambers**  
**429 'C' Street**  
**Monday, June 10, 2013 at 7:00 p.m.**

1. Pledge of Allegiance and Roll Call
2. Public Comments and Inquiries

*If you wish to comment on an item, which is not on the agenda, you may do so under "Public Comment." In order to allow time for all public comments, each individual's comments are limited to five minutes. When addressing the Commission, you are requested to come forward to the speaker's microphone, state your name and address, and then proceed with your presentation.*

3. Approval – Minutes – Special Meeting May 6, 2013
4. Report – Update – Planning Reorganization
5. Report – Update – Ad Hoc Committees – Zoning Codes
6. Report and Recommendation – Agenda Packet Delivery
7. Discussion – Wathen Castanos – Request to Change Zoning Codes and Regulations – Six-Pack Plot Plan Requirement and Off-Site Signage
8. Report and Recommendation – AB1616 – California Homemade Food Act – Cottage Food Operations
9. Planning Director's Report
10. Commission's Report and Request for Information
11. Adjournment

Tentative Future Agenda Items  
None at this time

**CERTIFICATION OF POSTING**

Notice of ADA Compliance: If you or anyone in your party needs reasonable accommodation to attend, or participate in, any City Council Meeting, please make arrangements by contacting the Human Resources Office at City Hall 24 hours prior to the meeting. They can be reached by calling 924-6700, or by mail at 119 Fox Street, Lemoore, CA 93245.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the City Clerk's Counter at City Hall located at 119 Fox Street, Lemoore, CA during normal business hours. In addition, most documents will be posted on the City's website at [www.lemoore.com](http://www.lemoore.com).

**CERTIFICATION OF POSTING**

I, Kristie R. Baley, City Clerk of the City of Lemoore, do hereby declare that the foregoing agenda for the Lemoore Planning Commission Regular Meeting of Monday, June 10, 2013 was posted on the outside bulletin board located at City Hall, 119 Fox Street in accordance with applicable legal requirements. Dated this 7<sup>th</sup> day of June 2013.

\_\_\_\_\_  
//s//  
Kristie R. Baley, City Clerk

Minutes of the Special Meeting of the  
LEMOORE PLANNING COMMISSION  
May 6, 2013

MEETING CALLED TO ORDER:

At 7:00 p.m. the meeting was called to order.

ATTENDANCE:

Chairman Meade, Commissioners Brown, Clement, Marvin, Monreal, Wynne;  
Acting City Manager Laws, City Engineer Brandt, City Attorney Kuhn,  
City Clerk Baley

ABSENT:

Vice-Chairman Garcia

PUBLIC COMMENT:

Chief Laws introduced Quad Knopf's Principal Entitlement Specialist Steve Brandt as the technical advisor and Lozano Smith Attorney Jeffrey Kuhn as the legal advisor for the May 6<sup>th</sup> meeting.

MINUTES – REGULAR MEETING JANUARY 14, 2013:

Correction: Swearing in of Dave Brown and Calvin Monreal

It was moved by Commissioner Brown, seconded by Commissioner Wynne, and carried that the Council approve the Minutes as corrected.

Ayes: Brown, Wynne, Clement, Marvin, Monreal, Meade      Absent: Garcia

MINUTES – SPECIAL JOINT MEETING OF THE CITY COUNCIL AND PLANNING COMMISSION APRIL 9, 2013:

Correction: Attendance Omit "Martin" and Add "Marvin"

It was moved by Commissioner Brown, seconded by Commissioner Monreal and carried that the Commission approve the Minutes as corrected.

Ayes: Brown, Monreal, Clement, Marvin, Wynne, Meade      Absent: Garcia

PLANNING COMMISSION RESOLUTION #2013-01 – APPROVING SITE PLAN REVIEW # 2013-01 AND NEGATIVE DECLARATION #2013-01:

It was moved by Commissioner Wynne, seconded by Commissioner Marvin and carried to approve Resolution #2103-01 approving Negative Declaration #2013-03 and Site Plan Review #2013-01 applications from the City of Lemoore to install solar panels at six sites owned by the City of Lemoore.

Ayes: Wynne, Marvin, Clement, Meade      Noes: Brown      Absent: Garcia

RESOLUTION #2013-02 – APPROVING SIGN VARIANCE #2013-01:

Sign Development asked Commissioners to clarify landscaping/planter condition.

It was moved by Commissioner Marvin, seconded by Commissioner Wynne to approve Resolution #2013-02 from Shirdhi Incorporated (Sign Development, Inc.) to allow flexibility from Section 9-5F-3A-2, 9-5F-4 (Design Standards), Tables 9-5F-5-B1, 9-5F-5-B2, and Table 9-6-3-E1 for a non-conforming pole sign at 110 West "D" Street, granting the Variance to continue to use the existing sign with changes only to the color and lettering without any additional landscaping required.

Ayes: Marvin, Wynne, Brown, Clement, Monreal, Meade      Absent: Garcia

COMMISSIONER REPORTS AND REQUESTS FOR INFORMATION:

None

ADJOURNMENT:

At 8:20 p.m. the meeting adjourned.

Approved the 10<sup>th</sup> day of June, 2013.

Full digital audio recording is available.

Attest:

\_\_\_\_\_  
Dr. Ronald Meade, Chairman

\_\_\_\_\_  
Brooke Austin, Deputy City Clerk

**Mayor**  
William Siegel  
**Mayor Pro Tem**  
Lois Wynne  
**Council Members**  
John Gordon  
Eddie Neal  
Willard Rodarmel



**Public Works/  
Planning**

711 Cinnamon Drive  
Lemoore CA 93245  
Phone (559) 924-6704  
FAX (559) 924-6708

## **Planning Commission Staff Report**

**ITEM** 4

**To:** Lemoore Planning Commission  
**From:** Judy Holwell, Project Manager  
**Date:** June 6, 2013  
**Subject:** Update – Planning Reorganization

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### **Discussion**

Mayor William Siegel will be in attendance at Monday night's Planning Commission meeting to update the Commission and answer any questions regarding the recent changes in Lemoore's planning services. During Tuesday evening's City Council meeting, Council appointed David Wlaschin as the City's Planning Director (in addition to Public Works Director) and Quad Knopf as the interim City Planner. Attached, please find the Staff Report, Scope of Services and Planning Services Contract with Quad Knopf, which provide detailed information regarding the services that will be provided. Steve Brandt, who was present during our last Planning Commission meeting, will be our main point of contact at Quad Knopf.

### **Recommendation**

Discussion only.

**Mayor**  
William Siegel  
**Mayor Pro Tem**  
Lois Wynne  
**Council Members**  
John Gordon  
Eddie Neal  
Willard Rodarmel



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## Staff Report

ITEM 4

**To: Lemoore City Council**  
**From: Judy Holwell, Project Manager**  
**Date: May 30, 2013**  
**Subject: City Engineer Agreement – Quad Knopf  
Scope of Services for Planning Services Contract**

### Discussion

With the elimination of the Planning Department, Mayor Siegel recommended outsourcing the technical planning services to Quad Knopf, our City Engineer, as a way to reduce the City's budget by not having to maintain a full functioning department in the City. The Mayor and City staff met with Steve Brandt, Principal Entitlement Specialist with Quad Knopf to discuss the needs of the City going forward. Following the meeting, Mr. Brandt submitted the attached Scope of Services, which describes Quad Knopf's understanding of the planning functions identified during the meeting.

The Scope of Services divides the planning functions into two tasks. Task 1 provides for Quad Knopf to act as the City Planner and to perform the more technical planning functions estimated at 10-15 hours per week depending on the amount of development occurring in the community. Task 1 is estimated at \$100,000 for Fiscal Year 2013-2014. This amount is prorated for the remainder of Fiscal Year 2012-2013 not to exceed \$16,400. Task 2 entails overhauling our recently adopted Zoning Ordinance to make it easier to use by the development community, as well as City staff. The desired outcome is a Zoning Ordinance that uses a "cookie cutter" approach so that approval times can be reduced. Task 2 is estimated at \$30,000. A monthly report of charges will be submitted to the City, so that the total cost of services can be tracked.

If approved, Mr. Brandt will be our main point of contact at Quad Knopf for the technical planning functions. He will work directly with City staff located in the Public Works Department, primarily David Wlaschin and Judy Holwell.

Council is asked to consider the Scope of Services, which is proposed as an interim solution on a month-to-month basis. The rates are effective through June 30, 2014. However, if at any point, the City determines that Quad Knopf is not performing the services sufficiently, the Contract can be revoked by providing a 30-day written notice.

### **Budget Impact**

- Up to \$ 16,400 for Task 1 – planning services Fiscal Year 2012-2013
- Up to \$100,000 for Task 1 – planning services Fiscal Year 2013-2014
- Up to \$ 30,000 for Task 2 – streamlining the Zoning Ordinance

### **Recommendation**

That Council approve the attached month-to-month Planning Services Contract with Quad Knopf based on the Scope of Services identified in Attachment A in an amount not to exceed \$146,400 through June 30, 2014 as an addition to our existing contract for Engineering Services.

## **SCOPE OF SERVICES**

It is Quad Knopf's understanding that the City desires to retain Quad Knopf to act as Contract Planners for the City of Lemoore. This would be an interim solution for the City on a month-to-month basis. Quad Knopf would complete work and transfer it back to the City for an orderly transition after receiving a written 30-day notice.

The scope of work would be divided into two tasks. Task 1 involves filling the role of City Planner and Planning Staff for the processing of discretionary planning permits and running the Planning Commission. Task 2 involves making recommendations for changes to the City Zoning Ordinance that would serve to streamline planning activities, remove unnecessary requirements and processes, and encourage a pro-business atmosphere in the city.

Task 1 would include:

- ◆ Assisting Lemoore staff who will be handling the planning counter with guidance, advice, training, and direction on planning and zoning issues and questions.
- ◆ Interpreting Lemoore's planning and zoning laws, policies, and ordinances.
- ◆ Preparing staff reports for discretionary planning projects that need Planning Commission and/or City Council approval.
- ◆ Serving as City Planner for Planning Commission meetings.
- ◆ These duties and responsibilities include an estimate of approximately 10-15 hours per week and would be dependent on the amount of development activity.

Task 2 would include:

- ◆ Assisting Lemoore in determining revisions to the existing Zoning Ordinance that serve the purpose of removing unneeded regulation and/or streamline permitting processes and encourage a pro-business atmosphere in the city.
- ◆ These duties including meeting with staff, leading Planning Commission study sessions as needed, writing revised language, and taking the revisions through the public hearing process.

## **COMMUNICATION PLAN**

Steve Brandt will be the main contact for the scope of work identified above. Mr. Brandt will report to the City Manager for issues related to definition of scope of work, fees and billing. Mr. Brandt will report to David Wlaschin for day-to-day issues as they occur. Invoices will be sent to Mr. Wlaschin's attention. There will also be a strong working relationship with Judy Holwell on planning and development projects coming into the city for review.

We believe that by utilizing a team approach Quad Knopf can provide the best service at the most efficient price. The team approach will allow us to assign work based on individual strengths and experience. All Quad Knopf team coordination will be handled by Steve Brandt, resulting in no extra effort on the part of the City. Travis Crawford will serve as Mr. Brandt's back-up when needed.

**FEE SCHEDULE**

Quad Knopf will complete work associated with this proposal on a time and materials basis, with a maximum set by the City not to be exceeded on an annual basis, unless otherwise approved in writing by the City Manager. The maximum amount set for July 1, 2013 to June 30, 2014 for Task 1 Services will be \$100,000. The maximum amount set for May 2, 2013 to June 30, 2013 for Task 1 will be prorated from the 2013-14 yearly amount, which is \$16,400. The maximum amount set for Task 2 Services will be \$30,000.

The work will be performed by associate and senior level planners. Planning Commission meetings (and Council meetings, when needed) will be attended by a senior planner. Steve Brandt will be the primary individual assigned to interact with City staff and decision makers and to direct work to Quad Knopf staff and will be billed at an 18.5% discount from his typical hourly rate. Other planners identified below may also provide planning assistance as needed, and will be billed at Quad Knopf's hourly rates with Lemoore's 10% City discount applied to the total amount. The effective hourly rates are estimated as follows:

| <b>Title</b>                            | <b>Planner</b>  | <b>Discount</b> | <b>Rate with Discount Factored In</b> |
|---|-----------------|-----------------|---------------------------------------|
| Principal Entitlements Specialist- AICP | Steve Brandt    | 18.5%           | \$128/hour                            |
| Senior Environmental Planner- AICP      | Travis Crawford | 10%             | \$128/hour                            |
| Associate Planner                       | David Duda      | 10%             | \$109/hour                            |
| Associate Planner - AICP                | Ginger White    | 10%             | \$109/hour                            |

Additional Quad Knopf staff may be required to prepare materials either for the individuals identified above or directly for City staff from time to time. Time spent by these individuals will also be billed to the City in accordance with Lemoore's 10% City discount.

We estimate that these rates with a \$100,000 maximum amount would provide for a rough average of 10 to 15 hours of staff time on Task 1 Lemoore planning work per week.

Direct charges as needed, such as parcel post, printing and reproduction, will be billed at cost plus fifteen percent (15%). Transportation expenses will be billed at \$0.63/mile. Mileage would not be charged to attend Planning Commission, Council meetings, or meetings with staff.

Rates are effective through June 30, 2014. If the planning contract assignment extends beyond that date, a new rate schedule may be negotiated. We will provide monthly reporting of charges so the City can monitor the amounts expended, so as to avoid going over the budgeted maximum amounts.

**Mayor**  
William Siegel  
**Mayor Pro Tem**  
Lois Wynne  
**Council Members**  
John Gordon  
Eddie Neal  
Willard Rodarmel



**Public Works/  
Planning**

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FAX (559) 924-9003

## Planning Services Contract

Contract Amount: TASK 1 – Up to \$100,000  
TASK 2 – Up to \$ 30,000

This Planning Services Contract (Contract) is made and entered into by and between Quad Knopf and the City of Lemoore as follows:

### Contract Planning Services (Attachment A)

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|                    |          |
|--------------------|----------|
| Scope of Services  | Attached |
| Communication Plan | Attached |
| Fee Schedule       | Attached |

Fees for the remaining Fiscal Year 2012-2013 will be prorated based on the Contract Amount and will not exceed \$16,400 through June 30, 2013.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Planning Services Contract upon the terms, conditions, and provisions as stated in Attachment A.

Quad Knopf  
P.O. Box 3699  
Visalia, CA 93278

City of Lemoore  
119 Fox Street  
Lemoore, CA 93245

By: \_\_\_\_\_  
Steve Brandt, AICP, LEED AP  
Principal Entitlement Specialist

By: \_\_\_\_\_  
Jeff Laws, City Manager

Approved by the City Council of the City of Lemoore this 4<sup>th</sup> day of June, 2013.

**Mayor**  
William Siegel  
**Mayor Pro Tem**  
Lois Wynne  
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## **Planning Commission Staff Report**

ITEM 5

**To: Lemoore Planning Commission**  
**From: Judy Holwell, Project Manager**  
**Date: June 6, 2013**  
**Subject: Update – Ad Hoc Committees – Zoning Code**

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### **Discussion**

As you know, the Mayor appointed two ad hoc committees to review and make recommendations to our recently adopted Zoning Code. Due to the recent changes in Planning, staff's primary focus has been making sure that the immediate needs of our community are being met and that nothing falls through the cracks during the transition.

During Tuesday evening's City Council meeting, the Mayor indicated that the need to make changes to the Zoning Code is still a priority. David Wlaschin was appointed to the Administrative Cleanup Ad Hoc Committee, which is charged with adding Codes back in that were left out. Amendments to the Zoning Code Ad Hoc Committee are still staffed by Judy Holwell.

The Commission's input regarding changes to the Code to streamline the development process is important and greatly appreciated. During Monday night's Planning Commission meeting, the Ad Hoc Committee members should discuss the progress they have made and accept suggestions from other Commissioners and the public regarding changes that could improve the process for the development community. The information gathered will be reviewed and potentially used to propose changes to the Code.

### **Recommendation**

Discussion and direction.

**Mayor**  
William Siegel  
**Mayor Pro Tem**  
Lois Wynne  
**Council Members**  
John Gordon  
Eddie Neal  
Willard Rodarmel



**Office of the  
City Manager**

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Lemoore CA 93245  
Phone (559) 924-6700  
FAX (559) 924-9003

## **Planning Commission Staff Report**

**ITEM** 6

**To:** Lemoore Planning Commission  
**From:** Jeff Laws, Acting City Manager  
**Date:** June 6, 2013  
**Subject:** Agenda Packet Delivery

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Discussion:

It is our understanding that because of the late nature in which previous agendas were posted, agenda packets are currently hand delivered by staff to the residence of each Planning Commissioner. The Planning Director David Wlaschin, Project Manager Judy Holwell, City Engineer Steve Brandt, and City Clerk Kristie Baley are now responsible for agenda preparation and are confident that future agendas will be posted by 5:00 p.m. Thursday prior to Planning Commission Meetings. A link to the electronic version of the agenda will simultaneously be sent to Commissioners at the time of posting.

Staff is proposing that Planning Commissioners be provided with a key to City Hall and an inbox along side City Council Members so that each Commissioner can enter the building at their convenience and pick up the agenda packet from their inbox. Hand delivery of agendas would cease.

Budget Impact:

None

Recommendation:

That the Commission discuss the option proposed and give staff direction.

*Mayor*  
William Siegel  
*Mayor Pro Tem*  
Lois Wynne  
*Council Members*  
John Gordon  
Eddie Neal  
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## **Planning Commission Staff Report**

ITEM 7

**To: Lemoore Planning Commission**  
**From: Steve Brandt, Quad Knopf - Planning Staff**  
**Date: June 6, 2013**  
**Subject: Wathen Castanos – Request to Change Zoning Codes and Regulations – Six-Pack Plot Plan Requirement and Off-Site Signage**

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### **A. General Information:**

City staff was forwarded a letter from Wathen Castanos Hybrid Homes, one of the home builders currently building single-family homes in Lemoore. (The letter is attached). In their letter they request that the City review its Zoning Ordinance on two topics. The first is the Zoning design standards for residential projects. The second is the prohibition of off-site advertising signs for home sales. Changes to either of these City policies would require amendment to the Zoning Ordinance. Amendments require a recommendation by the Planning Commission after holding a public hearing, and then adoption of the 1<sup>st</sup> and 2<sup>nd</sup> reading of the Ordinance change at City Council, with at least one Council public hearing.

### **B. Discussion:**

On June 4, the City Council approved a contract modification for Quad Knopf to provide Planning services to the City. The contract includes review of the Zoning Ordinance to propose amendments that would be more business friendly and streamline the processing of development projects. Both of the requests by Wathen Castanos would fall within this scope. A timeline for completion has not yet been established, but it will likely take at least six months, including the hearing process. There are likely other suggestions from the public on ways to streamline the Ordinance that have not yet been communicated to City staff.

**C. Recommendation:**

Staff is asking for direction on how to proceed. Does the Commission want City staff to analyze changes to one or both of these issues? If so, the issues can be incorporated into the comprehensive review to streamline the Zoning Ordinance. Alternatively, they could be reviewed separately from the comprehensive Zoning Ordinance review if Wathen Castanos were to submit a formal application for a Zoning Amendment and pay the application fee. The City Council has already approved a budget for the comprehensive review.

**Attachments:**

Letter from Wathen Castanos Hybrid Homes, Inc. dated May 6, 2013



To: Mayor Billy Siegel and Lemoore City Council

From: Wathen Castanos Hybrid Homes, Inc.

Date: May 6, 2013

Subject: Lemoore Zoning Codes and Regulations

Mr. Siegel,

We understand that the City of Lemoore is going through some significant changes right now. We also understand that the Council is bringing about these changes to facilitate long term growth and development for the City. With that goal in mind Wathen Castanos would like to propose a few suggestions for the Council's consideration. In the City's current zoning code, section 9-5c-3 Design for residential projects, the current zoning and design standards require residential builders to pre-plot their houses throughout the entire subdivision prior to even opening for sales. The only alternative is a site plan review process for each home that must be submitted to the City. This requires hours of work from both the builder and the city staff. 3 planning sheets must be submitted to staff and the homes being processed must differentiate from the homes on both the left and right and directly across the street in the middle as well as the left and right. There must be 5 varying features to all of these homes with the same plan or homes that the staff deems like the same plan. This is very cumbersome and limits market selection for lot and home type. We take pride in our communities and ensure that customers vary the street scene, but we have never had this restriction in any other municipality. In addition to the time this takes, it also costs us \$150 for each submission, which we choose to do at this time to accommodate the customer.

*Mayor*  
William Siegel  
*Mayor Pro Tem*  
Lois Wynne  
*Council Members*  
John Gordon  
Eddie Neal  
Willard Rodarmel



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## **Planning Commission Staff Report**

**ITEM 8**

**To: Lemoore Planning Commission**  
**From: Steve Brandt, Quad Knopf - Planning Staff**  
**Date: June 6, 2013**  
**Subject: California Homemade Food Act (AB 1616)**

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### **A. General Information:**

On January 1, 2013, a new State law went into effect that serves to promote use of residential kitchens to prepare certain specified types of food for commercial sale. This law overrides existing local zoning ordinances and allows persons to operate a business that prepares certain types of food from their home residence that can be sold commercially. This type of business has been termed a cottage food operation. While most of the regulatory process for cottage food operations is implemented by the Kings County Environmental Health Department, it is the city's responsibility to incorporate this new type of use into its Zoning Ordinance procedures. Exhibit A is a flyer prepared by the California Conference of Directors of Environmental Health that explains more about cottage food operations.

The Lemoore Zoning Ordinance allows homeowners to conduct certain types of businesses out their residences. The Zoning Ordinance defines these businesses as Home Occupations. Home Occupations are currently allowed in all of the Residential and DMX zones. Since the Ordinance allows both Minor and Major Home Occupations, the main question to be answered is whether Cottage Food Operations should be considered Minor or Major Home Occupations.

Staff is recommending that the Home Occupation provisions of the Lemoore Zoning Ordinance be reviewed, with the intent of updating it to be consistent with this new State law.

**B. Text from the New State Law:**

The new State law does not allow cities to deny a person the ability to have a Cottage Food Operation in their home. The specific text of this portion of the law is as follows:

51035. (a) A city, county, or city and county shall not prohibit a cottage food operation, as defined in Section 113758 of the Health and Safety Code, in any residential dwellings, but shall do one of the following:

(1) Classify a cottage food operation as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a residence as any cottage food operation that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator, by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any cottage food operation to apply for a permit to use a residence for its operation. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the cottage food operation complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan. The local government shall process any required permit as economically as possible. Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. The application form for cottage food operation permits shall include a statement of the applicant's right to request the written fee verification.

**C. Discussion:**

The new law requires cities to approve cottage food operations, with only reasonable conditions. The new law requires cities to allow sale of goods at the site, and it requires that cities allow one (1) employee who does not live at the site. The existing Home Occupations procedures allow for Major and Minor Home Occupation Permits. Currently only Major Home Occupation Permits allow customers to come to the site, and neither Permit allows employees. Also, Major Home Occupations are discretionary, meaning that they can be approved or denied. The new law does not allow cities to deny cottage food operations. Therefore, the Ordinance will need some modification to be brought into compliance with State law. The revised Ordinance should also clarify when a cottage food operation is a Minor Home Occupation and when it is a Major Home Occupation.

**D. Environmental Impact:**

Minor Home Occupations are ministerial projects that are not subject to CEQA. Major Home Occupations would require that a Categorical Exemption be filed as the CEQA document.

**E. Recommendation:**

- Provide guidance to staff on the use of Major and Minor Home Occupation Permits for Cottage Food Operations, direct Planning staff to initiate a Zoning Ordinance change, and bring the proposed wording of the change back to the Commission at the earliest next public hearing.

**OR**

- Provide direction to staff on Major and Minor Home Occupation Permits for Cottage Food Operations, and direct Planning staff to propose the specific Ordinance changes with the upcoming comprehensive Zoning Ordinance changes being proposed later this year.

**Attachments:**

**Exhibit A – AB 1616 (Cottage Foods) Frequently Asked Questions**



## California Homemade Food Act

### Frequently Asked Questions

#### AB 1616 (Gatto) - Cottage Food Operations

**When does the new Cottage Food Law go into effect?** The new law became effective January 1, 2013. The law requires the California Department of Public Health (CDPH) to carry out certain tasks associated with implementation, and imposes certain responsibilities on local planning and environmental health jurisdictions. Further information regarding the status of implementation can be obtained from your local environmental health agency.

- 1. What is a cottage food operation (CFO)?** A CFO is an enterprise at a private home where specific low-risk food products that do not require refrigeration are prepared or packaged for sale to consumers.
- 2. What is meant by a private home?** “Private home” means a dwelling, including an apartment or other rented space, where the CFO operator resides.
- 3. Are there limitations on the size of CFO sales?**
  - \$35,000 or less in gross sales annually in 2013
  - \$45,000 or less in gross sales annually in 2014
  - \$50,000 or less in gross sales annually in 2015 and beyond
- 4. Can a CFO have employees?** A CFO can have one full-time equivalent employee (not counting family members or household members).
- 5. What cottage foods are CFOs permitted to produce?** Only specific foods that are defined as “non-potentially hazardous” are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick.

CDPH will establish and maintain a list of approved cottage food categories on their website. The list included in the new law includes:



Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas  
Candy, such as brittle and toffee  
Chocolate-covered nonperishable foods, such as nuts and dried fruit  
Dried fruit  
Dried pasta  
Dry baking mixes  
Fruit pies, fruit empanadas, and fruit tamales  
Granola, cereals, and trail mixes  
Herb blends and dried mole paste  
Honey and sweet sorghum syrup  
Jams, jellies, preserves, and fruit butter that comply with the standard described in [Part 150 of Title 21 of the Code of Federal Regulations](#).  
Nut mixes and nut butters  
Popcorn  
Vinegar and mustard  
Roasted coffee and dried tea  
Waffle cones and pizzelles

**6. What are the two classifications of CFO's?**

**"Class A"** CFOs are only allowed to engage in **"direct sale"** of cottage food.

**"Class B"** CFO's may engage in both **"direct sale"** and **"indirect sale"** of cottage food.

**7. What is meant by "direct sale" of cottage food?** "Direct sale" means a transaction between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers' markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation within the jurisdiction of the local environmental health agency in which the CFO is permitted or registered.

**8. What is meant by "indirect sale" of cottage food?** "Indirect sale" means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local environmental health agency in their jurisdiction. Indirect sales include, but are not limited to, sales made to retail food facilities including markets, restaurants, bakeries, and delis, where food may be immediately consumed on the premises.



**9. What are limitations on Internet sales and delivery of cottage food products?** A cottage food operator may advertise as well accept orders and payments via Internet or phone. However, a CFO must deliver (in person) to the customer. A CFO may not deliver any CFO products via US Mail, UPS, FedEx or using any other third-party delivery service. A cottage food operator may not introduce a CFO product into interstate commerce.

**10. What are limitations on advertising of CFO products?** It is unlawful for any person to disseminate any false advertising of any food. An advertisement is false if it is false or misleading in any particular. A cottage food product that is found to be falsely advertised would be subject to enforcement action.

**11. Do I need any special training or certification to make cottage foods?** A person who prepares or packages cottage food products must complete a food processor course instructed by the CDPH within three months of being registered or permitted.

**12. Does a CFO need a permit to operate?**

**Planning and zoning:** All CFO's need to obtain approval from their local city or county planning department. The Homemade Food Act gives planning departments several options to consider, so planning department requirements may vary between jurisdictions.

**Environmental Health:** For "Class A" CFO's (direct sale only), **registration** with the local enforcement agency and submission of a completed "self-certification checklist" approved by the local environmental health agency. For "Class B" CFO's (either direct and indirect or indirect only), a **permit** from the local environmental health agency is required.

**Other requirements:** Check on other state or local requirements that may be applicable, such as Sellers Permits through the Board of Equalization, or Business Licenses through your city or county.

**Registrations and permits are nontransferable between:**

- 1) Persons
- 2) Locations
- 3) Type of food sales [i.e., direct sales ("Class A") vs. indirect sales ("Class B")]
- 4) Type of distribution

**13. How much will the permit or registration cost the CFO?** Each local jurisdiction will establish fees that are not to exceed the cost of providing the service. Additional fees may be charged for inspection and/or enforcement activities if



the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

**14. Will my CFO registration/permit allow me to sell at other retail venues?** There may be health permits required to sell at other locations, such as Certified Farmers' Markets, Swap Meets or community events. Please check with your local environmental health department for additional permit requirements.

**15. How often will a CFO be inspected?**

**"Class A"** CFO kitchens and food storage areas (referenced in the law as the "registered or permitted area") are not subject to initial or routine inspections.

**"Class B"** CFO kitchens and food storage areas are inspected initially prior to permit issuance.

**"Class A or B" (complaint inspections)** - The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated California food safety laws.

**16. What are CFO operational requirements?** All CFOs must comply with the following:

No domestic activity in kitchen during cottage food preparation

No infants, small children, or pets in kitchen during cottage food preparation

Kitchen equipment and utensils kept clean and in good repair

All food contact surfaces and utensils washed, rinsed, and sanitized before each use

All food preparation and storage areas free of rodents and insects

No smoking in kitchen area during preparation or processing of cottage food

A person with a contagious illness shall refrain from preparing or packaging cottage food products

Proper hand-washing shall be completed prior to any food preparation or packaging

Water used in the preparation of cottage food products must be potable

Cottage food preparation activities include:

- Washing, rinsing, and sanitizing of any equipment used in food preparation
- Washing and sanitizing hands and arms
- Water used as an ingredient of cottage food.



## 17. What has to be on my cottage food label?

All cottage food products must be properly labeled in compliance with the Federal, Food, Drug, and Cosmetic Act (**21 U.S.C. Sec. 343 et seq.**).

The label must include:

- The words “Made in a Home Kitchen” in 12-point type.
- The name commonly used to describe the food product.
- The name city, state and zip code of the cottage food operation which produced the cottage food product. If the CFO is not listed in a current telephone directory then a street address must also be declared. (A contact phone number or email address is optional but may be helpful for consumers to contact your business.
- The registration or permit number of the CFO which produced the cottage food product and, in the case of “Class B” CFOs, the name of the county where the permit was issued.
- The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients.
- The net quantity (count, weight, or volume) of the food product, it must be stated in both English (pound) units and metric units (grams).
- A declaration on the label in plain language if the food contains any of the eight major food allergens such as milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, and soybeans. There are two approved methods prescribed by federal law for declaring the food sources of allergens in packaged foods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.
- The use of the following eleven terms are considered nutrient content claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. Specific requirements have been established for the use of these terms. Please refer to the [\*\*Cottage Food Labeling Guideline\*\*](#) for more details.
- A health claim is a statement or message on the label that describes the relationship between a food component and a disease or health-related condition (e.g., sodium and hypertension, calcium and osteoporosis). Please refer to the Cottage Food Labeling Guideline for more details.
- If the label makes approved nutrient content claims or health claims, the label must contain a “Nutrition Facts” statement on the information panel.



- Labels must be legible and in English (accurately translated information in another language may also be included on the label). Labels, wrappers, inks, adhesives, paper, and packaging materials that come into contact with the cottage food product by touching the product or penetrating the packaging must be food-grade (safe for food contact) and not contaminate the food.

In a permitted retail food facility (such as a restaurant, market, or deli), cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or in another easily accessible location that would reasonably inform the consumer that the food or an ingredient in the food has been made in a private home.

**18. What is my legal responsibility as a cottage food operator in ensuring that my food product is safe?** Cottage food operators and/or their employees shall not commit any act that may cause contamination or adulteration of food.

This would include making foods that are not on the approved food list and or making foods under unsanitary conditions or with spoiled or rancid ingredients.

A cottage food operation that is not in compliance with the requirements of AB 1616 would be subject to enforcement action taken by the local environmental health agency and/or the California Department of Public Health.

**19. What if I find out an ingredient I used has been recalled because it can make people sick or has been identified as the cause of food borne illness?** You should notify your local environmental health agency or CDPH immediately and do not distribute anymore product. You may need to notify your customers and request that they return or dispose of the products. For specific food recall information, you can contact CDPH at: (916) 650-6500 or email: [FDBinfo@cdph.ca.gov](mailto:FDBinfo@cdph.ca.gov).

**20. What is my liability as a cottage food business operating out of my home?** You should check with your homeowner insurance company or your landlord if you are operating out of a rental property. Many homeowner insurance policies will not extend liability coverage to liabilities arising out of home-based businesses.



- 21. What other educational resources and guidelines are available to assist me in ensuring I am making a safe food product?** Please see the CDPH website or contact your local environmental health agency for guidance and resource documents or web links.
  
- 22. What can I do to ensure I am still meeting legal requirements if my cottage food operation grows to exceed the gross annual sales limit and/or I decide want to make another type of food product that is not on the approved food list?** Please contact CDPH for registration and facility requirements for food processors.
  
- 23. Where can I file a complaint about a cottage food operation or cottage food product?** You can file a complaint at the CDPH toll-free complaint line – 1-800-495-3232.