PLANNING COMMISSION STAFF REPORT

To: Chairman & Planning Commission
From: Shane Stueckle, Deputy Town Manager
Diane Olsen, Planning Technician
Date: August 6, 2014
For Commission Meeting: August 12, 2014

Subject: Development Code Amendment, DCA-02-14
Title 9, Article 2, Chapter, 9.08, Section 9.08.050, repealing Section 84.0615, Chapter 6, Division 4 of Title 8.
Title 9, Chapter 9.75, Sections 9.75.010 thru 9.75.080
Home Occupation Permit Regulations
CEQA Exemption Section 15061(b) (3)

Prior Commission Review: The Planning Commission discussed Home Occupation Permits at the meetings of August 27, 2013 and March 11, 2014, May 13, 2014 and June 10, 2014, June 24, 2014, July 8, 2014 and held a workshop on May 27, 2014

Recommendation: That the Planning Commission:

A. Finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's Home Occupation Permit regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 02-14 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA".

B. Recommends that the Town Council adopts the Ordinances and repeals Development Code Section 84.0615, Chapter 6, Division 4 of Title 8.

Executive Summary: A proposed amendment to Title 9, adding Section 9.08.050 of Article 2, and adding Chapter 9.75 of Article 4, of the Yucca Valley Development Code, establishing development regulations and permitting procedures for the operation of a Home Occupation.

The project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's

____ Department Report	X Ordinance Action	____ Resolution Action	X Public Hearing
____ Consent	____ Minute Action	____ Receive and File	____ Study Session

Home Occupation Permit Regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 02-14 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA"

This matter was continued from the Planning Commission meeting of July 8, 2014. At the meeting of June 10, 2014, the Commission requested that the ordinance be revised to reflect a tiered structure for the operation of Home Occupations. The ordinance has been revised to include four classes of Home Occupations, to include Class I, Exempt; Class II, No Hearing Required; Class III, Public Notice and Hearing; and Class IV, Conditional Use Permit.

At the meeting of June 24, 2014, the Commission requested that the ordinance be revised to include a table of commercial uses. The ordinance has been revised to include a table of commercial uses, indicating what kinds of uses are permitted in the different residential zones and what their permitting requirements are.

At the meeting of July 8, 2014, the Commission came to a consensus on the following issues:

- The hours of operation should be limited to between the hours of 9am and 5pm for Class II and Class III business in which there are customers visiting the site, and between the between the hours of 7am and 7pm for Class I, Class II and Class II businesses in which there are no customers visiting the site.

- Ten percent of the lot area would be allowed for screened outdoor storage related to the home occupation for RS zones, and use of that storage would not require coming before the Commission.

- The approval period should be 3 years.

- All home occupations which have customers coming to the business, including the sale of firearms, should be limited to RS lots of 18,000 sq. ft. or greater.

- There should be no limit to the percentage of the residence or accessory structures which can be used as part of the home occupation, provided that the home occupation does not change the residential character of the outside.

Order of Procedure:

Request Staff Report

Request Public Comment
Commission Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Call the Question (Roll Call Vote)

Discussion: As part of the Development Code Update project, the Planning Commission is reviewing regulations for home occupations or home based businesses. Chapter 9.08.050 establishes regulations for the operation of Home Occupations in single family and multi-family land use districts. The intent of these regulations is to allow for certain business activities within residential neighborhoods without altering the character of the neighborhood or creating impacts or activities that are not commonly associated with residential neighborhoods.

While staff has made suggested modifications to the regulations, there are several policy areas that the Commission should review and discuss to ensure the regulations address the Commission's intended outcome for the process and standards for home based businesses.

As staff has reviewed the existing regulations in detail, there are areas within the existing regulations that are either "vague" or that "conflict" with other provisions. Therefore staff proposes the following Commission discussion points to assist in finalizing the regulations at the August 12, 2014 Planning Commission meeting.

Approval Authority: Modifications have been made that provide for two levels of approval authority including Director and Planning Commission. Planning Commission review applies to those home based businesses which propose sales activities from the home, customers visiting the residence, and for uses which propose outdoor screened business activity. A conditional use permit application may be filed for Planning Commission consideration for any proposed home based business which exceeds the standards identified.

Renewal Authority: The Commission came to a consensus that renewal authority shall remain with the Director for all home occupation permits.

Period of Approval: The Commission cane to a consensus that the period of approval shall be 3 years.

Prohibited Uses: The Commission may desire to identify if additional prohibited uses should be added to the list.

Exemptions: Telecommuting, No Customers, Business Conducted Off-Site: Additional language has been added to this section that further clarifies what home based business activities are exempt from obtaining a permit.

Outside Storage: The current Ordinance identifies that outside storage is allowed, but the Ordinance does not provide sufficient details or standards. Modifications have been made which prohibit outside storage on smaller lots in the RM zoning districts, while allowing "some" outside storage on lots larger than one acre in the RL and R-HR zoning districts. The Commission came to a consensus that permitted Home Occupations in the RS zones would be allowed up to 10% of the lot area for screened outside storage of materials.

Percentage of Structures that may be used for business activities: The Commission came to a consensus that no limit should be placed on the percentage of the structure which can be used for business activities, provided that the business activities do not change the residential character of the exterior.

Where Are Business Activities To Be Conducted: The Commission came to a consensus that primary structures, accessory structures and outdoor activities are appropriate.

Hours of Business Operation: The Commission came to a consensus that the hours of business operation for home based businesses which have sales on the premises or customers to the site shall be limited to 9:00 am to 5:00 pm. All other homes based business would be limited to between 7:00am and 7:00 pm.

Cottage Food Operations: California Assembly Bill, AB 1616 establishes requirements for limited preparation of low risk food products from a private home. Private home is defined as a dwelling, including an apartment or other leased spaced, where individuals reside.

Family Day Care Homes: Small family day care homes (up to eight children) are considered a residential use of a single family dwelling and are permitted as a matter of right Large family day care homes (9 to 14 children) are permitted with a non-discretionary permit.

Chapter 9.75 establishes the application submittal requirements, the permitting procedures and the required findings for the issuance of Home Occupation Permits.

Alternatives: The Planning Commission may provide direction to staff as deemed necessary.

Fiscal impact: This Ordinance is included in the Town's contract for the Development Code Update project. No additional costs are incurred beyond existing contract services.

Attachments:
Section 9.08.050, Home Occupation Permit Regulations
Chapter 9.75, Home Occupation Permit Permitting Procedures
Ordinance 178, Home Occupation Permits
Ordinance 54, Home Occupations Permits
Planning Commission minutes from August 27, 2013, March 11, 2014, May 13, 2014,

May 27, 2014, and June 10, 2014,
Draft Planning Commission minute form June 24, 2014 and July 8, 2014
Notice of Hearing
General Plan Land Use Policies-Residential

ORDINANCE NO. .

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 9, YUCCA VALLEY DEVELOPMENT CODE, BY ADOPTING ARTICLE 2, CHAPTER 9.08, SECTION 9.08.050, HOME OCCUPATIONS AND REPEALING SECTION 84.0615, CHAPTER 6, DIVISION 4 OF TITLE 8.

The Yucca Valley Town Council does ordain as follows.

Section 1:

9.08.050 Home Occupations

A. Purpose. The purpose of this Section is to establish regulations allowing for the operation of certain business activities in single and multi-family residential neighborhoods. The standards and requirements are intended to ensure that home occupation operations do not alter the character of any residential neighborhood, or create impacts or activities that are not typically and commonly associated with residential neighborhoods. It is the intent of this Section to allow for commercial uses that are accessory and incidental to the primary purpose of residential zones , which is that of providing a habitable dwelling for the owner or occupant as the primary use of the residential dwelling unit.

B. Applicability. The provisions in this Section shall apply to home occupations as defined in Article 7, *Definitions* and where allowed in compliance within this Article and the following standards. A home occupation shall only be allowed as an accessory use on a parcel with a legal residential dwelling unit.

A Home Occupation is defined as "a commercial activity conducted in compliance with Section 9.08.050 of this Development Code, carried out by an occupant and conducted as an accessory use within the primary dwelling unit, an accessory structure or approved outdoor activity".

C. ~~**Prohibited Home Occupations.** The following uses are not incidental to or compatible with residential activities and therefore shall not be allowed as home occupations:~~

1. ~~Animal hospitals, animal rehabilitation, pet grooming, kennels or catteries~~
2. ~~Automotive and other vehicle repair (body or mechanical), upholstery, painting, or storage;~~
3. ~~Junk yards;~~
4. ~~Medical and dental offices, clinics, and laboratories;~~
5. ~~Mini-storage;~~
6. ~~Storage of equipment, materials, and other accessories to the construction trades;~~

~~7. Welding and machining.~~
~~8. Cabinet shop.~~
~~9. Uses which may include the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the Building, Fire Code, or adopted restrictions.~~
~~10. Sales of firearms in residential zoning districts other than Rural Living (RL) or Hillside Reserve (R-HR)~~
~~11. Sales of ammunition~~
~~12. Massage establishments~~
~~13. Any other use determined by the Director that is not incidental to and/or compatible with residential activities.~~

D. Classes of Home Occupations Described

1. Home occupations are commercial uses that are accessory and incidental to a residential land use and that do not alter the character or the appearance of the residential environment or neighborhood.

2. No person shall engage in a home occupation without first obtaining a Home Occupation Permit from the Planning Division consistent with the requirements of this Chapter, unless otherwise exempt. In addition, the operator of the home occupation shall procure a Business Registration in compliance with Municipal Code Chapter 5.20 (Business Registration Certificate), including home occupations that are exempt from permitting.

a. Class I, Exempt from Permitting

Class I Home Occupations shall have no impact on the neighborhood in which they are located. Work is performed exclusively by phone and mail, or over the internet, and/or the activity is limited so that there are no impacts on the neighborhood. Class I Home Occupations are allowed in any residential zoning district.

These uses include telecommuting and internet or electronic based businesses, or other similar activities that are transparent inside the residential structure, and do not involve customers to the site, employees, or any structural alteration.

In addition, no permit is required for home based businesses where no business activity takes place other than the scheduling of appointments or paperwork, there are no customers received at the residence, the exterior of the property is not modified for the business and there is no outdoor storage of materials or vehicles, except as normally associated with and allowed in a residential area. These business activities include, but are not limited to, contractors, housecleaning, carpet cleaning, mobile carwash or gardeners.

Class I Development Standards:

1. No customers or clients shall visit the residence
2. All employees shall be members of the resident family and shall reside on the premises.
3. Operating hours shall be limited to the hours of 7 AM to 7 PM.

b. Class II, No Hearing Required.

Class II Home Occupations may have a limited impact on the neighborhood in which they are located. Class II Home Occupations shall be allowed in the Residential Single Family (RS), Rural Living (RL) and Rural Hillside Reserve (R-HR) zoning districts.

Subject to the authority and discretion of the Director, Home occupations that meet the following standards, after appropriate application and subject to a field investigation, may be permitted without notice or a hearing. Alternatively, the Director may schedule a hearing or forward the matter to the Commission for action. The Director may establish any other special condition of approval for any Home Occupation Permit as necessary to carry out the intent of this subsection.

Class II Development Standards:

1. There may sales of products on the premises.
2. A maximum of three customers or clientele per day may visit the residence.
3. All employees, except one, shall be members of the resident family and shall reside on the premises.
4. Operating hours of a home occupation in which there are customers visiting the site shall be between the hours of 9:00 a.m and 5:00 p.m. Operating hours of all other home occupations requiring a permit shall be between the hours of 7:00 a.m. and 7:00 p.m.
5. There shall be no outdoor home occupation activity ~~or~~, and screened outdoor storage of material shall be limited to 10% of the lot area.

c. Class III, Notice and Hearing Required

Class III Home Occupations may have a limited impact on the neighborhood in which they are located but are also slightly more intense than Class II in that they may involve outdoor storage of material and/or outdoor home occupation activities that do not impact the neighborhood. Class III Home Occupations are permitted in the Rural Living (RL) and Rural Hillside Reserve (R-HR) zoning districts.

Class III Home Occupations shall be subject to notice and hearing. The Commission is the review authority, and the Commission may forward the application to the Council for consideration.

Class III Development Standards:

1. There may be sales of products on the premises.
2. Customers may visit the residence and then only by appointment. This is restricted to a single appointment at a time. The monthly average of the total trip count for business activities shall not exceed 12 trips per day in all zoning districts.
3. All employees, except two, shall be members of the resident family and shall reside on the premises.
4. Operating hours of a home occupation in which there are sales on the premises or customers visiting the site shall be between the hours of 9:00 a.m and 5:00 p.m.. Operating hours of all other home occupations requiring a permit shall be between the hours of 7:00 a.m. and 7:00 p.m.
5. Lots in the Rural Living (RL) and Hillside Reserve (R-HR) zoning districts that are one acre or larger shall be permitted outdoor business activity or screened outdoor storage of materials subject to review and approval by the Commission.

d. Class IV, Conditional Use Permit.

Home Occupations which may exceed the standards provided in (D (2) or (3) may be approved subject to the review and approval of a Conditional Use Permit by the Commission.

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TABLE 2-X:
PERMITTED LAND USES AND PERMIT REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS

Zoning Districts: R-HR: Rural Hillside Reserve RL: Rural Living
RS: Residential Single Family RM: Residential Multi Family

Permit Required CUP: Conditional Use Permit SPR: Site Plan and Design Review
HOP: Home Occupation Permit SUP: Special Use Permit
E: Exempt --: Prohibited

Type of Use	Permit Required by Zoning District				Notes and Other Regulations
	R-HR	RL	RS	RM	
Care Uses					
Child Day Care (small family)	E	E	E	--	Eight or fewer children, pursuant to Residential District Standards, Section 9.XX
Child Day Care (large family)	SUP	SUP	SUP	--SUP	Nine to fourteen children, pursuant to Residential District Standards, Section 9.XX
Child Day Care Center	CUP	CUP	CUP	CUP--	Fifteen or more children, pursuant to Section 9.XX.XXX
Homeless Shelter	--	--	--	--	Including Transitional and supportive uses.
Social Care Facility, Six or Fewer	E	E	E	E	Includes but is not limited to elderly care and sober living facilities. Pursuant to Residential District Standards Section 9.XX
Social Care Facility, Seven or More	CUP	CUP	CUP	--	Includes but is not limited to elderly care and sober living facilities See Section 9.XX.XXX (Social Care Facilities)
Agriculture, Animal Related, and Open Space Uses					
Animal Care Facility	--	--	--	--	Including, but not limited to animal hospitals, veterinarian, pet stores, and grooming.
Community Gardens	HOP	HOP	--	--	
Equestrian Facility	SUP--	SUP--	--	--	
Feed and Tack	--	--	--	--	
Horticulture for private use, including growing fruit, flowers, ornamental plants and vegetables	E	E	E	E	Permitted as a use that is incidental to the primary use
Agriculture for commercial use not including animal husbandry or stockyards	CUP	CUP	--	--	Including but not limited to row, field, tree, and nursery crop cultivation

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Zoning Districts: R-HR: Rural Hillside Reserve RL: Rural Living
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Type of Use	Permit Required by Zoning District				Notes and Other Regulations
	R-HR	RL	RS	RM	
Kennels and Catteries (over 15 animals)	--	--	--	--	See Section 9.XX.XXX (Animal Keeping)
Livestock Operations	--	--	--	--	
Natural Resources Development	--	--	--	--	
Nature Preserve	--	--	--	--	
Nursery/Garden Supply (with outdoor display)	--	--	--	--	
Nursery/Garden Supply (without outdoor display)	--	--	--	--	
Retail Commercial Uses					
Ammunition Sales	--	--	--	--	
Antique/Second Hand Stores	--	--	--	--	
Adult-Oriented Business	--	--	--	--	See Section 9.XX.XXX (Adult-Oriented Uses)
Appliance Sales and Home Goods (no repair)	--	--	--	--	
Auto and Vehicle Sales and Rentals and Parts Sales	--	--	--	--	
Building and Landscape Materials Sales (indoor)	--	--	--	--	
Building and Landscape Materials Sales (outdoor)	--	--	--	--	
Convenience Store	--	--	--	--	
Construction and Heavy Equipment Sales and Rentals	--	--	--	--	
Farmers Market/Arts and Crafts Events	--	--	--	--	See Section 9.XX.XXX (Temporary Special Events)
Firearms Sales	HOP	HOP	HOP	--	

TABLE 2-X:
PERMITTED LAND USES AND PERMIT REQUIREMENTS
FOR RESIDENTIAL ZONING DISTRICTS

Zoning Districts: R-HR: Rural Hillside Reserve RL: Rural Living
RS: Residential Single Family RM: Residential Multi Family

Permit Required CUP: Conditional Use Permit SPR: Site Plan and Design Review
HOP: Home Occupation Permit SUP: Special Use Permit
E: Exempt --: Prohibited

Type of Use	Permit Required by Zoning District				Notes and Other Regulations
	R-HR	RL	RS	RM	
Fuel/Propane Dealer	--	--	--	--	See Section 9.XX.XXX (Gas or Other Fueling Stations)
Grocery, Supermarket, Specialty Food Store, Drug Store	--	--	--	--	
Manufactured Home Sales	--	--	--	--	
Boat and Recreational Vehicle Sales	--	--	--	--	
Pawn Shop	--	--	--	--	
Retail Store (less than 80,000 sf)	--	--	--	--	
Retail Store (80,000 or greater sf)	--	--	--	--	
Seasonal Holiday Sales Facilities	--	--	--	--	See Section 9.XX.XXX (Temporary Special Events Permits)
Swap Meet, Outdoor Market, Auction Yard (permanent)	--	--	--	--	See Section 9.XX.XXX (Swap Meets)
Shopping Center (neighborhood, community, or regional),	--	--	--	--	
Warehouse Retail	--	--	--	--	
Business, Financial, and Professional					
ATM	--	--	--	--	
Financial Institution and Related Service	--	--	--	--	
Laboratory	--	--	--	--	
Office	E	E	E	E	Provided that no customers are clients are visiting the residence.
Office	HOP	HOP	HOP	~~HOP~~--	Customers or clients visiting the residence

Eating and Drinking Establishments					
Bakery (retail), Coffee Shop and Similar Uses	--	--	--	--	Including but not limited to ice cream shops, frozen yogurt shops, and candy/sweet shops
Bakery (delivery only)	HOP	HOP	HOP	~~HOP~~	
Bar, Lounge, Nightclub, Tavern, and Pool Hall	--	--	--	--	
Catering Service	HOP	HOP	HOP	~~HOP~~	
Cottage Food Operation	HOP	HOP	HOP	HOP	
Fast Food (w/drive through, delivery)	--	--	--	--	
Fast Food (w/o drive through, delivery)	--	--	--	--	
Full Service Restaurant	--	--	--	--	
Commercial Service Uses					
Ambulance Service	--	--	--	--	
Appliance Sales, Service, Repair, and Rental	--	--	--	--	
Automobile Gas Station	--	--	--	--	
Automobile Service/Repair (minor repair, maintenance, upholstery, painting)	--	--	--	--	
Automobile Service/Repair (major repair/body work)	--	--	--	--	
Automobile Washing (car wash)	--	--	--		
Barber, Beauty Shop, and other Similar Personal Service Uses	HOP	HOP	HOP	~~HOP--~~	
Printing and Duplication Services	HOP	HOP	HOP	~~HOP--~~	
Equipment Sales, Service, Repair, and Rental	--	--	--	--	
Fitness Center	--	--	--	--	
Fortune Telling and Related Service	HOP	HOP	HOP	~~HOP--~~	
Funeral Service (excluding crematorium)	--	--	--	--	
Funeral Service (including crematorium)	--	--	--	--	
Laundry and Dry Cleaning	--	--	--	--	

Locksmith	HOP	HOP	HOP	~~HOP--~~	
Maintenance and Repair, General (Minor)	HOP--	HOP--	--	--	
Maintenance and Repair (Major)	--	--	--	--	
Massage Establishment	--	--	--	--	
Personal Trainer	HOP	HOP	HOP	~~HOP--~~	Customers or clients visiting the residence
Studio (dance, music, martial arts, artists)	HOP	HOP	HOP	~~HOP--~~	
Tattoo and Piercing	--	--	--	--	
Commercial Recreation					
Amusement Arcade or Park	--	--	--	--	
Carnivals/Circuses/Festivals / Fairs	--	--	--	--	
Campgrounds	--	--	--	--	
Concerts, Open-Air Theaters, Outdoor Entertainment Events	--	--	--	--	
Game Arcade, Internet Café, and Similar Businesses	--	--	--	--	
Golf Course	--	--	--	--	
Hookah Lounge	--	--	--	--	
Parks/ Recreation Facilities	--	--	--	--	
Private Clubs and Lodges	--	--	--	--	
Recreation and Entertainment (commercial indoor and outdoor)	--	--	--	--	
Recreational Vehicle Park	--	--	--	--	
Industry, Manufacturing and Processing, Wholesaling					
Construction/Contractor Storage Yard	--	--	--	--	
Hazardous Waste Operations	--	--	--	--	See Section 9.XX.XXX (Hazardous Materials)
Manufacturing Operations	--	--	--	--	
Motor Vehicle Storage/Impound Facility	--	--	--	--	
Recycling Facility (small collection facility)	--	--	--	--	See Section 9.XX.XXX (Recycling Facilities)

Recycling Facility (processing facility)	--	--	--	--	
Research and Development	--	--	--	--	
Salvage Facility	--	--	--	--	
Storage – Mini-Storage (personal storage)	--	--	--	--	See Section 9.XX.XXX (Mini-Storage Facilities)
Storage (outdoor vehicles storage)	--	--	--	--	
Welding and machining	--	--	--	--	
Wholesaling and Distribution	--	--	--	--	
Transportation, Communications, and Infrastructure					
Communication Facility	--	--	--	--	Including, but not limited to, radio and television stations or towers, satellite receiving stations, but not wireless telecommunication facilities
Wireless Telecommunication Facilities	CUP	CUP	CUP	CUP	Pursuant to Chapter 9.XX
Parking Lot	---	--	--	--	
Public/Government Facilities	--	--	--	--	
Public Safety Uses (permanent)	--	--	--	--	
Solar Energy Systems (accessory)	P	P	P	P	See Section 9.45.010 (Solar Energy Systems)
Solar Energy Systems (Commercial ~~Utility grade~~/primary use)	--	--	--	--	See Section 9.44.010 (Solar Energy Systems)
Transmission utility lines, pipelines, and control stations	--	--	--	--	
Utilities (major)	--	--	--	--	
Wind Energy System (accessory)	SPR	SPR	SPR	SPR	See Section 9.46.010 (Wind Energy System)
Wind Energy System (~~utility grade~~Commercial /primary use)	--	--	--	--	See Section 9.44.010 (Wind Energy System)
Other Uses					
Archery and Gun Ranges (Indoor)	--	--	--	--	
Archery and Gun Ranges (Outdoor)	--	--	--	--	
Bed and Breakfast	SUP	SUP	SUP	~~SUP--~~	See Section 9.08.030 (Bed and Breakfast)

Cemeteries, Including Pet Cemeteries	--	--	--	--	
Churches, Religious Assembly, and Other Public Assembly	--	--	--	--	
Conference Centers and Group Camps	--	--	--	--	
Correctional Institution	--	--	--	--	
Emergency Facilities (temporary)	--	--	--	--	
Hotels and Motels	--	--	--	--	
Hospitals/Medical/ Rehabilitation Centers/Clinics	--	--	--	--	
Medical and Dental Offices, clinics, laboratories	--	--	--	--	
Medical Marijuana Dispensary	--	--	--	--	See Section 9.XX.XXX (Medical Marijuana Dispensary)
Museum, Library, Art Gallery, Outdoor Exhibit	--	--	--	--	
Schools (private, vocational, charter, and other)	--	--	--	--	Not to include home schooling

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E. **Development Standards.** All home occupations shall comply with all of the following conditions of approval at all times:

1. No dwelling or accessory structure shall be built, altered, furnished or decorated for the purpose of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted;

2. There shall be no displays, sale, or advertising signs on the premises;

3. There shall be no signs other than one unlighted identification sign containing the name and address of the owner attached to the building not exceeding two square feet in area per street frontage;

4. All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;

5. The home occupation shall not encroach into any required parking, setback, or open space area and required covered parking shall not be altered for the purpose of conducting the home occupation.

6. There shall be no outdoor home occupation activity or outdoor storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises, except as approved by the Commission.

7. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;

8. There shall be complete conformity with Fire, Building, Plumbing, Electrical, and Health Codes and to all applicable State and Town laws and ordinances. Activities conducted and equipment or material used shall not change the fire safety or occupancy classification of the premises;

9. No home occupation shall generate pedestrian or vehicular traffic in excess of that customarily associated with a residential use and the neighborhood in which it is located;

10. No home occupation shall be initiated until a current business registration certificate is obtained, including home occupations that are exempt from permitting;

11. A Home Occupation Permit shall not be transferable to another person or property;

12. No use shall create or cause noise in excess of noise standards established for residential zoning districts, dust, light, vibration, odor, gas, fumes, toxic or hazardous materials, smoke, glare, electrical interference, or other hazards or nuisances;

13. Public advertising shall only list phone number, operators name, post office box and description of business. Business address or location shall not be included in any public advertising.

14. Parking shall comply with the requirements of Chapter 9.33. One additional parking space shall be provided for each non-resident employee.

~~15. Up to 25 percent or 250 square feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for the operation of the home occupation and for the storage of material and supplies related to the home occupation in all RS and RM zoning districts. Up to 35 percent or 500 square feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for the operation of the home occupation and for the storage of material and supplies related to the use in all RL and R-HR zoning districts.~~

16. If the home occupation is to be conducted on rental property, written permission from the property owner shall be submitted.

F. **Review.** The Review Authority shall review all applications for a Home Occupation Permit to determine if the proposed use is consistent with the provision of Section 9.08.050. If all standards are met after complying with the noticing provisions of Section 9.75, the review authority shall make the following findings prior to issuance of the permit;

1. That the proposed use is not prohibited;

2. That the proposed use will comply with all applicable standards;

3. That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety, and general welfare;

4. That the proposed use will be consistent with any applicable specific plan.

5. That the proposed use will not alter the character of the neighborhood and will not induce physical or socioeconomic changes to the neighborhood that are inconsistent with the goals and objectives of the General Plan, and the

Development Code, and that do not create characteristics more closely associated with commercial, office or industrial land use activities.

G. Home Occupation Permit Renewal.
Home Occupation Permits are approved for a period of three (3) years. The Director shall be the review authority for all home occupation permits.

H. Home Occupation Permit Amendment
Refer to Article 5, Chapter 9.83 Permit Amendments

I. Home Occupation Permit Revocation
Refer to Article 5, Chapter 9.84 Permit Revocation

J. Appeal.
Refer to Article 5, Chapter 9.81 Appeals

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Section 2: **Repeal of County Code as Adopted and Amended by the Town:** The Town Council hereby repeals Sections 84.0615 thru 84.0622, Chapter 6, Division 4 of Title 8.

Section 3. **Severability:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 4. **Certification; Publication:** The Town Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the Town of Yucca Valley, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the Town Clerk in accordance with Government Code § 36933.

Section 5. **Effective Date:** This Ordinance shall become effective thirty (30) days from its adoption.

APPROVED AND ADOPTED this _____ day of _____, 2014.

_____
MAYOR

ATTEST:

_____
TOWN CLERK

DRAFT

ORDINANCE NO. .

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 9, YUCCA VALLEY DEVELOPMENT CODE, BY ADOPTING ARTICLE 4, CHAPTER 9.75, SECTIONS 9.75.010 THRU 9.75.080, HOME OCCUPATIONS.

DRAFT

Section 1:

9.75.010 – Purpose
9.75.020 – Applicability
9.75.030 – Procedures
9.75.040 – Application Submittal Requirements
9.75.050 – Application Fee
9.75.060 – Investigation and Report
9.75.070 – Required Findings
9.75.080 – Development of Property Before Final Decision

9.75.010 – Purpose

The Home Occupation Permit review procedure allows the Town to evaluate proposed Home Occupations to determine consistency with the General Plan, Development Code and applicable Town ordinances. The Home Occupation Permit review procedure is intended to protect and enhance the visual appeal, environment and property values of the Towns residential neighborhoods. Review of such uses is necessary to ensure that the uses are developed, operated and located properly with respect to surrounding properties, and so that any and all potentially adverse impacts are mitigated.

9.75.020 – Applicability

The provisions of this Chapter are applicable to all single family residential and multi-family residential zoned property.

9.75.030 – Procedures

A. Class II Home Occupations subject Section 9.08.050 (D)(2).

Procedure: Staff Review without Notice
Reviewing Authority: Director

B. Class III Home Occupations subject to Section 9.08.050 (D)(3).

Procedure: Public Hearing
Reviewing Authority: Commission

C. When necessary, the Director may forward any request for a Home Occupation Permit to the Commission for review and the Commission may forward any request to the Council for review.

D. Notice shall be given in accordance with Chapter 9.85, *Public Notices and Hearings*.

E. In approving an application for a Home Occupation Permit, the review authority may impose necessary conditions to ensure compliance with this Code.

9.75.040 – Application Submittal Requirements

Applications for Home Occupations Permits shall be filed on a form prescribed by the Planning Division and shall contain such information and reports as may be required by the application submittal packed or by other applicable ordinances or by the Town in order for the review authority to make the required findings.

If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use shall be obtained prior to the submittal for a Home Occupation Permit;

9.75.050 – Application Fee

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter.

9.75.060 – Investigation and Report

The Director shall cause an analysis of each application for a Home Occupation Permit to be made. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Planning Division. The analysis shall examine the applications consistency with the content, intent and purpose of the General Plan, the Development Code, and any other applicable Town standards or policies. As a result of the analysis, the Planning Division may include a list of proposed conditions necessary to guarantee the public health, safety and welfare, should the proposed project be approved.

9.75.070 – Required Findings

The review authority shall review all applications for a Home Occupation Permit to determine if the proposed use meets all of the standards of Section 9.08.050. If all standards are met

after complying with the noticing provisions of Chapter 9.85 the review authority shall make the following findings prior to the issuance of the permit:

A. That the proposed use is not prohibited;

B. That the proposed use will comply with all applicable standards;

C. That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety and general welfare;

D. That the proposed use will be consistent with any applicable specific plan;

E. That the proposed use will not alter the character of the neighborhood and will not induce physical and socioeconomic changes to the neighborhood that are inconsistent with the goals and objectives of the General Plan and the Development Code, and that do not create characteristics more closely associated with commercial, office or industrial land use activities.

9.75.080 – Development of Property Before Final Decision

No person shall engage in a Home Occupation without first obtaining a Home Occupation Permit from the Planning Division consistent with the requirements of this Chapter, unless otherwise exempt.

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Section 2. **Severability:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 3. **Certification; Publication:** The Town Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the Town of Yucca Valley, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the Town Clerk in accordance with Government Code § 36933.

Section 4. **Effective Date:** This Ordinance shall become effective thirty (30) days from its adoption.

APPROVED AND ADOPTED this _____ day of _____, 2014.

_____
MAYOR

ATTEST:

_____
TOWN CLERK

DRAFT

PREVIOUS, NOW
REPEALED
ORDINANCE

Ordinance No. 54

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING SECTION 84.0615 OF THE TOWN OF YUCCA VALLEY DEVELOPMENT CODE REGARDING HOME OCCUPATIONS/COTTAGE INDUSTRY BY AMENDING SUBSECTION 84.0615 (a), AND 84.0615 (b) AND ADDING NEW SUBSECTIONS 84.0615(e), 84.0615(f), 84.0615(g), AND 84.0615(h)

The Town Council of the Town of Yucca Valley does ordain as follows:

SECTION 1. SECTION 84.0615 AMENDMENTS

Section 84.0615 of the Yucca Valley Development Code is hereby amended as follows:

1.1 Subsection (a) of Section 84.0615 of the Town of Yucca Valley Development Code is hereby amended to read as follows:

"**(a)** Home Occupations and Cottage Industries are businesses, professions or trade activities of a non-residential nature which is accessory to a residential land use. The home occupation is performed by the resident within that residential dwelling unit for purposes of generating income or gainful employment by means of the manufacture, provision and/or sale of goods and/or services, where this activity is purely incidental to the use of the dwelling for residential purposes. Home Occupations and Cottage Industries conducted in accordance with the provision of this chapter shall be permitted in residential zones, and in areas where residential uses are allowed, provided that the occupation is clearly incidental to the use of the dwelling for residential purposes and does not alter the character nor the appearance of the residential environment. No home occupation shall be established until an application for a Home Occupation Permit has been submitted to and approved by the Director of the Community Development Department as being consistent with the requirements of this Chapter. Home Occupations and Cottage Industries shall be permitted as an accessory use to a residential land use, subject to a Special Use Permit and to the following standards:

Home Occupation and Cottage Industry Standards are divided into three (3) groups of provisions:

(1) General standards applying to both Home Occupations and Cottage Industries.

(2) Home Occupation standards for properties within land use districts which allow residential uses.

(3) Cottage Industry standards for land use districts which require a minimum parcel size of two and one-half (2 1/2) acres and where the lot size is at least one (1) acre."

SUMMARY OF STANDARDS

TOPIC	REGULATORY INTENT	STANDARDS
Location	To minimize unsightly conditions from disturbing surrounding neighbors.	The home occupation shall be confined to an enclosed structure The home occupation may be conducted in the garage to the dwelling unit but shall not use any space required for off-street parking. All employees, partners or operators of the home occupation, shall be members of the resident family and shall reside on the premises. All employees, partners or operators of the home occupation, except two (2), shall be members of the resident family and shall reside on the premises (Cottage Industry)
Sales Activity	Restrict scope of business activity to ensure that residential use remains primary	Direct sales of products or merchandise shall be limited to seven (7) customers per week. Operating hours of a Home Occupation shall be between the hours of seven (7:00) a.m. and eight (8:00) p.m. (Cottage Industry).
Appearance	Maintain visual character of the existing structure as a primary residence.	The appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs or the emission of sounds, noises and vibrations. The use shall not involve storage of materials outside any structures, nor shall merchandise be visible from outside of the home.

TOPIC	REGULATORY INTENT	STANDARDS
Traffic	A home occupation shall not create pedestrian/automobile or truck traffic, or parking demand above normal levels for that zone.	Pedestrian and vehicular traffic will be limited to that normally associated with residential districts. The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential uses.
Utilities	Maintain residential scale of utility services to limit business activity to an incidental use and avoid TV/radio interference.	The uses of utilities and community facilities shall be limited to that normally associated with the use of property for residential purposes. No equipment or process shall be utilized that causes electrical or reception interference to televisions or radios of neighboring residences.
Business Vehicle	Restrict number, size and keeping of vehicles to reduce parking demand and maintain residential streetscapes.	Parking shall comply with the parking requirements specified by Division 7, Chapter 6 of this Title. One additional on-site parking space shall be provided for each non-resident employee. The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential uses.
Storage	Ensure that stored material do not take up required parking space or accumulate in yards	Up to twenty-five percent (25%) or two hundred fifty (250) square feet, whichever is greater, of the total floor area of the dwelling unit and related accessory structures, may be used for storage of materials and supplies related to the home occupation. Up to thirty five percent (35%) of the total floor area of the dwelling unit and related accessory structures or five hundred (500) square feet, whichever is greater, of the home may be used for storage of materials, supplies and equipment related to the cottage (Cottage Industry).
Cumulative Effects	Ensure that home occupation at a site does not exceed single-activity performance levels	The Director of the Community Development Department may impose such additional conditions as deemed necessary to safeguard the health, safety, and general welfare of the neighborhood, and carry out the intent of this section..

1.2 Subsection (b) of Section 84.0615 of the Town of Yucca Valley Development Code is hereby amended to read as follows:

"(b) GENERAL STANDARDS.

All home occupations and cottage industries shall adhere to the following standards:

(1) Pedestrian and vehicular traffic will be limited to that normally associated with residential districts.

(2) The home occupation shall be confined to an enclosed structure.

(3) The home occupation shall be limited to one type of occupation per residence.

(4) The home occupation may be conducted in the garage to the dwelling unit but shall not use any space required for off-street parking.

(5) The home occupation shall not involve the use of commercial vehicles for the delivery of materials to or from the premises beyond those commercial vehicles normally associated with residential uses.

(6) The appearance of the structure shall not be altered nor the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs or the emission of sounds, noises and vibrations.

(7) The use shall not involve storage of materials outside any structure. Merchandise shall not be visible from outside of the home.

(8) Direct sales of products or merchandise shall be limited to seven (7) customers per week.

(9) The uses of utilities and community facilities shall be limited to that normally associated with the use of property for residential purposes.

(10) No equipment or process shall be utilized that causes electrical or reception interference to televisions or radios of neighboring residences.

(11) If the business operation is to be operated by a tenant of the property, written permission from the property owner for the use of the property for the home occupations shall be submitted.

(12) All required permits from other agencies and departments shall be submitted with the Home Occupation Permit application.

(13) Noise emanations shall not exceed fifty five (55) dBA as measured at the property lines at all times.

(14) Any activity producing glare shall be carried on so that direct or indirect light from the source shall not cause glare onto an adjacent parcel.

(15) Chemicals, solvents, mixtures or materials which are corrosive, toxic, flammable, an irritant, a strong sensitizer, or other similar materials used in home occupation shall be used and stored in accordance with regulations of the San Bernardino County Department of Environmental Health Services, Hazardous Materials Division

(16) Parking shall comply with the parking requirements specified by Division 7, Chapter 6 of this Title. One additional on-site parking space shall be provided for each non-resident employee.

(17) No merchandise or articles shall be displayed for advertising. Public advertising (e.g. handbills) shall only list: phone number, home occupation operator's name, post office box and description of business. Location information shall be limited to community name only. Business address or location should not be included in any public advertising.

(18) The Director of the Community Development Department may impose such additional conditions as deemed necessary to safeguard the health, safety, and general welfare of the neighborhood, and carry out the intent of this section."

1.3 Section 84.0615 of the Town of Yucca Valley Development Code is hereby amended by adding a new subsection 84.0615 (e) Permitted Home Occupations/Cottage Industry to read as follows:

"(e) <u>PERMITTED HOME OCCUPATIONS/COTTAGE INDUSTRY.</u>

The following home occupations/cottage industry shall be permitted provided they comply with all applicable standards of Section 84.0615(b), (c) and (d):

(1) Office uses when the residence is used for the sole purpose of receiving mail, telephone calls, appointments, and bookkeeping,

(2) Offices for accountant, bookkeeper, insurance agent, real estate broker, typist, notary public, architect, engineer, instructor in arts, crafts, or music, beauty shops, medical services, salesman (where no direct sales occur),

(3) Crafts and hobby uses, such as photography, artwork, jewelry, home crafts, and minor baked goods,

(4) Services, such as gardening, janitorial, typing,

(5) Off premises sales and vending, such as import/export, product distributing, and swap meet vendors,

(6) Any similar use as approved by the Community Development Director."

1.4 Section 84.0615 of the Town Development Code is hereby amended by adding a new subsection 84.0615 (f) Prohibited Home Occupations to read as follows:

"(f) PROHIBITED HOME OCCUPATIONS/COTTAGE INDUSTRY.
The following home occupations are expressly prohibited as home occupations:

(1) The repair, reconditioning, servicing or manufacture of any internal combustion or diesel engine or of any motor vehicle, including automobiles, trucks, motorcycles, or boats,

(2) The repair or construction of motor vehicles and appliances, machine shops, and cabinet shops,

(3) Uses which entail food handling, processing or packing, other than specialized minor cooking or baking.

(4) Uses which may include the services of training, breeding, raising or grooming of dogs, cats or other animals shall be approved only under separate permit pursuant to animal keeping regulations.

(5) Sale of produce, hay or other agricultural product,

(6) Uses which require the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the building, fire code, or other adopted restriction,

(7) Uses which involve commercial vehicles (over a gross weight of 6,000 pounds or greater),

(8) Other uses which the Community Development Director determines to be similar to those listed above or which include activities which the Director deems to be equally or more incompatible with the surrounding land uses as the activities normally found in the uses listed above and which may

adversely affect the health, safety, and general welfare of the neighborhood."

1.5 Section 84.0615 of the Town Development Code is hereby amended by adding a new subsection 84.0615 (g) Reviewing Authority and Enforcement to read as follows:

"(g) REVIEWING AUTHORITY AND ENFORCEMENT

(1) The Director of the Community Development Department, or his or her designee, shall review all applications for a Home Occupation Permit to determine if the proposed use meets all of the standards of Section 84.0615. If all standards are met, the Community Development Director shall make the following findings and issue the permit:

(a) That the proposed use is not prohibited under Section 84.0615(f);

(b) That the proposed use will comply with all applicable standards;

(c) That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety, and general welfare;

(d) That the proposed use will be consistent with any applicable specific plan.

(2) Home Occupation Permits are subject to review by the Community Development Director within one year after issuance, or as a result of any complaint by any person.

The Home Occupation Permit may be revoked by the Community Development Department upon making findings that there exists a violation of a condition; regulation or limitation of the permit and said violation is not corrected within ten (10) days after a notice of violation is served on the violator or after repeated violations."

1.6 Section 84.0615 of the Town Development Code is hereby amended by adding a new subsection 84.0615 (h) Appeals to read as follows:

"(h) APPEALS

Any affected person may appeal a decision of the Director of the Community Development Department to the Planning Commission. Appeals shall be filed with the Community Development Department within ten (10) days following the date of the action appealed. Upon receipt of the notice of appeal, the Director Community Development shall schedule the matter on the agenda for the next possible regular Commission Meeting and shall cause notice of said appeal hearing to be given to the appellant not less than five (5) days prior to such hearing. The Planning Commission may affirm, revise or modify the action appealed from Town Staff. Any decision of the Planning Commission may be appealed to the Town Council within ten (10) days following Commission action. The notice of appeal shall be filed with the Community Development

Department who shall schedule the matter on the agenda for the next possible regular Council meeting and shall cause notice of said appeal hearing to be given the appellant not less than five (5) days prior to such hearing. The Council may affirm, revise, or modify the action appealed from the the Planning Commission. In ruling on the appeal, the findings and action of the Council shall be final and conclusive in the matter."

SECTION 2. PROVISIONS NOT AMENDED TO REMAIN. Except as specifically amended herein, all other provisions of section 84.0615 of the Town of Yucca Valley Development Code shall be and remain in effect.

SECTION 3. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 20th day of April, 1995.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

APPROVED AS TO CONTENT:

Town Manager

c:\data\wpdata\hopord
3/21/95

CURRENT ORDINANCE

ORDINANCE NO. 178

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 8, DIVISION 4, CHAPTER 6 SECTION 84.0615 OF THE SAN BERNARDINO COUNTY CODE AS ADOPTED AND AMENDED BY THE TOWN OF YUCCA VALLEY RELATING TO HOME OCCUPATIONS (DCA-06-05)

The Town Council of the Town of Yucca Valley does ordain as follows:

SECTION 1. Development Code Amended.

1.1 Title 8, Division 4, Chapter 6 Section 84.0615 of the San Bernardino County Code as adopted and amended by the Town of Yucca Valley is hereby further amended to read in its entirety as follows:

"84.0615

Home Occupations

84.0615

(a) **PURPOSE AND INTENT:**

The purpose and intent of this Section is to establish regulations allowing for the operation of certain business activities in single and multi-family residential neighborhoods. The standards and requirements are intended to ensure that home based business operations do not alter the character of any residential neighborhood, or create impacts or activities that are not typically and commonly associated within residential neighborhoods. It is the intent of this Section to allow for commercial uses that are accessory and incidental to the primary purpose of residential homes, which is that of providing a habitable dwelling for the owner or occupant as the primary use of the residential dwelling unit. Home Occupation permits may be allowed in multi-family zoning and in multi-family units, including duplexes, tri-plexes, and apartment units.

(b) No person shall engage in a home occupation without first obtaining a special use permit from the Planning Division consistent with the requirements of this Chapter, unless otherwise exempt.

(c) The Director of the Community Development Department, or his designee, shall review all applications for a Home Occupation Permit to determine if the proposed use meets all of the standards of subsection 84.0615 (j). If all standards are met after complying with the notice provisions of this subsection, the Community Development Director shall make the following findings prior to issuance of the permit:

(1) That the proposed use is not prohibited;

(2) That the proposed use will comply with all applicable standards;

(3) That the issuance of the Home Occupation Permit will not be detrimental to the public health, safety, and general welfare;

(4) That the proposed use will be consistent with any applicable specific plan.

(5) That the proposed use will not alter the character of the neighborhood and will not induce physical or socioeconomic changes to the neighborhood that are inconsistent with the goals and objectives of the General Plan, and the development code, and that do not create characteristics more closely associated with commercial, office or industrial land use activities.

(d) (1) In accordance with Section 83.010330 *Notice of Pending land Use Decision*, notice shall be given, except that such notice will be given at least fifteen (15) days prior to the scheduled hearing date. If no response has been received by the Town five (5) days prior to the scheduled hearing date and the applicant has no objections to the conditions of approval, the Community Development Director may elect not to hold a formal hearing.

(2) Home Occupation Permits are subject to review by the Community Development Director annually, or as a result of any written complaint.

(3) Telecommuting and internet or electronic based businesses, or other similar activities that are transparent inside the residential structure, and do not involve customer to site, employees, or any structural alteration are exempt from permitting requirements.

(e) Subject to the authority and discretion of the Director, Home occupations that meet the following standards, after appropriate application and subject to a field investigation, may be permitted without notice or a hearing. Alternatively, the Director may schedule a hearing or forward the matter to the Planning Commission for action. The Director may establish any other special condition of approval for any Home Occupation Permit as necessary to carry out the intent of this subsection.

(1) There is no visible or external evidence of the home occupation. The dwelling was not built, altered, furnished or decorated for the purpose of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted;

(2) There are no displays, for sale, or advertising signs on the premises;

(3) There are no signs other than one (1) unlighted identification sign containing the name and address of the owner attached to the building not exceeding two (2) square feet in area per street frontage;

(4) All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;

(5) The home occupation does not encroach into any required parking, setback, or open space area;

(6) Outside storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises shall not be visible from surrounding properties or public rights of way. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;

(7) There is complete conformity with Fire, Building, Plumbing, Electrical, and Health Codes and all applicable State and Town laws and ordinances. Activities conducted and equipment or material used shall not change the fire safety or occupancy classification of the premises;

(8) No pedestrian or vehicular traffic is generated in excess of that customarily associated with a residential use and the neighborhood in which it is located;

(9) The Home Occupation has a current business registration certificate;

(10) If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use has been obtained prior to the submittal for a Home Occupation Permit;

(11) The garage has not and shall not be altered externally;

(12) The Home Occupation does not create or cause noise in excess of noise standards established for residential land use districts, dust, light, vibration, odor, gas, fumes, toxic or hazardous materials, smoke, glare, electrical interference, fluctuations in the line voltage outside the structure, or other hazards or nuisances;

(13) There are no sales of products on the premises.

(14) No customers or clientele may visit the residence.

(15) All employees shall be members of the resident family and shall reside on the premises.

(16) Up to twenty-five percent (25%) or two hundred fifty (250) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the home occupation.

(17) No employees and no vehicle parking, other than that normally associated with a single family residential structure, is provided.

(f) Home occupation permit applications meeting the following standards shall be subject to notice and hearing. The Community Development Director is the review authority, and the Director may forward the application to the Planning Commission for consideration.

(1) There may be sales of products on the premises.

(2) Customers may visit the residence and then only by appointment. This is restricted to a single appointment at a time. The monthly average of the total trip count for business activities shall not exceed 10 trips per day in all Land use Districts.

(3) All employees of the home occupation, except one (1), shall be members of the resident family and shall reside on the premises provided all the required findings can be made, in all RS land use districts. All employees of the home occupation, except two (2), shall be members of the resident family and shall reside on the premises provided all the required findings can be made in all RL land use districts. The applicant must demonstrate that the lot can accommodate the parking of all personal and employee vehicles on-site.

(4) Up to twenty-five percent (25%) or two hundred fifty (250) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the home occupation in all RS land use districts. Up to thirty-five percent (35%) or five hundred (500) square-feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the use in all RL land use districts.

(5) Operating hours of a home occupation shall be between the hours of 7:00 a.m. and 8:00 p.m.

(g) **Prohibited Home Occupations.** The following uses are not incidental to or compatible with residential activities and therefore shall not be allowed as home occupations:

(1) Animal hospitals;

(2) Automotive and other vehicle repair (body or mechanical), upholstery, painting, or storage;

(3) Junk yards;

(4) Medical and dental offices, clinics, and laboratories;

(5) Mini-storage;

(6) Storage of equipment, materials, and other accessories to the construction trades;

(7) Welding and machining.

(8) Cabinet shop.

(9) Uses which may include the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the Building, Fire Code, or adopted restrictions.

(h) The Home Occupation Permit may be revoked by the Community Development Director if any one of the following findings can be made that there exists a violation of a condition; regulation or limitation of the permit and said violation is not corrected within ten (10) days after a notice of violation is served on the violator or after repeated violations. The permit shall not be revoked without notice of hearing ten days in advance of the hearing for consideration of permit revocation. The Director may schedule the revocation hearing for consideration by the Planning Commission.

(1) That the permitted home occupation use has changed in kind, extent or intensity from the use which received an approved Home Occupation Permit;

(2) That the use has become detrimental to the public health, safety, welfare or traffic, or constitutes a nuisance;

(3) That the use for which the permit was granted has ceased or was suspended for six (6) or more consecutive calendar months;

(4) That the use is not being conducted in a manner consistent with applicable operating standards described in Section 84.0618 *Operating Standards*, of this Chapter;

(5) That the permit was obtained by misrepresentation or fraud;

(6) That one (1) or more of the conditions of the Home Occupation Permit have not been met;

(7) That the property owner or tenant fails to permit entry onto the premises to allow periodic inspections by representatives of the Town at any reasonable time;

(8) That the home occupation is in violation of any statute, law, ordinance, or regulation;

(9) That two (2) or more valid complaints from at least two (2) different parties have been filed against the home occupation within any six (6) month period, and it is found that the use is causing harm or unreasonable annoyance or is otherwise detrimental to other property or its use in the area.

(10) That the applicant has not obtained a current business registration certificate from the Town.

(11) That the proposed use altered the character of the neighborhood and/or induced physical or socioeconomic changes to the neighborhood that are not consistent with the goals and objectives of the General Plan, that are not consistent with the development code, and that create characteristics more closely associated with commercial, office or industrial land use activities.

(i) **Appeal.** Any affected person may appeal a decision of the Director of Community Development to the Planning Commission. Appeals shall be filed with the Community Development Department within ten (10) days following the date of the action appealed. Upon receipt of the notice of appeal, the Community Development Director shall schedule the matter on the agenda for the next possible regular Planning Commission meeting. The Planning Commission may affirm, revise or modify the action appealed from the Town staff. Any decision of the Planning Commission may be appealed to the Town Council within ten (10) days following the Commission action.

(j) **General Standards.** All home occupations shall comply with all of the following operating standards at all times:

(1) There shall be no visible or external evidence of the home occupation. No dwelling shall be built, altered, furnished or decorated for the purpose of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted;

(2) There shall be no displays, sale, or advertising signs on the premises;

(3) There shall be no signs other than one (1) unlighted identification sign containing the name and address of the owner attached to the building not exceeding two (2) square feet in area per street frontage;

(4) All maintenance or service vehicles and equipment, or any vehicle bearing any advertisement, shall be in conformance with Town regulations regarding vehicle signs;

(5) The home occupation shall not encroach into any required parking, setback, or open space area;

(6) There shall be no outside storage of stock, merchandise, scrap supplies, or other materials or equipment on the premises visible from surrounding properties or public rights of way. Any storage of hazardous, toxic, or combustible materials in amounts exceeding those typically found in residential uses shall be prohibited;

(7) There shall be complete conformity with Fire, Building, Plumbing, Electrical, and Health Codes and to all applicable State and Town laws and ordinances. Activities conducted and equipment or material used shall not change the fire safety or occupancy classification of the premises;

(8) No home occupation shall generate pedestrian or vehicular traffic in excess of that customarily associated with a residential use and the neighborhood in which it is located;

(9) No home occupation shall be initiated until a current business registration certificate is obtained;

(10) A Home Occupation Permit shall not be transferable;

(11) If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use shall be obtained prior to the submittal for a Home Occupation Permit;

(12) The garage shall not be altered externally;

(13) No use shall create or cause noise in excess of noise standards established for residential land use districts, dust, light, vibration, odor, gas, fumes, toxic or hazardous materials, smoke, glare, electrical interference, fluctuations in the line voltage outside the structure, or other hazards or nuisances;

(14) The Director may establish any other special condition of approval for any Home Occupation Permit as necessary to carry out the intent of this Chapter.

SECTION 2. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this 5th day of January, 2006.

MAYOR

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

APPROVED AS TO CONTENT:

Town Manager

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 178 as duly and regularly introduced at a meeting of the Town Council on the 8th day of December, 2005, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 5th day of January, 2006, by the following vote, to wit:

Ayes:	Council Members Leone, Luckino, Mayes, Neeb and Mayor Cook
Noes:	None
Abstain:	None
Absent:	None

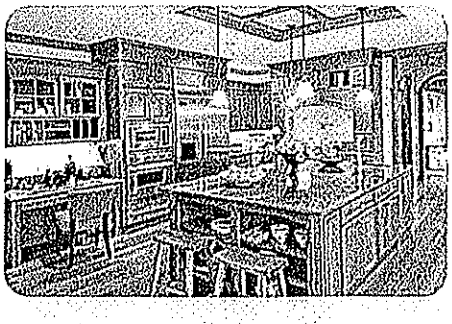
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Yucca Valley, California, this 17th day of January, 2006.

(SEAL)

Town Clerk of the Town of
Yucca Valley

Can I Prepare Food at Home?

Assembly Bill 1616 (Food Safety: Cottage Food Operations) was signed into California law with an effective date of **January 1, 2013**. This law establishes requirements for limited preparation and distribution of low-risk food products from a business at a private home otherwise known as a Cottage Food Operation (CFO). Revenue and employee limitations apply.



What is meant by "private home?"

"Private home" means a dwelling, including an apartment or other leased space, where individuals reside. A commercial kitchen is not required.

Is a CFO operator required to obtain a health permit?

Yes, all CFOs are required to obtain either a valid health permit or a registration from the Division of Environmental Health Services (DEHS), depending on the type of operation. Additional permits may be required if cottage foods are sold outside the CFO.

What type of health permit or registration do I need?

Yes, a health permit is required. Furthermore, health permits are non-transferable and must be renewed annually. There are two types of health permits for a CFO:

1. A "Class A" registration is required for "Direct sales" between a CFO operator and a consumer. The operator must complete and submit a self-certification checklist as required by DEHS. The current fee for a "Class A" health permit is $162.00.
2. A "Class B" health permit is required for "Direct Sales" and "Indirect sales" where the consumer purchases cottage food products from a permitted third-party retailer. The current fee for a "Class B" health permit is $183.00.

Will I be inspected by the Health Department?

For "Class A" CFOs, no initial or routine health inspections will be required.
For "Class B" CFOs, an initial inspection will be conducted by DEHS, followed by routine inspections conducted annually.
All CFOs will be inspected on the basis of a consumer complaint or if DEHS has reason to suspect that adulterated or otherwise unsafe food has been produced by the CFO.

What types of foods can be prepared in a CFO?

Only "non-potentially hazardous" foods are approved for preparation in a CFO. These foods do not support the rapid growth of bacteria while held at room temperature. A few examples include:

- Baked goods without cream, custard, or meat fillings, such as bread, biscuits, churros, cookies, pastries, and tortillas
- Candy, such as brittle and toffee
- Honey and sweet sorghum syrup
- Jams, jellies, preserves, and fruit butter
- Nut mixes and nut butters

Where can I sell my food?

Foods may be sold through transactions in person at the CFO. With an additional temporary food facility health permit, foods may be sold at approved temporary events or certified farmers' markets (temporary food facility regulations will apply). Foods prepared in a "Class B" CFO may also be sold at other permitted food facilities.

What are the requirements for labeling the food?

Food that is prepared or packaged at a CFO was must labeled with:

1. The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary display panel
2. The name commonly used for the food product or an adequately descriptive name
3. The name of the CFO which produced the cottage food product
4. The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product

"Class B" – In addition to the four requirements listed above, food from a "Class B" CFO must include the name of the county of the local enforcement agency that issued the permit number.

COUNTY OF SAN BERNARDINO
Environmental Health Services
DEPARTMENT OF PUBLIC HEALTH

For additional information, contact DEHS at
1-800-442-2283 or visit us on the web at
www.sbcounty.gov/dehs

10/24/2012

COUNTY OF SAN BERNARDINO
Environmental Health Services
DEPARTMENT OF PUBLIC HEALTH

HOW DO I OBTAIN A COTTAGE FOOD HEALTH PERMIT/REGISTRATION?

DO I QUALIFY AS A COTTAGE FOOD OPERATION?

Before you apply for a health permit or registration as a Cottage Food Operation, please verify that you meet the requirements. These requirements can be viewed on our website at:

www.sbcounty.gov/dehs/Depts/EnvironmentalHealth/GeneralInformation/cottage_food_operations.aspx

If you meet the criteria, you are eligible to become a permitted/registered cottage food operation.

HOW DO I OBTAIN A HEALTH PERMIT/REGISTRATION FOR A COTTAGE FOOD OPERATION?

In order to obtain a registration ("Class A") or a health permit ("Class B") for a cottage food operation, you must complete the following steps:

1) Obtain approval from your city planning department. You must do this prior to submitting a health permit/registration application to our office. If you live outside the city limits in a county area, you must obtain approval from the County of San Bernardino, Land Use Services Department.

2) After you have obtained approval from your city planning department or Land Use Services, download a copy of the Application for Cottage Food Operations Registration/Health Permit from the Division of Environmental Health Services (DEHS) website at:

   www.sbcounty.gov/dehs/Depts/EnvironmentalHealth/BusinessServices/applications.aspx

3) Complete this application along with the self-certification checklist.

4) Submit the application and self-certification checklist to our office (DEHS) in addition to the required fee. Please note, if you are using a private well for water, you will be required to submit the latest test results along with your application (see application form for details). You may submit your application and fee to one of our three locations listed below.

If you are applying for a "Class A" Cottage Food Operation Registration, the registration process is complete and you are allowed to prepare cottage food. You will **not** be inspected by our office unless we receive a complaint regarding food that was prepared in your kitchen.

If you are applying for a "Class B" Cottage Food Operation Permit, an inspector will arrange to meet you at your residence to inspect your cottage food kitchen and storage areas before you are allowed to prepare cottage food. Once the inspector verifies that your kitchen and storage areas meet the requirements, you will be given approval to prepare food. The health permitting process is complete. If the inspector determines that your kitchen does not meet the requirements for a cottage food operation, you will be required to make corrections before you are allowed to prepare cottage food. "Class B" Cottage Food Operations will be inspected annually unless our office receives a complaint regarding food that was prepared in your kitchen.

(continued on next page)

WHAT HAPPENS AFTER I AM ALLOWED TO PREPARE FOOD?

After you are allowed to prepare cottage food, you will be required to take a food processor course within 90 days. This course will be offered by the state. Although the course is currently not offered at any location, we will provide additional information as it becomes available.

THE HEALTH INSPECTOR IS COMING TO MY RESIDENCE, WHAT SHOULD I EXPECT?

The health inspector will visit your residence to ensure that your kitchen and food storage areas meet the requirements for a cottage food operation. If there is a problem, the inspector will tell you what the problem is and how you can correct it. You are welcome to ask the inspector additional questions during the inspection. In addition to verifying that your kitchen and storage areas meet the requirements, the inspector is there to provide education and information.

WHERE CAN I LEARN ADDITIONAL SAFE FOOD HANDLING PRACTICES?

If you wish to learn additional information regarding food safety, we encourage you to take our short course in food safety at http://sbc.statefoodsafety.com. Upon successful completion of the test at the end of this course, you will be able to print a food handler certificate. Although this certificate will not meet the requirement for the required food processor course offered by the state, you will be able to use the certificate to work at any food facility in the County of San Bernardino.

If you have additional questions, you are welcome to contact our office at any time (office hours are 8:00 AM to 5:00 PM, Monday through Friday). You can also visit us on the web at www.sbcounty.gov/dehs for additional information.

WHERE ARE THE DEHS OFFICE LOCATIONS?

- ☐ 385 N. Arrowhead Ave. 2nd Floor, San Bernardino, CA 92415-0160
- ☐ 15900 Smoke Tree St., Ste. 131, Hesperia, CA 92345
- ☐ 8575 Haven Ave., Ste. 130, Rancho Cucamonga, CA 91730

1-800-442-2283 or visit us on the web at www.sbcounty.gov/dehs

COUNTY OF SAN BERNARDINO
Environmental Health Services
DEPARTMENT OF PUBLIC HEALTH

www.sbcounty.gov/dehs

APPLICATION FOR COTTAGE FOOD OPERATIONS REGISTRATION / HEALTH PERMIT

Return to:
- ☐ 385 N. Arrowhead Ave. 2nd Floor, San Bernardino 92415-0160 - (800) 442-2283
- ☐ 15900 Smoke Tree St., Ste. 131, Hesperia 92345 - (800) 442-2283
- ☐ 8575 Haven Ave., Ste. 130, Rancho Cucamonga 91730 - (800) 442-2283

This Section To Be Completed By Applicant - Please Print - Health Permits and Registrations Are NOT Transferable

FACILITY INFORMATION

Name of Cottage Food Operation (Business Name):		Business E-Mail Address:	
Address of Private Home:		City:	State: / Zip:
Phone Number:	Alternative Phone Number:		Fax Number:

LEGAL OWNER INFORMATION

Owner of Cottage Food Operation:		Phone Number:	
Owner E-Mail Address:		City:	State: / Zip:

INVOICE INFORMATION

Mail To:		Care Of:	
Address:		City:	State: / Zip:

TYPE OF COTTAGE FOOD OPERATION

Select One:	Type of Registration / Permit:	Allows for:
☐	"CLASS A" Cottage Food Operation (Registration)	"Direct Sales" only
☐	"CLASS B" Cottage Food Operation (Health Permit)	"Direct Sales" and "Indirect Sales" at permitted food facilities

Do you use water from a private well? ☐ No ☐ Yes

If yes, you MUST provide proof of potable water. Attach a copy of the latest water test results including Bac-T, nitrates, nitrites and other constituents of concern.

NOTE: ALL FEES ARE DUE AND PAYABLE PRIOR TO FIRST DAY OF OPERATION. MAKE CHECKS PAYABLE TO: SAN BERNARDINO COUNTY

Application and fee must be submitted prior to operation by any new owner. Failure to pay within 30 days of the first day of operation will result in the assessment of a delinquent fee.

I shall notify this agency in writing if I discontinue operation or change billing address. Failure to do so may result in obligation to pay health services fees and additional penalties.

I HEREBY MAKE APPLICATION FOR HEALTH SERVICES AND REGISTRATION / PERMIT to establish and/or operate the above mentioned business, use, or services in accordance with the laws, ordinances, and regulations that are now or may hereinafter be in force by the United States government, the State of California, and the County of San Bernardino pertaining to the above mentioned business. I hereby consent to all necessary inspections incident to the issuance of this registration/permit and operation of the business. **I hereby grant the Division of Environmental Health Services (DEHS) the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspection including the collection of food samples.**

I understand that I am required to obtain an additional health permit if I choose to sell or distribute food made or packaged in my Cottage Food Operation at events including 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. Initial_____

Signature:	Date:
Print Name:	Title:

For Office Use Only - For Office Use Only - For Office Use Only - For Office Use Only - For Office Use Only - For Office Use Only - For Office Use Only

FEES / ENVISION INFORMATION

Fee:	Late Fee:	Total Fee Due:	Amount Paid:
Received By:	Date:	Check Number:	EHS Receipt Number:
*FA Number:	*PR Number:	SR Number:	PE Number:
OW Number:	Permit Exp. Date:	District Number:	City Code:
AR Number:	Designated Employee:		Contributor Number:
Circle One: New Transfer Renewal		Envision Entered By:	Date:

AB 1616: COTTAGE FOOD OPERATIONS SELF-CERTIFICATION CHECKLIST

This self-certification checklist **MUST** be submitted to the Division of Environmental Health Services (DEHS) along with the *Application for Cottage Food Operations Health Permit / Registration*.

NAME OF COTTAGE FOOD OPERATION *(BUSINESS NAME)*

BY INITIALING AND SIGNING BELOW, I ACKNOWLEDGE THAT I WILL ABIDE BY THE REGULATIONS PERTAINING TO COTTAGE FOOD OPERATIONS.

☐	1.	The cottage food operation (CFO) is located in a private dwelling where the CFO operator currently resides.
☐	2.	All CFO food preparation will take place in the private kitchen within that home. Additional rooms may be used as storage but must be approved by DEHS. Sleeping quarters are excluded from areas used for CFO food preparation or storage.
☐	3.	CFO products shall be non-potentially hazardous (i.e. baked goods without cream, custard or meat fillings; breads; pastries, etc.) and on the California Department of Public Health (CDPH) approved list. All food ingredients used in CFO products must be from an approved source.
☐	4.	Kitchen equipment and utensils used to produce CFO products shall be clean and maintained in a good state of repair.
☐	5.	All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.
☐	6.	All food preparation, food storage and equipment storage areas shall be maintained free of rodents and insects.
☐	7.	Hand washing with warm water, soap, and drying with a single use towel, is required immediately prior to handling foods and after engaging in any activity that contaminates the hands such as after using the toilet, coughing or sneezing, eating or smoking.
☐	8.	No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning or guest entertainment.
☐	9.	No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.
☐	10.	Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored or handled.
☐	11.	A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.
☐	12.	All persons preparing or packaging CFO products must obtain County of San Bernardino food handler certification within 3 months of being registered or permitted with DEHS. Only certification from the County of San Bernardino will be accepted.
☐	13.	No more than 1 full-time equivalent employee is allowed. Immediate family or household members are not included.
☐	14.	A CFO shall properly label all cottage food products with the following: a. The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary label. b. The name commonly used to describe the food product. c. The city, state and zip code of the cottage food operation which produced the cottage food product. If the CFO is not listed in the current telephone directory, then a street address must also be declared. d. The name of the CFO which produced the cottage food product (i.e. business name). e. 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. f. The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients. g. The net quantity (count, weight, or volume) of the food product. It must be stated in both English (pound) units and metric units (grams). h. 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 soybean. There are two approved methods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list. i. If the label makes approved nutrient content claims or health claims, the label must contain a "Nutrition Facts" statement on the information panel so as to be in compliance with the Federal Food, Drug, and Cosmetic Act available at 21 U.S.C. Sect. 343 et seq. and 21 CFR Part 101. j. Labels must be legible and in English (accurately translated information in another language may accompany it). k. 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.
☐	15.	Potable drinking water shall be used during the preparation or as an ingredient in cottage food products. CFOs using a private well as a water source **must provide evidence of** potable drinking water including test results for: Bacteriological Test (*quarterly*), Nitrates (*annually*), Nitrites (*every 3 years*) and constituents of concern such as Fluoride or Arsenic (*once*).
☐	16.	**Provide evidence of approval** (i.e. business license or home occupancy license) from city planning and zoning (within city limits) or County of San Bernardino Land Use Department (unincorporated areas).
☐	17.	List the foods that will be prepared (attach additional paper if necessary):

I ACKNOWLEDGE THAT I HAVE READ AND WILL ABIDE BY THE REGULATIONS PERTAINING TO COTTAGE FOOD OPERATIONS. INITIAL

PLEASE READ: DECLARATION AND SIGNATURE

ALL FEES ARE DUE AND PAYABLE PRIOR TO THE FIRST DAY OF OPERATION. **Make checks payable to:** COUNTY OF SAN BERNARDINO

This checklist, along with the required application, and all subsequent fees must be submitted prior to operation. Failure to pay will result in the assessment of a delinquent fee or closure. I declare under the penalty of law, that to the best of my knowledge and belief, the statements made herein are correct and true. I have knowledge of, and commit to meet state law and relevant local regulations pertaining to the AB 1616: Cottage Food Operations. I acknowledge the rules and regulations set forth by the San Bernardino County, Division of Environmental Health Services. As the Cottage Food Operator, I shall ensure my operation is in compliance with the Cottage Food Operations requirements mentioned in this checklist. I hereby consent to all necessary inspections incident to the issuance of a registration / health permit and the operation of the business. I hereby grant DEHS the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspection including the collection of food samples. Furthermore, I understand that failure to meet all requirements specific to the Cottage Food Operations and set forth by the County of San Bernardino may result in permit suspension and/or closure of the Cottage Food Operation.

SIGNATURE OF COTTAGE FOOD OPERATOR	DATE
PRINT NAME	TITLE

California LEGISLATIVE INFORMATION

AB-1616 Food safety: cottage food operations. (2011-2012)

Assembly Bill No. 1616

CHAPTER 415

An act to add Chapter 6.1 (commencing with Section 51035) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Sections 109947, 110050, 110460, 111955, 113789, 113851, 114021, 114023, 114390, 114405, and 114409 of, to add Sections 113758 and 114088 to, and to add Chapter 11.5 (commencing with Section 114365) to Part 7 of Division 104 of, the Health and Safety Code, relating to food safety.

[Approved by Governor September 21, 2012. Filed with Secretary of State September 21, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, Gatto. Food safety: cottage food operations.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law makes it unlawful to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded. Food is misbranded if its labeling does not conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens. Violation of this law is a misdemeanor.

The existing California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. That law exempts private homes from the definition of a food facility, and prohibits food stored or prepared in a private home from being used or offered for sale in a food facility. That law also requires food that is offered for human consumption to be honestly presented, as specified. A violation of these provisions is a misdemeanor.

This bill would include a cottage food operation, as defined, that is registered or has a permit within the private home exemption of the California Retail Food Code. The bill would also exclude a cottage food operation from specified food processing establishment and Sherman Law requirements. This bill would require a cottage food operation to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales and would subject a cottage food operation to inspections under specified circumstances. The bill would require a food facility that serves a cottage food product without packaging or labeling to identify it as homemade. The bill would establish various zoning and permit requirements relating to cottage food operations.

This bill would incorporate additional changes in Section 113789 of the Health and Safety Code, proposed by AB 2297, to be operative only if AB 2297 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

By imposing duties on local officials and adding new crimes, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Small businesses have played an important role in helping slow economies recover and prosper as an engine of job creation. During the 1990s, small businesses created the majority of new jobs and now account for 65 percent of United States employment.

(b) California, and the United States as a whole, are facing growing obesity and obesity-related disease epidemics.

(1) Two-thirds of American adults and nearly one-third of children and teens are obese or overweight, placing them at risk for developing chronic diseases such as diabetes, heart disease, and cancer.

(2) One in every nine California children, one in three teens, and over half of adults are already overweight or obese. This epidemic affects virtually all Californians.

(3) These health conditions are preventable and curable through lifestyle choices that include consumption of healthy fresh foods.

(c) For decades, low-income and rural communities have faced limited opportunities to purchase healthy foods. Often, without cars or convenient public transportation options, low-income residents in these areas must rely for much of their shopping on expensive, fatty, processed foods sold at convenience and corner stores.

(d) There is a growing movement in California to support community-based food production, sometimes referred to as "cottage food," "artisanal food," "slow food," "locally based food," or "urban agriculture" movements. These movements seek to connect food to local communities, small businesses, and environmental sustainability.

(e) Increased opportunities for entrepreneur development through microenterprises can help to supplement household incomes, prevent poverty and hunger, and strengthen local economies.

(f) At least 32 other states have passed laws that allow small business entrepreneurs to use their home kitchens to prepare, for sale, foods that are not potentially hazardous.

(g) Even some bake sales are currently illegal in California.

(h) It is the intent of the Legislature to enact a homemade food act specifically designed to help address these challenges and opportunities.

SEC. 2. Chapter 6.1 (commencing with Section 51035) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.1. Cottage Food Operations

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.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) Use of a residence for the purposes of a cottage food operation shall not constitute a change of occupancy for purposes of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code), or for purposes of local building and fire codes.

(d) Cottage food operations shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.

SEC. 3. Section 109947 of the Health and Safety Code is amended to read:

109947. "Food processing facility" means any facility operated for the purposes of manufacturing, packing, or holding processed food. Food processing facility does not include a food facility as defined in Section 113785, a cottage food operation that is registered or has a permit pursuant to Section 114365, or any facility exclusively storing, handling, or processing dried beans.

SEC. 4. Section 110050 of the Health and Safety Code is amended to read:

110050. The Food Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under subdivision (c) of Section 110466 and Sections 110470, 110471, 110485, 114365, 114365.6, 111130, and 113717, and under Article 7 (commencing with Section 110810) of Chapter 5 shall be deposited in the fund, for use by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of this part relating to food, licensing, inspection, enforcement, and other provisions of Article 12 (commencing with Section 111070) relating to water, the provisions relating to education and training in the prevention of microbial contamination pursuant to Section 110485, and the registration provisions of Article 7 (commencing with Section 110810) of Chapter 5, and to carry out and implement the provisions of the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104).

SEC. 5. Section 110460 of the Health and Safety Code is amended to read:

110460. No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, except those engaged exclusively in the storing, handling, or processing of dried beans. The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable. This section shall not apply to a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 6. Section 111955 of the Health and Safety Code is amended to read:

111955. "Food processing establishment," as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. "Food processing establishment" shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 7. Section 113758 is added to the Health and Safety Code, to read:

113758. (a) "Cottage food operation" means an enterprise that has not more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has not more than one full -time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollar ($35,000) in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than forty-five thousand dollars ($45,000) in gross annual sales in the calendar year. Commencing in 2015, and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars ($50,000) in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) "Cottage food employee" means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

(2) "Cottage food operator" means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

(3) "Cottage food products" means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) "Direct sale" means a transaction between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. 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.

(5) "Indirect sale" means an interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

(6) "Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

(7) "Registered or permitted area" means the portion of a private home that contains the private home's kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

SEC. 8. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities.

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

SEC. 8.5. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (13) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a

charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

(13) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

SEC. 9. Section 113851 of the Health and Safety Code is amended to read:

113851. (a) "Permit" means the document issued by the enforcement agency that authorizes a person to operate a food facility or cottage food operation.

(b) "Registration" shall have the same meaning as permit for purposes of implementation and enforcement of this part.

SEC. 10. Section 114021 of the Health and Safety Code is amended to read:

114021. (a) Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility, unless that food is prepared by a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 11. Section 114023 of the Health and Safety Code is amended to read:

114023. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, or from a cottage food operation that produces jams, jellies, and preserves and that is registered or has a permit pursuant to Section 114365.

SEC. 12. Section 114088 is added to the Health and Safety Code, to read:

114088. A cottage food product, as defined in Section 113758, that is served by a food facility without packaging or labeling, as described in Section 114365, shall be identified to the consumer as homemade on the menu, menu board, or other location that would reasonably inform a consumer of its homemade status.

SEC. 13. Chapter 11.5 (commencing with Section 114365) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11.5. Cottage Food Operations

114365. (a) (1) (A) A "Class A" cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

(B) (i) The department shall post the requirements described in subparagraph (A) on its Internet Web site.

(ii) The local enforcement agency shall issue a registration number to a "Class A" cottage food operation that meets the requirements of subparagraph (A).

(C) (i) Except as provided in (ii), a "Class A" cottage food operation shall not be subject to initial or routine inspections.

(ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adultered or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.

(iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.

(iv) A local enforcement agency may seek recovery from a "Class A" cottage food operation of an amount that does not exceed the local enforcement agency's reasonable costs of inspecting the "Class A" cottage food operation for compliance with this chapter, if the "Class A" cottage food operation is found to be in violation of this chapter.

(2) (A) A "Class B" cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B) (i) A "Class B" cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed "Class B" cottage food operation and its method of operation conform to this chapter.

(C) Except as provided in this subparagraph, a "Class B" cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only 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 this chapter.

(ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.

(D) (i) A "Class B" cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the "Class B" cottage food operation is permitted.

(ii) A county may agree to allow a "Class B" cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.

(b) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

114365.2. A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.

(b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, except that a cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

(1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

(2) The washing, sanitizing, and drying of hands and arms.

(3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course instructed by the department to protect the public health within three months of becoming registered. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

(1) The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary display panel.

(2) The name commonly used for the food product or an adequately descriptive name.

(3) The name of the cottage food operation which produced the cottage food product.

(4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product and, in the case of a "Class B" cottage food operation, the name of the county of the local enforcement agency that issued the permit number.

(5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

114365.5. (a) The department shall adopt and post on its Internet Web site a list of not potentially hazardous foods and their ethnic variations that are approved for sale by a cottage food operation. A cottage food product shall not be potentially hazardous food, as defined in Section 113871.

(b) This list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:

(1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.

(2) Candy, such as brittle and toffee.

(3) Chocolate-covered nonperishable foods, such as nuts and dried fruit.

(4) Dried fruit.

(5) Dried pasta.

(6) Dry baking mixes.

(7) Fruit pies, fruit empanadas, and fruit tamales.

(8) Granola, cereals, and trail mixes.

(9) Herb blends and dried mole paste.

(10) Honey and sweet sorghum syrup.

(11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.

(12) Nut mixes and nut butters.

(13) Popcorn.

(14) Vinegar and mustard.

(15) Roasted coffee and dried tea.

(16) Waffle cones and pizelles.

(c) (1) The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list. Notice of any change to the approved food products list shall be posted on the department's cottage food program Internet Web site, to also be known as the program Internet Web site for purposes of this chapter. Any change to the approved food products list shall become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

114365.6. (a) The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b) Local enforcement agencies may collect a surcharge fee in addition to any permit fees collected for "Class B" cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

SEC. 14. Section 114390 of the Health and Safety Code is amended to read:

114390. (a) Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.

(b) (1) For purposes of enforcement, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility, cottage food operation, or any facility suspected of being a food facility or cottage food operation, or a vehicle transporting food to or from a retail food facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2) If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility's adherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.

(c) Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officer's picture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agency's name plus a picture identification card such as a driver's license shall meet this requirement.

(d) It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.

(e) A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

SEC. 15. Section 114405 of the Health and Safety Code is amended to read:

114405. (a) A permit may be suspended or revoked by a local enforcement officer for a violation of this part. Any food facility or cottage food operation for which the permit has been suspended shall close and remain closed until the permit has been reinstated. Any food facility or cottage food operation for which the permit has been revoked shall close and remain closed until a new permit has been issued.

(b) Whenever a local enforcement officer finds that a food facility or cottage food operation is not in compliance with the requirements of this part, a written notice to comply shall be issued to the permitholder. If the permitholder fails to comply, the local enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked. A written request for a hearing shall be made by the permitholder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permitholder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

SEC. 16. Section 114409 of the Health and Safety Code is amended to read:

114409. (a) If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.

(b) Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, specifying the pertinent code section, and informing the permitholder of the right to a hearing.

(c) At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permitholder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by both this bill and Assembly Bill 2297. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 113789 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2297, in which case Section 8 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

California LEGISLATIVE INFORMATION

AB-1616 Food safety: cottage food operations. (2011-2012)

Assembly Bill No. 1616

CHAPTER 415

An act to add Chapter 6.1 (commencing with Section 51035) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Sections 109947, 110050, 110460, 111955, 113789, 113851, 114021, 114023, 114390, 114405, and 114409 of, to add Sections 113758 and 114088 to, and to add Chapter 11.5 (commencing with Section 114365) to Part 7 of Division 104 of, the Health and Safety Code, relating to food safety.

[Approved by Governor September 21, 2012. Filed with Secretary of State September 21, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, Gatto. Food safety: cottage food operations.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law makes it unlawful to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded. Food is misbranded if its labeling does not conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens. Violation of this law is a misdemeanor.

The existing California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. That law exempts private homes from the definition of a food facility, and prohibits food stored or prepared in a private home from being used or offered for sale in a food facility. That law also requires food that is offered for human consumption to be honestly presented, as specified. A violation of these provisions is a misdemeanor.

This bill would include a cottage food operation, as defined, that is registered or has a permit within the private home exemption of the California Retail Food Code. The bill would also exclude a cottage food operation from specified food processing establishment and Sherman Law requirements. This bill would require a cottage food operation to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales and would subject a cottage food operation to inspections under specified circumstances. The bill would require a food facility that serves a cottage food product without packaging or labeling to identify it as homemade. The bill would establish various zoning and permit requirements relating to cottage food operations.

This bill would incorporate additional changes in Section 113789 of the Health and Safety Code, proposed by AB 2297, to be operative only if AB 2297 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

By imposing duties on local officials and adding new crimes, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Small businesses have played an important role in helping slow economies recover and prosper as an engine of job creation. During the 1990s, small businesses created the majority of new jobs and now account for 65 percent of United States employment.

(b) California, and the United States as a whole, are facing growing obesity and obesity-related disease epidemics.

(1) Two-thirds of American adults and nearly one-third of children and teens are obese or overweight, placing them at risk for developing chronic diseases such as diabetes, heart disease, and cancer.

(2) One in every nine California children, one in three teens, and over half of adults are already overweight or obese. This epidemic affects virtually all Californians.

(3) These health conditions are preventable and curable through lifestyle choices that include consumption of healthy fresh foods.

(c) For decades, low-income and rural communities have faced limited opportunities to purchase healthy foods. Often, without cars or convenient public transportation options, low-income residents in these areas must rely for much of their shopping on expensive, fatty, processed foods sold at convenience and corner stores.

(d) There is a growing movement in California to support community-based food production, sometimes referred to as "cottage food," "artisanal food," "slow food," "locally based food," or "urban agriculture" movements. These movements seek to connect food to local communities, small businesses, and environmental sustainability.

(e) Increased opportunities for entrepreneur development through microenterprises can help to supplement household incomes, prevent poverty and hunger, and strengthen local economies.

(f) At least 32 other states have passed laws that allow small business entrepreneurs to use their home kitchens to prepare, for sale, foods that are not potentially hazardous.

(g) Even some bake sales are currently illegal in California.

(h) It is the intent of the Legislature to enact a homemade food act specifically designed to help address these challenges and opportunities.

SEC. 2. Chapter 6.1 (commencing with Section 51035) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.1. Cottage Food Operations

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.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) Use of a residence for the purposes of a cottage food operation shall not constitute a change of occupancy for purposes of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code), or for purposes of local building and fire codes.

(d) Cottage food operations shall be considered residences for the purposes of the State Uniform Building Standards Code and local building and fire codes.

SEC. 3. Section 109947 of the Health and Safety Code is amended to read:

109947. "Food processing facility" means any facility operated for the purposes of manufacturing, packing, or holding processed food. Food processing facility does not include a food facility as defined in Section 113785, a cottage food operation that is registered or has a permit pursuant to Section 114365, or any facility exclusively storing, handling, or processing dried beans.

SEC. 4. Section 110050 of the Health and Safety Code is amended to read:

110050. The Food Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under subdivision (c) of Section 110466 and Sections 110470, 110471, 110485, 114365, 114365.6, 111130, and 113717, and under Article 7 (commencing with Section 110810) of Chapter 5 shall be deposited in the fund, for use by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of this part relating to food, licensing, inspection, enforcement, and other provisions of Article 12 (commencing with Section 111070) relating to water, the provisions relating to education and training in the prevention of microbial contamination pursuant to Section 110485, and the registration provisions of Article 7 (commencing with Section 110810) of Chapter 5, and to carry out and implement the provisions of the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104).

SEC. 5. Section 110460 of the Health and Safety Code is amended to read:

110460. No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, except those engaged exclusively in the storing, handling, or processing of dried beans. The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable. This section shall not apply to a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 6. Section 111955 of the Health and Safety Code is amended to read:

111955. "Food processing establishment," as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. "Food processing establishment" shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 7. Section 113758 is added to the Health and Safety Code, to read:

113758. (a) "Cottage food operation" means an enterprise that has not more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has not more than one full -time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollar ($35,000) in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than forty-five thousand dollars ($45,000) in gross annual sales in the calendar year. Commencing in 2015, and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars ($50,000) in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) "Cottage food employee" means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

(2) "Cottage food operator" means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

(3) "Cottage food products" means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) "Direct sale" means a transaction between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. 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.

(5) "Indirect sale" means an interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

(6) "Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

(7) "Registered or permitted area" means the portion of a private home that contains the private home's kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

SEC. 8. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities.

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

SEC. 8.5. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) "Food facility" includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (13) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a

charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

(13) (A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

SEC. 9. Section 113851 of the Health and Safety Code is amended to read:

113851. (a) "Permit" means the document issued by the enforcement agency that authorizes a person to operate a food facility or cottage food operation.

(b) "Registration" shall have the same meaning as permit for purposes of implementation and enforcement of this part.

SEC. 10. Section 114021 of the Health and Safety Code is amended to read:

114021. (a) Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility, unless that food is prepared by a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 11. Section 114023 of the Health and Safety Code is amended to read:

114023. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, or from a cottage food operation that produces jams, jellies, and preserves and that is registered or has a permit pursuant to Section 114365.

SEC. 12. Section 114088 is added to the Health and Safety Code, to read:

114088. A cottage food product, as defined in Section 113758, that is served by a food facility without packaging or labeling, as described in Section 114365, shall be identified to the consumer as homemade on the menu, menu board, or other location that would reasonably inform a consumer of its homemade status.

SEC. 13. Chapter 11.5 (commencing with Section 114365) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11.5. Cottage Food Operations

114365. (a) (1) (A) A "Class A" cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

(B) (i) The department shall post the requirements described in subparagraph (A) on its Internet Web site.

(ii) The local enforcement agency shall issue a registration number to a "Class A" cottage food operation that meets the requirements of subparagraph (A).

(C) (i) Except as provided in (ii), a "Class A" cottage food operation shall not be subject to initial or routine inspections.

(ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adultered or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.

(iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.

(iv) A local enforcement agency may seek recovery from a "Class A" cottage food operation of an amount that does not exceed the local enforcement agency's reasonable costs of inspecting the "Class A" cottage food operation for compliance with this chapter, if the "Class A" cottage food operation is found to be in violation of this chapter.

(2) (A) A "Class B" cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B) (i) A "Class B" cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed "Class B" cottage food operation and its method of operation conform to this chapter.

(C) Except as provided in this subparagraph, a "Class B" cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only 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 this chapter.

(ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.

(D) (i) A "Class B" cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the "Class B" cottage food operation is permitted.

(ii) A county may agree to allow a "Class B" cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.

(b) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

114365.2. A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.

(b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, except that a cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

(1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

(2) The washing, sanitizing, and drying of hands and arms.

(3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course instructed by the department to protect the public health within three months of becoming registered. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

(1) The words "Made in a Home Kitchen" in 12-point type on the cottage food product's primary display panel.

(2) The name commonly used for the food product or an adequately descriptive name.

(3) The name of the cottage food operation which produced the cottage food product.

(4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product and, in the case of a "Class B" cottage food operation, the name of the county of the local enforcement agency that issued the permit number.

(5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

114365.5. (a) The department shall adopt and post on its Internet Web site a list of not potentially hazardous foods and their ethnic variations that are approved for sale by a cottage food operation. A cottage food product shall not be potentially hazardous food, as defined in Section 113871.

(b) This list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:

(1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.

(2) Candy, such as brittle and toffee.

(3) Chocolate-covered nonperishable foods, such as nuts and dried fruit.

(4) Dried fruit.

(5) Dried pasta.

(6) Dry baking mixes.

(7) Fruit pies, fruit empanadas, and fruit tamales.

(8) Granola, cereals, and trail mixes.

(9) Herb blends and dried mole paste.

(10) Honey and sweet sorghum syrup.

(11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.

(12) Nut mixes and nut butters.

(13) Popcorn.

(14) Vinegar and mustard.

(15) Roasted coffee and dried tea.

(16) Waffle cones and pizelles.

(c) (1) The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list. Notice of any change to the approved food products list shall be posted on the department's cottage food program Internet Web site, to also be known as the program Internet Web site for purposes of this chapter. Any change to the approved food products list shall become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

114365.6. (a) The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b) Local enforcement agencies may collect a surcharge fee in addition to any permit fees collected for "Class B" cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

SEC. 14. Section 114390 of the Health and Safety Code is amended to read:

114390. (a) Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.

(b) (1) For purposes of enforcement, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility, cottage food operation, or any facility suspected of being a food facility or cottage food operation, or a vehicle transporting food to or from a retail food facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2) If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility's adherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.

(c) Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officer's picture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agency's name plus a picture identification card such as a driver's license shall meet this requirement.

(d) It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.

(e) A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

SEC. 15. Section 114405 of the Health and Safety Code is amended to read:

114405. (a) A permit may be suspended or revoked by a local enforcement officer for a violation of this part. Any food facility or cottage food operation for which the permit has been suspended shall close and remain closed until the permit has been reinstated. Any food facility or cottage food operation for which the permit has been revoked shall close and remain closed until a new permit has been issued.

(b) Whenever a local enforcement officer finds that a food facility or cottage food operation is not in compliance with the requirements of this part, a written notice to comply shall be issued to the permitholder. If the permitholder fails to comply, the local enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked. A written request for a hearing shall be made by the permitholder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permitholder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

SEC. 16. Section 114409 of the Health and Safety Code is amended to read:

114409. (a) If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.

(b) Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, specifying the pertinent code section, and informing the permitholder of the right to a hearing.

(c) At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permitholder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by both this bill and Assembly Bill 2297. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 113789 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2297, in which case Section 8 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

COUNTY OF SAN BERNARDINO
DEPARTMENT OF PUBLIC HEALTH
DIVISION OF ENVIRONMENTAL HEALTH SERVICES

AB 1616 – COTTAGE FOOD OPERATIONS

FREQUENTLY ASKED QUESTIONS

1. When does the new law go into effect?
   Assembly Bill 1616 – Cottage Food Operations was signed into law on September 21, 2012. The new law takes effect January 1, 2013.

2. What is a Cottage Food Operation (CFO)?
   A CFO is an enterprise at a private home where low-risk food products are prepared or packaged for sale to consumers.

3. What is meant by "private home"?
   "Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

4. Are there limitations on the size of CFOs sales?
   Yes. A CFO is restricted to the following gross annual sales amounts:
   - ☐ $35,000 or less in gross sales in 2013
   - ☐ $45,000 or less in gross sales in 2014
   - ☐ $50,000 or less in gross sales in 2015 and beyond

5. Can a CFO have employees?
   A CFO can have one full-time equivalent employee (not counting family members or household members).

6. What cottage food categories are permitted at a CFO?
   Only 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. The California Department of Public Health will establish and maintain a list of approved cottage food categories on their website and will implement a process by which new foods can be added or removed from the list. Click the link below to view the list of approved foods: California Department of Public Health – Cottage Food Operations

7. What are the two classifications of CFOs?
   - ☐ "Class A" CFOs are only allowed to engage in "direct sales" of cottage food.
   - ☐ "Class B" CFOs may engage in both "direct sales" and "indirect sales" of cottage food.

8. What is meant by "Direct Sale" of cottage food?
   "Direct Sale" means a transaction within the state of California 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.

9. 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 shops or to retail food facilities where food may be immediately consumed on the premises.

10. Do I need any special training or certification to prepare cottage foods?
A person who prepares or packages cottage food products must obtain Food Worker certification from the County of San Bernardino within three months of being registered or permitted. Online training must be taken at the following website: http://sbc.statefoodsafety.com.

11. Does a CFO need a permit to operate?
- ☐ Planning/Zoning: All CFOs need to obtain approval from their local city or county planning department. The Cottage Food Bill gives planning departments several options to consider, so planning department requirements may vary between jurisdictions.
- ☐ Environmental Health:
  - For "Class A" CFOs (direct sale only), a registration with DEHS and submission of a completed "Self-Certification Checklist" is required.
  - For "Class B" CFOs (direct and indirect sales), a health permit from DEHS is required.
- ☐ Registrations and permits are not transferable between:
  - Persons
  - Locations
  - Type of food sold
  - Type of distribution

12. How much will the registration or permit cost the CFO?
- ☐ "Class A" CFO registration is currently $162.00.
- ☐ "Class B" CFO permit is currently $183.00.

13. 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 Farmer's Markets or Swap Meets. Please check with DEHS for additional permit requirements.

14. 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, and then annually thereafter.
- ☐ Class A and B (Other Inspections) The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located only 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 is found to be in violation of California food safety laws on cottage food operations.

15. What are the CFOs 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 working
- 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. This includes:
  - Washing, rinsing, and sanitizing equipment used in food preparation.
  - Washing and sanitizing hands and arms.
  - Water used as an ingredient of cottage food.

16. Can a CFO sell cottage food outside the operator's county of residence?

CFOs can only sell cottage food outside their county of residence when the local environmental health agency of the outside county allows it.

17. Can I press apples and sell apple cider?

NO. There are no beverages included in the list of food products allowed to be produced in CFOs, so pressing apples to make and sell apple cider is not allowed under your CFO registration or permit.

18. What are my food labeling requirements?

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 shall include:

- The words "Made in a Home Kitchen" in 12-point type
- The name commonly used for the food product
- Name of CFO which produced the food product
- The registration or permit number of the cottage food operation which produced the cottage food product and the name of the local enforcement agency that issued the number
- Product ingredients in descending order by weight

In a permitted food facility, cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or other easily accessible location.

LABELING REQUIREMENTS FOR COTTAGE FOOD PRODUCTS

① *Chocolate Chip Cookies with Walnuts*

② *Decadent Delights*

③ *123 Sweet Treat Lane,*
Candyland, CA 92123

④ Ingredients: Enriched flour (wheat flour, niacin, reduced iron, thiamine mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat), walnuts, sugar, eggs, salt, artificial vanilla extract, and baking soda.

⑤ Contains: Wheat, eggs, milk, walnuts

⑥ **Net Wt. 3 Oz (85.049 g)**

⑦ **Made in a Home Kitchen**

⑧ Permit #: DEH2013- XXXXXX

⑨ Cottage Food Registration/Permit Issued by: Name of County where issued

All labels of products from Cottage Food Operations (CFO) submitted for review must contain the information listed below. Labels missing any of the listed information will not be approved and will need to be resubmitted for review.

① Common name of the product.

② Name of Cottage Food Operation which produced the food that is registered or permitted with the local environmental health agency.

③ Physical address of Cottage Food Operation (street number, street name, city, state, zip code).

④ List of product ingredients in descending order by weight. If commercially made products are used as an ingredient, the ingredients of that product must also be listed (e.g. Chocolate chips [sugar, chocolate liquor, cocoa butter, butterfat]).

Note: The list of ingredients may be on a secondary label affixed to a different location on the product. All other information must be included on the primary label that is affixed to the top or front of the product.

⑤ A declaration on the label in plain language if the food contains any of the major food allergens allowed to be used as ingredients in Cottage Food Products such as milk, eggs, tree nuts, wheat, peanuts, or soybeans.

⑥ The net quantity (count, weight, or volume) of the food product. It must be stated in both English units (pounds) and Metric units (grams).

⑦ "Made in a Home Kitchen" or "Repackaged in a Home Kitchen" as applicable. This exact wording must be used, and must be printed in at least 12 point font.

Note: If labeled as "Repackaged in a Home Kitchen" then a description of any purchased whole ready-to-eat products not used as an ingredient must also be included on the label.

⑧ Registration or permit number issued by the Department of Environmental Health in the County where the Cottage Food Operator resides and operates.

Note: This number will be provided when the Cottage Food Application is approved. For label submittal purposes, a placeholder may be used.

⑨ Name of the county issuing the Cottage Food Registration or Permit

Note: The use of the following eleven terms are considered nutrient content health claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. If the food label makes any nutrient content health claims, then a Nutrition Facts Panel must be incorporated into the label.

For additional information, visit CDPH's Cottage Food webpage at:
www.cdph.ca.gov/programs/pages/fdbcottagefood.aspx

ASSEMBLY BILL 1252

Retail Food Safety

Assembly Bill (AB) 1252 makes various technical, clarifying, and conforming changes to the California Retail Food Code (CRFC), the state's principal law governing food safety and sanitation in retail food facilities, and makes changes necessary to implement California's cottage food operations law. The bill takes effect January 1, 2014 and includes the following:

1. Cottage foods:
   a. Clarifies that direct sales of cottage foods must take place within the state.
   b. Requires "Class A" cottage food operations to renew their registrations annually.
   c. Requires all cottage food operators to retain a copy of their registration or permit onsite at the time of either direct or indirect cottage food sale.
   d. Requires Cottage Food Operators to complete a food processor course approved by the Department of Public Health (DPH). DPH is required to post the course on its website and this course must be completed every three years by the Cottage Food operator.

NOTE: The following portion of AB 1252 was repealed by AB 2130 on June 28, 2014.

2. Bare hand contact, handwashing and glove use:
   a. Prohibits food employees from contacting exposed, ready-to-eat food with their bare hands.
   b. Provides an exception to the prohibition in a) above, provided that the permit holder obtains prior approval from the local enforcement agency, and written procedures and documentation are maintained, as specified.
   c. Requires food handlers to wash their hands before initially donning gloves for working with food and when changing tasks, as specified. Clarifies that handwashing is not required between glove changes when no contamination of the gloves or hands has occurred.
   d. Requires an employee with a wound to take specified precautions when contacting food and prohibits an employee who has an open or draining wound from handling food.

3. Temporary food facilities and alternative food storage:
   a. Allows temporary food facilities operating no more than four hours per day at a single event to provide an adequate supply of utensils in lieu of warewashing facilities, as specified, with approval of the local enforcement agency.
   b. Allows up to eight temporary food facilities to share a warewashing sink, as specified, with the approval of the local enforcement agency.

4. Service animals:
   a. Revises the definition of a "service animal" for purposes of the code to mean a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The definition would specifically exclude other species of animals, as specified.

To view AB 1252 in its entirety, please visit the following link: http://bit.ly/HqArDn.

COUNTY OF SAN BERNARDINO
Environmental Health Services
DEPARTMENT OF PUBLIC HEALTH

800-442-2283 www.sbcounty.gov/dph/dehs

07/14

California LEGISLATIVE INFORMATION

AB-1252 Retail food safety. (2013-2014)

Assembly Bill No. 1252

CHAPTER 556

An act to amend Sections 113758, 113818, 113903, 113949.2, 113953.3, 113973, 114047, 114099.7, 114268, 114271, 114294, 114295, 114299, 114325, 1143322, 114335, 114351, 114365, and 114365.2 of, to add Sections 113806, 113807, and 113975 to, and to repeal and add Section 113961 of, the Health and Safety Code, relating to food safety.

[Approved by Governor October 04, 2013. Filed with Secretary of State October 04, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1252, Committee on Health. Retail food safety.

(1) Existing law, the California Retail Food Code, reestablishes uniform health and sanitation standards for retail food facilities, including mobile food facilities and temporary food facilities, by the State Department of Public Health. Existing law provides that local health agencies are primarily responsible for enforcing these provisions. A person who violates any provision of the code is guilty of a misdemeanor, except as otherwise provided.

(2) The code requires a cottage food operation, as defined, to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales. Existing law requires a "Class A" cottage food operation to register with the local enforcement agency in accordance with specified provisions. Existing law defines a "direct sale" with respect to cottage food operations as a transaction between a cottage food operation operator and a consumer, as specified.

This bill would redefine a "direct sale" for these purposes as a transaction within the state between a cottage food operation operator and a consumer, as specified. The bill would require a "Class A" cottage food operation to renew its registration annually.

The bill would require a cottage food operator to retain a registration or permit or an accurate copy thereof onsite at the time of either direct or indirect cottage food sale.

The bill would also make other related changes with respect to cottage food operations.

(3) The code requires that all employees of food facilities thoroughly wash their hands before engaging in food preparation and before donning gloves for working with food. The code requires that employees wear gloves when contacting food and food-contact surfaces under certain conditions, including when they have cuts, sores, or rashes. The code also requires owners of food facilities and others, as specified, to require food employees to report to the person in charge if a food employee has a lesion or wound that is open or draining, as specified, unless the lesion is covered or protected.

This bill would, among other things, revise the code to require handwashing when changing gloves, except as specified, and that employees wear single-use gloves, as specified, when contacting food and food-contact surfaces under the conditions described above. The bill would prohibit an employee who has a wound, as specified, that is open and draining from handling food, unless the wound is covered, as specified. The bill would make conforming changes to the reporting requirement described above.

This bill would require food employees to wash their hands in accordance with specified provisions, and would prohibit food employees from contacting exposed, ready-to-eat food with their bare hands, except under specified circumstances.

(4) The code requires that a mobile food facility have a water heater with a minimum capacity of 3 gallons, except as specified.

This bill would increase the required minimum amount of capacity for a water heater on a mobile food facility to 4 gallons, or, if the facility only utilizes the water for handwashing purposes, require only 1/2 gallon, except as specified. The bill would make other changes relating to mobile food facilities.

(5) The code requires that handwashing and utensil washing facilities approved by the enforcement officer be provided within nonprofit charitable temporary food facilities, except where food and beverage is prepackaged.

This bill would authorize the local enforcement agency to allow a nonprofit charitable temporary food facility to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved facility, under specified circumstances.

(6) The code authorizes a warewashing sink to be shared by no more than 4 temporary food facilities that handle nonprepackaged food if the sink is centrally located and is adjacent to the sharing facilities.

This bill would authorize the local enforcement agency to authorize up to 8 temporary food facilities to share a warewashing sink under specified circumstances, and would authorize the local enforcement agency to instead allow a temporary food facility to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved facility, under specified circumstances.

(7) The code requires a food facility to prevent the entrance and harborage of animals and prohibits a food employee from caring for or handling animals that may be present. The code permits a food employee with a service animal to handle or care for the service animal if the employee washes his or her hands as required. The code defines a service animal to mean a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

This bill would revise the definition of a "service animal" for purposes of the code to mean a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The definition would specifically exclude other species of animals, as specified.

The bill would also define "highly susceptible population" and "hot dog" for purposes of the code and would make a clarifying change to the definition of "limited food preparation."

(8) By revising the standards that must be enforced by local health agencies and by expanding the scope of existing crimes, the bill would impose a state-mandated local program.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 113758 of the Health and Safety Code is amended to read:

113758. (a) "Cottage food operation" means an enterprise that has not more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has not more than one full -time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollar ($35,000) in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than

forty-five thousand dollars ($45,000) in gross annual sales in the calendar year. Commencing in 2015, and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars ($50,000) in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) "Cottage food employee" means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

(2) "Cottage food operator" means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

(3) "Cottage food products" means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) "Direct sale" means a transaction within the state between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. 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.

(5) "Indirect sale" means an interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

(6) "Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

(7) "Registered or permitted area" means the portion of a private home that contains the private home's kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

SEC. 2. Section 113806 is added to the Health and Safety Code, to read:

113806. "Highly susceptible population" means a group of persons who are more likely than other people in the general population to experience foodborne disease because both of the following conditions exist:

(a) The group is comprised of immunocompromised persons, preschool age children, or older adults.

(b) The group obtains food at a facility, including, but not limited to, a kidney dialysis center, hospital, nursing home, or senior center, that provides services, such as custodial care, health care, assisted living, or socialization services.

SEC. 3. Section 113807 is added to the Health and Safety Code, to read:

113807. "Hot dog" means a whole, cured, cooked sausage that is skinless or stuffed in a casing, that may be known as a frankfurter, frank, furter, wiener, red hot, vienna, bologna, garlic bologna, or knockwurst, and that may be served in a bun or roll.

SEC. 4. Section 113818 of the Health and Safety Code is amended to read:

113818. (a) "Limited food preparation" means food preparation that is restricted to one or more of the following:

(1) Heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of nonprepackaged food.

(2) Dispensing and portioning of nonpotentially hazardous food.

(3) Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.

(4) Slicing and chopping of food on a heated cooking surface during the cooking process.

(5) Cooking and seasoning to order.

(6) Preparing beverages that are for immediate service, in response to an individual consumer order, that do not contain frozen milk products.

(b) "Limited food preparation" does not include any of the following:

(1) Slicing and chopping unless it is on the heated cooking surface.

(2) Thawing.

(3) Cooling of cooked, potentially hazardous food.

(4) Grinding raw ingredients or potentially hazardous food.

(5) Reheating of potentially hazardous foods for hot holding, except for steamed or boiled hot dogs and tamales in the original, inedible wrapper.

(6) Except as authorized in paragraph (3) of subdivision (a), hot holding of nonprepackaged, potentially hazardous food, except for roasting corn on the cob, steamed or boiled hot dogs, and tamales in the original, inedible wrapper.

(7) Washing of foods.

(8) Cooking of potentially hazardous foods for later use.

SEC. 5. Section 113903 of the Health and Safety Code is amended to read:

113903. (a) "Service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, or that is in training to do that work or perform those tasks. "Service animal" does not include any other species of animals, whether wild or domestic, trained or untrained.

(b) The work or tasks performed by a service animal shall include assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, or helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this subdivision.

SEC. 6. Section 113949.2 of the Health and Safety Code is amended to read:

113949.2. The owner who has a food safety certificate issued pursuant to Section 113947.1 or the food employee who has this food safety certificate shall instruct all food employees regarding the relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness. The owner or food safety certified employee shall require food employees to report the following to the person in charge:

(a) If a food employee is diagnosed with an illness due to one of the following:

(1) Salmonella typhi.

(2) Salmonella spp.

(3) Shigella spp.

(4) Entamoeba histolytica.

(5) Enterohemorrhagic or shiga toxin producing Escherichia coli.

(6) Hepatitis A virus.

(7) Norovirus.

(b) If a food employee has a wound that is one of the following:

(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the wound and a single-use glove is worn over the impermeable cover.

(2) On exposed portions of the arms, unless the wound is protected by an impermeable cover.

(3) On other parts of the body, unless the wound is covered by a dry, durable, tight-fitting bandage.

SEC. 7. Section 113953.3 of the Health and Safety Code is amended to read:

113953.3. (a) Except as specified in subdivision (b), all employees shall thoroughly wash their hands and that portion, if any, of their arms exposed to direct food contact with cleanser and warm water by vigorously rubbing together the surfaces of their lathered hands and arms for at least 10 to 15 seconds and thoroughly rinsing with clean running water followed by drying of cleaned hands and that portion, if any, of their arms exposed. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers. Employees shall wash their hands in all of the following instances:

(1) Immediately before engaging in food preparation, including working with nonprepackaged food, clean equipment and utensils, and unwrapped single-use food containers and utensils.

(2) After touching bare human body parts other than clean hands and clean, exposed portions of arms.

(3) After using the toilet room.

(4) After caring for or handling any animal allowed in a food facility pursuant to this part.

(5) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking.

(6) After handling soiled equipment or utensils.

(7) During food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks.

(8) When switching between working with raw food and working with ready-to-eat food.

(9) Before initially donning gloves for working with food.

(10) Before dispensing or serving food or handling clean tableware and serving utensils in the food service area.

(11) After engaging in other activities that contaminate the hands.

(b) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands.

SEC. 8. Section 113961 of the Health and Safety Code is repealed.

SEC. 9. Section 113961 is added to the Health and Safety Code, to read:

113961. (a) Food employees shall wash their hands in accordance with the provisions established in Section 113953.3.

(b) Except when washing fruits and vegetables, as specified in Section 113992 or as specified in subdivisions (e) and (f), food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

(c) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(d) Food that has been served to a consumer and then wrapped or packaged at the direction of the consumer, such as food placed in a take-home container, shall be handled only with utensils. These utensils shall be properly sanitized before reuse.

(e) Subdivision (b) does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that meets either of the following:

(1) Food that contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperatures specified in subdivisions (a) and (b) of Section 114004 or in Section 114008.

(2) Food that does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 165 degrees Fahrenheit.

(f) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if all of the following occur:

(1) The permitholder obtains prior approval from the regulatory authority.

(2) Written procedures are maintained in the food facility and made available to the regulatory authority upon request, that include all of the following:

(A) For each bare hand contact procedure, a listing of the specific ready-to-eat foods that are touched by bare hands.

(B) Diagrams and other information showing that handwashing facilities that are installed, located, and maintained in accordance with Sections 113953, 113953.1, and 113953.2, are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted.

(3) A written employee health policy that details the manner in which the food facility complies with Sections 113949, 113949.1, 113949.2, 113949.3, 113949.4, 113949.5, 113950, and 113950.5, including all of the following:

(A) Documentation that food employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified in Section 113949.1.

(B) Documentation that food employees acknowledge their responsibilities as specified in Section 113949.4.

(C) Documentation that the person in charge acknowledges the responsibilities specified in Section 113949.5, subdivision (b) of Section 113950, and Section 113950.5.

(4) Documentation that food employees acknowledge that they have received training in all of the following:

(A) The risks of contacting the specific ready-to-eat foods with bare hands.

(B) Proper handwashing techniques and requirements, pursuant to subdivision (a) of Section 113953.3.

(C) Where to wash their hands, as specified in Section 113953.1.

(D) Proper fingernail maintenance, as specified in Section 113968.

(E) Prohibition of jewelry, as specified in subdivision (a) of Section 113973.

(F) Good hygienic practices, as specified in Sections 113974 and 113977.

(5) Documentation that hands are washed before food preparation and as necessary to prevent cross-contamination by food employees, as specified in Sections 113952, 113953.1, and 113953.3 during all hours of operation when the specific ready-to-eat foods are prepared.

(6) Documentation that food employees contacting ready-to-eat foods with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:

(A) Double handwashing.

(B) Nail brushes.

(C) A hand antiseptic after handwashing, as specified in Section 113953.4.

(D) Incentive programs such as paid sick leave that assist or encourage food employees not to report to work if they are ill.

(E) Other control measures approved by the regulatory authority.

(7) Documentation that corrective action is taken when the requirements specified in paragraphs (1) to (6), inclusive, are not followed.

SEC. 10. Section 113973 of the Health and Safety Code is amended to read:

113973. (a) Single-use gloves shall be worn when contacting food and food-contact surfaces if the employee has any cuts, sores, rashes, artificial nails, nail polish, rings (other than a plain ring, such as a wedding band), uncleanable orthopedic support devices, or fingernails that are not clean, smooth, or neatly trimmed.

(b) Whenever gloves are worn, they shall be changed, replaced, or washed as often as handwashing is required by this part. Single-use gloves shall not be washed.

(c) If used, single-use gloves shall be used for only one task, such as working with ready-to-eat food or with raw food of animal origin, used for no other purpose, and shall be discarded when damaged or soiled, or when interruptions in the food handling occur.

(d) Except as specified in subdivision (e), slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used only with food that is subsequently cooked as specified in Section 114004, such as frozen food or a primal cut of meat.

(e) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(f) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked.

SEC. 11. Section 113975 is added to the Health and Safety Code, to read:

113975. (a) Except as provided in subdivision (b), an employee who has a wound that is open or draining shall not handle food.

(b) A food employee who has a wound is restricted from food handling unless the food employee complies with all of the following:

(1) If the wound is located on the hand or wrist, an impermeable cover, such as a finger cot or stall, shall protect the wound. A single-use glove shall be worn over the impermeable cover.

(2) If the wound is located on exposed portions of the arms, an impermeable cover shall protect the wound.

(3) If the wound is located on other parts of the body, a dry, durable, tight-fitting bandage shall cover the wound.

(4) For purposes of this section, a wound also includes a cut, sore, rash, or lesion.

SEC. 12. Section 114047 of the Health and Safety Code is amended to read:

114047. (a) Adequate and suitable space shall be provided for the storage of food.

(b) Except as specified in subdivisions (c), (d), and (e), food shall be protected from contamination by storing the food in a clean, dry location, where it is not exposed to splash, dust, vermin, or other forms of contamination or adulteration, and at least six inches above the floor.

(c) Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment as specified under Section 114165.

(d) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to moisture.

(e) Temporary alternate food storage methods and locations may be approved by the local enforcement agency.

SEC. 13. Section 114099.7 of the Health and Safety Code is amended to read:

114099.7. Mechanical sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(a) By being cycled through equipment that is used in accordance with the manufacturer's specifications and achieving a utensil surface temperature of 160ºF as measured by an irreversible registering temperature indicator.

(b) The mechanical application of sanitizing chemicals by pressure spraying methods using one of the following solutions:

(1) Contact with a solution of 50 ppm available chlorine for at least 30 seconds.

(2) Contact with a solution of 25 ppm available iodine for at least one minute.

(3) Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the following:

(A) The sanitizer manufacturer's use directions as specified on the product label.

(B) The machine manufacturer's specifications as provided in the manufacturer's operating instructions.

(c) After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

(1) The rinse is applied directly from a potable water supply by a warewashing machine that meets the requirements of subdivision (b) of Section 114130 and is maintained and operated in accordance with the manufacturer's specifications.

(2) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose United States Environmental Protection Agency-registered, label use instructions require rinsing off the sanitizer after it is applied in an approved commercial warewashing machine.

SEC. 14. Section 114268 of the Health and Safety Code is amended to read:

114268. (a) Except in sales areas and as otherwise specified in subdivision (d), the floor surfaces in all areas in which food is prepared, prepackaged, or stored, where any utensil is washed, where refuse or garbage is stored, where janitorial facilities are located in all toilet and handwashing areas, except with respect to areas relating to guestroom accommodations and the private accommodations of owners and operators in restricted food service facilities, shall be smooth and of durable construction and nonabsorbent material that is easily cleanable.

(b) Floor surfaces shall be coved at the juncture of the floor and wall with a 3/8 inch minimum radius coving and shall extend up the wall at least 4 inches, except in areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(c) Public or private schools constructed or remodeled after the effective date of this part shall comply with subdivision (b). Public and private schools constructed before the effective date of this part need not comply with subdivision (b), provided that the existing floor surfaces are maintained in good repair and in a sanitary condition.

(d) Except for dining and serving areas, the use of sawdust, wood shavings, peanut hulls, or similar materials is prohibited.

(e) This section shall not prohibit the use of approved dust-arresting floor sweeping and cleaning compounds during floor cleaning operations or the use of antislip floor finishes or materials in areas where necessary for safety reasons.

SEC. 15. Section 114271 of the Health and Safety Code is amended to read:

114271. (a) Except as provided in subdivision (b), the walls and ceilings of all rooms shall be of a durable, smooth, nonabsorbent, and easily cleanable surface.

(b) This section shall not apply to any of the following areas:

(1) Walls and ceilings of bar areas in which alcoholic beverages are sold or served directly to the consumers, except wall areas adjacent to bar sinks and areas where food is prepared.

(2) Areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(3) Dining and sales areas.

(4) Offices.

(5) Restrooms that are used exclusively by the consumers, except that the walls and ceilings in the restrooms shall be of a nonabsorbent and washable surface.

(6) Dressing rooms, dressing areas, or locker areas.

(c) Acoustical paneling may be utilized if it is installed not less than six feet above the floor. The paneling shall meet the other requirements of this section.

(d) Conduits of all types shall be installed within walls as practicable. When otherwise installed, they shall be mounted or enclosed so as to facilitate cleaning.

(e) Attachments to walls and ceilings, such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments, shall be easily cleanable.

SEC. 16. Section 114294 of the Health and Safety Code is amended to read:

114294. (a) All mobile food facilities and mobile support units shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions as provided in this chapter.

(b) The enforcement agency shall initially approve all mobile food facilities and mobile support units as complying with the provisions of this chapter and may require reapproval if deemed necessary.

(c) Each mobile food facility that is either a special purpose commercial modular and coach as defined by Section 18012.5 or a commercial modular coach as defined by Section 18001.8 shall be certified by the Department of Housing and Community Development, consistent with Chapter 4 (commencing with Section 18025) of Part 2 of Division 13, and regulations promulgated pursuant to that chapter. In addition, the enforcement agency shall approve all equipment installation prior to operation.

SEC. 17. Section 114295 of the Health and Safety Code is amended to read:

114295. (a) Except as specified in subdivision (b), all mobile food facilities shall operate in conjunction with a commissary, mobile support unit, or other facility approved by the enforcement agency.

(b) This section does not apply to mobile food facilities that operate at community events as defined in Section 113755 and that remain in a fixed position during food preparation and its hours of operation, if potable water and liquid waste disposal facilities are available to mobile food facilities requiring potable water.

(c) Mobile food facilities shall be stored at or within a commissary or other location approved by the enforcement agency in order to have protection from unsanitary conditions.

(d) Mobile support units shall be operated from and stored at a designated commissary and shall be subject to permitting and plan review.

(e) Notwithstanding any other provisions of this section, a mobile food facility that is engaged in food preparation, other than limited food preparation, as defined in Section 113818, shall not operate in conjunction with a mobile support unit.

SEC. 18. Section 114299 of the Health and Safety Code is amended to read:

114299. (a) Except as specified in subdivision (c), the business name or name of the operator, city, state, ZIP Code, and name of the permittee, if different from the name of the food facility, shall be legible, clearly visible to consumers, and permanently affixed on the consumer side of the mobile food facility and on a mobile support unit.

(b) The business name shall be in letters at least 3 inches high. Letters and numbers for the city, state, and ZIP Code shall not be less than one inch high. The color of each letter and number shall contrast with its background.

(c) Notwithstanding subdivision (a), motorized mobile food facilities and mobile support units shall have the required identification on two sides.

SEC. 19. Section 114325 of the Health and Safety Code is amended to read:

114325. (a) Except on a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous heater capable of heating water to a minimum of 120°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine. On a mobile food facility that only utilizes the water for handwashing purposes, a minimum one-half gallon-capacity water heater or an instantaneous water heater capable of heating water to a minimum of 100°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine.

(b) A water heater with a minimum capacity of four gallons shall be provided for mobile food facilities that have a warewashing sink.

(c) A mobile food facility equipped with a three-gallon-capacity water heater that is in compliance with this section on January 1, 2014, is in compliance with this section after that date.

SEC. 20. Section 114332.2 of the Health and Safety Code is amended to read:

114332.2. (a) Except where all food and beverage is prepackaged, handwashing and warewashing facilities approved by the enforcement officer shall be provided for nonprofit charitable temporary food facilities. Each nonprofit charitable temporary food facility shall be equipped with a handwashing facility. Based on local environmental conditions, location, and similar factors, the local enforcement agency may, in lieu of warewashing facilities, allow a nonprofit charitable temporary food facility operating no more than four hours per day at a single event to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved food facility and are stored and kept free of becoming soiled or contaminated.

(b) Facilities for the sanitary disposal of all liquid waste shall be subject to the approval of the enforcement officer.

(c) At least one toilet facility for each 15 employees shall be provided within 60 meters (200 feet) of each nonprofit charitable temporary food facility.

(d) Food contact surfaces shall be smooth, easily cleanable, and nonabsorbent.

SEC. 21. Section 114335 of the Health and Safety Code is amended to read:

114335. (a) Temporary food facilities that operate at a swap meet are limited to only prepackaged nonpotentially hazardous food and whole uncut produce, and shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

(b) Temporary food facilities that operate at a community event shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

(c) Food facility requirements shall be determined by the enforcement agency based on the food service activity to be conducted, the type of food that is to be prepared or served, the length of the event, and the extent of food preparation that is to be conducted at a community event within a temporary food facility.

(d) Notwithstanding subdivision (a), the enforcement agency may allow temporary food facilities at a swap meet, depending on the food service activity to be conducted, the type of food that is to be prepared or served, the duration of the swap meet, and the extent of food preparation that is to be conducted at the swap meet.

SEC. 22. Section 114351 of the Health and Safety Code is amended to read:

114351. (a) Notwithstanding Section 114095, a warewashing sink may be shared by no more than four temporary food facilities that handle nonprepackaged food if the sink is centrally located and is adjacent to the sharing facilities.

(b) Notwithstanding subdivision (a), based on the number and types of utensils used, the local enforcement agency may allow up to eight temporary food facilities to share a warewashing sink when easily accessible and located within 100 feet of each temporary food facility.

(c) Based on local environmental conditions, location, and similar factors, the local enforcement agency may, in lieu of a warewashing sink, allow a temporary food facility operating no more than four hours per day at a single event to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved food facility and are stored and kept free of becoming soiled or contaminated.

SEC. 23. Section 114365 of the Health and Safety Code is amended to read:

114365. (a) (1) (A) A "Class A" cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

(B) (i) The department shall post the requirements described in subparagraph (A) on its Internet Web site.

(ii) The local enforcement agency shall issue a registration number to a "Class A" cottage food operation that meets the requirements of subparagraph (A).

(C) (i) Except as provided in (ii), a "Class A" cottage food operation shall not be subject to initial or routine inspections.

(ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adultered or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.

(iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.

(iv) A local enforcement agency may seek recovery from a "Class A" cottage food operation of an amount that does not exceed the local enforcement agency's reasonable costs of inspecting the "Class A" cottage food operation for compliance with this chapter, if the "Class A" cottage food operation is found to be in violation of this chapter.

(2) (A) A "Class B" cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B) (i) A "Class B" cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed "Class B" cottage food operation and its method of operation conform to this chapter.

(C) Except as provided in this subparagraph, a "Class B" cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(D) A "Class A" cottage food operation shall renew its registration annually.

(i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only 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 this chapter.

(ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.

(E) (i) A "Class B" cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the "Class B" cottage food operation is permitted.

(ii) A county may agree to allow a "Class B" cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.

(b) (1) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

(2) The registration or permit or an accurate copy thereof shall be retained by the operator onsite at the time of either direct or indirect cottage food sale.

SEC. 24. Section 114365.2 of the Health and Safety Code is amended to read:

114365.2. A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.

(b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, or in accordance with the local regulatory authority. A cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

(1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

(2) The washing, sanitizing, and drying of hands and arms.

(3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course approved by the department and posted on the department's Internet Web site to protect the public health within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

(1) The words "Made in a Home Kitchen" or "Repackaged in a Home Kitchen," as applicable, with a description of any purchased whole ready-to-eat product not used as an ingredient in 12-point type on the cottage food product's primary display panel.

(2) The name commonly used for the food product or an adequately descriptive name.

(3) The name of the cottage food operation which produced the cottage food product.

(4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product and the name of the county of the local enforcement agency that issued the permit or registration number.

(5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

facility for the elderly is a business run for profit or differs in any other way from a family dwelling.

This section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly which serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.

This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly which serve six or fewer persons from other family dwellings of the same type in the same zone; and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other family dwellings of the same type in the same zone.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

Use of a family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities for the elderly providing care for six or fewer residents.

For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

(Added by Stats. 1986, Ch. 844; Amended by Stats. 1987, Ch. 1092.)

FAMILY DAY CARE HOMES ZONING

(Division 2. Licensing Provisions, Chapter 3.4. California Child Day Care Act)

1596.70. Title

This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with 1597.30) may be cited as the California Child Day Care Facilities Act.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.71. Applicability

This chapter applies to Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30). This chapter also applies to Chapter 3.65 (commencing with Section 1597.70).

(Added by Stats. 1984, Ch. 1615.)

1596.72. Legislative intent

The Legislature finds all of the following:

(a) That child day care facilities can contribute positively to a child's emotional, cognitive, and educational development.

(b) That it is the intent of this state to provide a comprehensive, quality system for licensing child day care facilities to ensure a quality day care environment.

(c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child day care facilities.

(d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child day care facilities from those facility types administered under Chapter 3 (commencing with Section 1500).

(e) That good quality child day care services are an essential service for working parents.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.73. Purpose

The purposes of this act are to:

(a) Streamline the administration of child care licensing and thereby increase the efficiency and effectiveness of this system.

(b) Encourage the development of licensing staff with knowledge and understanding of children and child care needs.

(c) Provide providers of child care with technical assistance about licensing requirements.

(d) Enhance consumer awareness of licensing requirements and the benefits of licensed child care.

(e) Recognize that affordable, quality licensed child care is critical to the well-being of parents and children in this state.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)

1596.74. Definitions

Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30).

(Added by Stats. 1984, Ch. 1615.)

1596.75. Child

"Child" means a person who is under 18 years of age who is being provided care and supervision in a child day care facility, except where otherwise specified in this act.

(Added by Stats. 1984, Ch. 1615.)

1596.750. Child day care facility

"Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1994, Ch. 690.)

1596.76. Day care center

"Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 2002, Ch. 1022.)

1596.77. Department

"Department" means the State Department of Social Services.

(Added by Stats. 1984, Ch. 1615.)

1596.770. Director

"Director" means the Director of Social Services.

(Added by Stats. 1984, Ch. 1615.)

1596.771. Employer-sponsored child care center

"Employer-sponsored child care center" means any child day care facility at the employer's site of business operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of children of that employer, and of the officers, managers, and employees of that employer.

(Added by Stats. 1994, Ch. 690.)

1596.773. Probation; Revocation

(a) "Probation" means the period of time that a licensed child day care facility is required to comply with specific terms and conditions set forth by the department in order to stay or postpone the revocation of the facility's license.

(b) "Revocation" means an administrative action taken by the department to void or rescind the license of a child day care facility because of serious or chronic violations of licensing laws or regulations by the facility.

(Added by Stats. 2004, Ch. 358.)

1596.775. Findings

The Legislature finds and declares all of the following:

(a) There is a severe shortage of child care for school age children throughout California, with many school age children going home to an empty, unsupervised setting after school.

(b) For nearly five years several counties have participated in a pilot program that allows for a family day care home to care for two additional children above the current number allowed pursuant to licensing regulations.

(c) As part of the pilot program, a study was conducted by the Assembly Office of Research. The results of the study demonstrated that the pilot program achieved all of the following results:

(1) Increased access to care for school age children.

(2) Participating providers encountered few problems and strongly support expansion of the program.

(3) Parents of children in the pilot program family day care homes strongly support the program.

(4) Participating providers with additional children were no more likely to receive substantiated complaints from licensing officials than nonparticipants.

(5) Local governments and planning officials saw little or no impact on their licensing policies and procedures.

(6) Overall quality of care was not adversely affected.

(Added by Stats. 1996, Ch. 18.)

1596.78. Family day care home

(a) "Family day care home" means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home.

(b) "Large family day care home" means a home that provides family day care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) "Small family day care home" means a home that provides family day care for eight or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1989, Ch. 70.)

1596.79. Person

"Person" means an individual, partnership, association, corporation, limited liability company, or governmental entity, such as the state, a county, city, special district, school district, community college district, chartered city, or chartered city and county.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064; Amended by Stats. 1994, Ch. 1010.)

1596.790. Planning agency

"Planning agency" means the agency designated pursuant to Section 65100 of the Government Code.

(Added by Stats. 1984, Ch. 1615.)

1596.791. Provider

"Provider" means a person who operates a child day care facility and is licensed pursuant to Chapter 3.5 (commencing

with Section 1596.90) or 3.6 (commencing with Section 1597.30).

(Added by Stats. 1984, Ch. 1615.)

1596.792. Inapplicability

This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and

maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

(o) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064; Amended by Stats. 1987, Ch. 1487; Amended by Stats. 1989, Ch. 413; Amended by Stats. 1990, Ch. 388; Amended by Stats. 1991, Ch. 316; Amended by Stats. 1992, Ch. 625; Amended by Stats. 1993, Ch. 280; Amended by Stats. 1995, Ch. 372; Amended by Stats. 1997, Ch. 942; Amended by Stats. 2004, Ch. 664; Amended by Stats. 2005, Ch. 22; Amended by Stats. 2007, Ch. 288 [Effective January 1, 2008, Repealed July 1, 2011]; Amended by Stats. 2010, Ch. 519 [Repealed January 1, 2014].)

1596.792. Inapplicability (Part 2)

This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) This section shall become operative on January 1, 2014.

(Added by Stats. 2004, Ch. 664; Amended by Stats. 2005, Ch. 22; Amended by Stats. 2007, Ch. 288 [Effective January 1, 2008, Operative July 1, 2011]; Amended by Stats. 2010, Ch. 519.)

1596.7925. *(Repealed by its own terms January 1, 2001.)*

1596.793. Exemption of specific recreation programs

This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to recreation programs conducted for children by the Girl Scouts, Boy Scouts, Boys Club, Girls Club, or Camp Fire, or similar organizations as determined by regulations of the department. Child day care programs conducted by these organizations and the fees charged for that specific purpose are subject to the requirements of this chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30).

(Added by Stats. 1985, Ch. 1110; Amended by Stats. 1986, Ch. 714.)

1596.794. Department liaison

The department shall serve as the liaison to child day care facilities for the purposes of Sections 17608 to 17613, of the Education Code.

(Added by Stats. 2006, Ch. 865.)

1596.795. No smoking ordinance

(a) The smoking of tobacco in a private residence that is licensed as a family day care home shall be prohibited during the hours of operation as a family day care home and in those areas of the family day care home where children are present. Nothing in this section shall prohibit a city or county from enacting or enforcing an ordinance relating to smoking in a family day care home if the ordinance is more stringent than this section.

(b) The smoking of tobacco on the premises of a licensed day care center shall be prohibited.

(Added by Stats. 1986, Ch. 407; Amended by Stats. 1993, Ch. 335.)

1597.40. Policy

(a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

(d) (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.

(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.

(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the

annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.

(5) Section 1596.890 shall not apply to this subdivision.

(Renumbered from 1597.501 and Amended by Stats. 1983, Ch. 1233; Amended by Stats. 1996, Ch. 449.)

1597.41. *(Repealed by Stats. 1996, Ch. 11.)*

1597.43. Family day care homes; residentially zoned

The Legislature finds and declares all of the following:

(a) Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses. Family day care homes draw clients and vehicles to their sites during a limited time of day and do not require the attendance of a large number of employees and equipment.

(b) The uses of congregate care facilities are distinguishable from the uses of family day care homes operated under the standards of state law. For purposes of this section, a "congregate care facility" means a "residential facility," as defined in paragraph (1) of subdivision (a) of Section 1502. Congregate care facilities are used throughout the day and night, and the institutional uses of these facilities are primary uses of the facilities, not accessory uses, and draw a large number of employees, vehicles, and equipment compared to that drawn to family day care homes.

(c) The expansion permitted for family day care homes by Sections 1597.44 and 1597.465 is not appropriate with respect to congregate care facilities, or any other facilities with quasi-institutional uses. Therefore, with these provisions, the Legislature does not intend to alter the legal standards governing congregate care facilities and these provisions are not intended to encourage, or be a precedent for, changes in statutory and case law governing congregate care facilities.

(Added by Stats. 1996, Ch. 18.)

1597.44. Small family day care homes; children

A small family day care home may provide care for more than six and up to eight children, without an additional adult attendant, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than two infants are cared for during any time when more than six children are cared for.

(c) The licensee notifies each parent that the facility is caring for two additional school age children and that there may be up to seven or eight children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

(Added by Stats. 1996, Ch. 18; Amended by Stats. 2003, Ch. 744.)

1597.45. Small family day care homes

All of the following shall apply to small family day care homes:

(a) The use of single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances.

(b) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home.

(c) Use of a single-family dwelling for purposes of a small family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law) or for purposes of local building codes.

(d) A small family day care home shall not be subject to Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2, except that a small family day care home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.

(Added by Stats. 1983, Ch. 1233. Amended by Stats. 1989, Ch. 70.)

1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home 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, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. 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 large family day care home to apply for a permit to use a lot zoned for single-family dwellings. 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 large family day care home 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, and complies with subdivision (c) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. 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. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification.

Not fewer than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. No hearing on the application for a permit issued pursuant to this paragraph shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any of the appeal.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Administrative Code. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(f) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.

(Added by Stats. 1983, Ch. 1233; Amended by Stats. 2006, Ch. 105.)

1597.465. Large family day care homes; children

A large family day care home may provide care for more than 12 children and up to and including 14 children, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than three infants are cared for during any time when more than 12 children are being cared for.

(c) The licensee notifies a parent that the facility is caring for two additional school age children and that there may be up to 13 or 14 children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

(Added by Stats. 1996, Ch. 18; Amended by Stats. 2003, Ch. 744.)

1597.47. Single family residential restrictions

The provisions of this chapter shall not be construed to preclude any city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family day care facility as long as such restrictions are identical to those applied to other single-family residences. The provisions of this chapter shall not be construed to preclude the application to a family day care facility for children of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. The provisions of this chapter also shall not be construed to prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, such ordinance or nuisance abatement shall not distinguish family day care facilities from other single-family dwellings, except as otherwise provided in this chapter.

(Added by Stats. 1983, Ch. 1233.)

MOBILE HEALTH CARE UNITS

(Division 2. Licensing Provisions, Chapter 9. Mobile Health Care Units)

1765.105. Parent facility; definition

As used in this chapter, the following definitions shall apply:

(a) "Parent facility" means a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, or a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(b) (1) "Mobile service unit" or "mobile unit" means a special purpose commercial coach as defined in Section 18012.5, or a commercial coach as defined in Section 18001.8, that provides services as set forth in Section 1765.110, and meets any of the following criteria:

(A) Is approved pursuant to this chapter by the state department as a service of a licensed health facility, as defined in Section 1250.

(B) Is approved by the state department pursuant to this chapter as a service of a licensed clinic, as defined in Section 1200.

(C) Is licensed pursuant to this chapter by the state department as a clinic, as defined in Section 1200.

(D) Is licensed pursuant to this chapter as an "other" type of approved mobile unit by the state department. "Other" types of approved mobile units shall be limited to mobile units performing services within new health facility or clinic licensure categories created after the effective date of this chapter. The State Department of Health Services shall not create a new health facility or clinic licensure category under this subparagraph absent a legislative mandate.

(2) "Mobile service unit" or "mobile unit" does not mean a modular, relocatable, or transportable unit that is designed to be placed on a foundation when it reaches its destination, nor does it mean any entity that is exempt from licensure pursuant to Section 1206.

(Added by Stats. 1993, Ch. 1020.)

1765.155. Zoning approval

(a) The licensed parent facility or clinic shall be responsible for obtaining approvals for the site or sites of the mobile unit from the local planning, zoning, and fire authorities, as required.

(b) The mobile unit shall be situated for safe and comfortable patient access. The mobile unit shall comply with all local parking laws. Any parking restrictions developed by a parent facility or clinic for mobile units shall be strictly enforced by the parent facility or clinic.

(c) The parent facility or clinic shall ensure that there is sufficient lighting around the perimeter of the site from which the mobile unit provides any services.

(Added by Stats. 1993, Ch. 1020.)

LOCAL REGULATION OF ALCOHOLISM RECOVERY FACILITIES

(Division 10.5. State Department of Alcohol and Drug Programs, Chapter 7.5 Licensing)

11834.02. Definitions

(a) As used in this chapter, "alcoholism or drug abuse recovery or treatment facility" or "facility" means any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

(b) As used in this chapter, "adults" may include, but is not limited to, all of the following:

(1) Mothers over 18 years of age and their children.

(2) Emancipated minors, which may include, but is not limited to, mothers under 18 years of age and their children.

(c) As used in this chapter, "emancipated minors" means persons under 18 years of age who have acquired emancipation status pursuant to Section 7002 of the Family Code.

(d) Notwithstanding subdivision (a), an alcoholism or drug abuse recovery or treatment facility may serve adolescents upon the issuance of a waiver granted by the department pursuant to regulations adopted under subdivision (c) of Section 11834.50.

(Added by Stats. 1984, Ch. 1667; Amended by Stats. 1988, Ch. 646; Amended by Stats. 1989, Ch. 919; Amended by Stats. 1992, Ch. 620; Amended by Stats. 1993, Ch. 219; Renumbered from 11834.11 and Amended by Stats. 1993, Ch. 741.)

TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
AUGUST 27, 2013

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00 p.m. All commissioners were present.

The Pledge of Allegiance was led by Chair Humphreville.

APPROVAL OF AGENDA

Commissioner Whitten moved to approve the agenda. Vice Chair Bridenstine seconded. Motion carried 5-0 on a voice vote.

PUBLIC COMMENTS

None

PUBLIC HEARING

1. DEVELOPMENT CODE AMENDMENT, DCA 06-13, ARTICLE 4

Chair Humphreville opened the public hearing for DCA 06-13, Article 4.

Deputy Town Manager Shane Stueckle presented the staff report regarding DCA 06-13. Stueckle explained that as part of the Development Code Update project, the Planning Commission has previously reviewed Article 4 at its meetings of April 9, 2013 and August 13, 2013. Article 4 Permit Procedures establishes the review authority and permit processing procedures for the land use permits established in the Yucca Valley Development Code. Processing applications including, but not limited to, General Plan Amendments, Development Code Amendments, Conditional Use Permits, Site Plan Reviews, and all other land use permits issued by the Town.

With no members of the public wishing to speak, Chair Humphreville closed the public hearing.

Commissioner Whitten moved to:

Find that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town's Permitting Procedures regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 06-13 meets the exemption criteria which states "that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that

there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. And,

Moved to recommend to the Town Council to adopt the Ordinance, and repeals Sections 83.010105 thru 83.0103.15, Sections 83.010325 thru 83.010335, Section 83.010505, Sections 83.020105 thru 83.020210, Sections 83.030805 thru 83.030855, Sections 83.030145 thru 83.030175, Sections 83.030205 thru 83.030230, Sections 83.030310 thru 83.030325, Section 83.030405, Section 83.030505, Section 83.030605 Sections 83.030705 thru 83.030765, Sections 83.030905 thru 83.030955 of Division 3 of Title 8 from the Yucca Valley Development Code and Sections 41.151 thru 41.1569 from Chapter 15, Division 1 Title 4 of the Yucca Valley Municipal Code.

Commissioner Drozd Seconded. Motion carried 5-0 on a voice vote.

DEPARTMENT REPORT

2. HOME OCCUPATION PERMITS

Deputy Town Manager Stueckle presented the staff report, explaining the general findings within Ordinance 178 relating to Home Occupation Permits.

Chair Humphreville opened public comment.

Barry Shaw, Esther Shaw, and Voss Schwartz, all of Yucca Valley spoke in opposition to firearm sales in residential neighborhoods.

Frank Hubbard, Yucca Valley requested the prohibition of firearm sales in residential neighborhoods.

Bonnie Brady, Yucca Valley spoke favorably of Commissioner Lavender's public request for input on neighborhood gun sales using the local newspaper.

With no other members of the public wishing to speak, Chair Humphreville closed public comment.

Commissioner Lavender commented that as a Planning Commissioner he needs to listen to the people and stated that he has received 17 responses, (13 opposed, 4 in favor) of residential gun shops. Lavender recommends revising the ordinance to not allow gun shops in residential neighborhoods.

Commissioner Whitten thanked the public for attending the meeting and providing input.

Whitten commented the language on stamped page 99 relating to public health and safety and questioned what would be considered appropriate for residential neighborhoods. Whitten suggested to allow these types of businesses in more rural areas and suggested that the approval process for HOP's to be brought to the Planning Commission for an extra set of eyes.

Commissioner Drozd inquired about firewood businesses in residential neighborhoods. Drozd explained he understands the interest in gun sales due the recent commission activity and questioned if the ordinance language was changed, how would it affect the current permit holders.

Deputy Town Manager Stueckle explained that just because there is an opposition, it is not always are basis for change. If the application is consistent with the General Plan and the Development Code and all code requirements are met, public input is not always a basis for denial.

Vice Chair Bridenstine stated that it was a difficult decision and there is a need to be careful to not take away people's rights.

Chair Humphreville stated home based businesses are a viable part of a community and inquired on how an HOP is enforced. Deputy Town Manager Stueckle explained that once the permit is approved, the site is inspected but continual monitoring is usually on a complaint driven basis. Humphreville continued by stating from a land use issue, a day care facility has the potential of disrupting a neighborhood due to increased traffic more than many other types of businesses such as a gun shop.

Vice Chair Bridenstine recommended the commission look in defining the term gun shop to bring into perspective.

Chair Lavender stated he often hears gun shots in his neighborhood and that the Planning Commission should not add to the number of guns that are in the people's possession.

Deputy Town Manager Stueckle reminded the Commission that their purpose is to address land use issues, not second amendment issues. Staff will take the comments into consideration and the item will be brought back for public hearing.

No action was taken.

3. WIND ENERGY CONVERSION SYSTEMS

Deputy Town Manager Stueckle presented the staff report by explaining past commission discussions on wind energy conversion systems (WECS) and presented different types of

systems that are available. The draft ordinance proposes standards for the installation of WECS.

Chair Humphreville opened public comment. With no members of the public wishing to speak, the public comments were closed.

Vice Chair Bridenstine spoke of prior commission experience with wind energy system use decisions. There is a need to set zoning, parcel size and height restrictions.

Commissioner Drozd spoke of concern with slope between properties and the possibility of blocking the neighbor's views, even though property line setbacks are met.

Commissioner Whitten reported his witnessing of a variety of wind energy systems with little or no noise emitting from them. Whitten asked for clarification that the discussion is for residential use, not commercial use.

Commissioner Lavender spoke of the benefits of alternative energy systems.

Vice Chair Bridenstine requested the inclusion of noise requirements to deter certain systems.

Chair Humphreville spoke favorably on the use of alternative energy systems, but would like to take view shed into consideration. Humphreville stated he would like to see enough flexibility in the code to not limit a certain system if it happens to work on a specific parcel.

No action was taken.

4. UTILITY UNDERGROUNDING

Deputy Town Manager Stueckle opened discussion on utility undergrounding and gave background on the topic by reviewing Town Ordinance 233.

Chair Humphreville opened public comment on the item. With no members of the public wishing to speak, public comments were closed.

Vice Chair Bridenstine inquired about the restrictions relating to in-fill of Single Family and Multi-Family Residential development.

Commissioner Drozd questioned the in-fill cost of overhead lines versus undergrounding.

Chair Humphreville inquired about the effect on remodeling of commercial property.

Commissioner inquired if underground utilities were a requirement in the Old Town Specific Plan.

Chair Humphreville stated a statement of waiver for specific instances should be included, especially for soil or topography conditions.

No action was taken.

CONSENT AGENDA

MINUTES

Vice Chair Bridenstine moved to approve the Yucca Valley Planning Commission minutes of May 14, 2013, June 11, 2013, June 25, 2013 and July 09, 2013 as presented. Commissioner Whitten seconded. Motion carried 5-0 on a voice vote.

STAFF REPORTS AND COMMENTS

Deputy Town Manager Stueckle presented a brief update on current commercial projects and noted that the Planning Commission will not be meeting on September 10, 2013 due to staff schedule conflicts.

FUTURE AGENDA ITEMS

None

COMMISSIONER REPORTS AND REQUESTS

Commissioner Drozd thanked staff for their assistance and also thanked the public for attending the meeting and providing input.

Commissioner Lavender thanked the public for their input.

Commissioner Whitten thanked staff and commented favorably regarding the Town Manager Updates being distributed to the community.

Vice Chair Bridenstine also thanked staff and the public for participation in the process.

ANNOUNCEMENTS

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, September 27, 2013 at 6:00 p.m. in the Yucca Room of the Yucca Valley Community Center.

ADJOURNMENT

There being no further business, Chair Humphreville adjourned the meeting at 7:51 p.m.

Respectfully submitted,

Lesley Copeland, CMC
Town Clerk

meeting, and make revisions. The staff recommends that the Planning Commission continues the public hearing to the March 25, 2014 Planning Commission meeting to allow staff to make final changes for Commission consideration.

Commissioner Whitten moved that the Commission continue the public hearing to the March 25th, 2014 Planning Commission meeting to allow staff to make final changes for Commission consideration. The motion was seconded by Chairman Humphreville and was approved unanimously.

DEPARTMENT REPORTS:

1. **HOME OCCUPATION PERMIT REGULATIONS**

Deputy Town Manager Stueckle provided the staff report. He reminded the Commission that there had previously been a lengthy discussion of the Home Occupation Permit Regulations over what are appropriate types of home based businesses as the result of home based businesses requesting federal and state firearms licenses. He provided an over view of the current ordinance for the three tiers of home based businesses. Staff would like input from the Commission on the issue of whether or not the ordinances address the physical differences between lots of different sizes, and provided the example of a business on a two and a half acre lot, which is far away from any neighboring structures, having a small amount of outdoor storage. He also acknowledged that due to the late hour, the Commission may choose to continue the discussion on this issue at a later date.

After the conclusion of the staff's report, Chairman Humphreville opened the floor to public comment.

PUBLIC COMMENTS

Margo Sturges, Yucca Valley, is concerned over this issue and believes this is a topic that needs to be work shopped. She is feels that selling weapons out of the home in rented locations like apartment complexes may affect the expectation of quiet enjoyment of renters and the liability of a landlord. She believes that the neighborhood dislikes the idea of weapon sales, and it should be limited to large lots.

Chairman Humphreville asked for staff discussion on this issue, and Deputy Town Manager Stueckle said that because this is a complex issue with many elements to be considered, staff believes that this item requires further discussion at a later date.

Chairman Humphreville asked if the ordinance as it is written now gives the town the flexibility to work with the businesses like the earlier example of a home based business on a two and a half acre lot with outside storage. Deputy Town Manager Stueckle replied that under the current ordinances staff was not able to find any way to address this issue, and staff believes there needs to be some modifications to the ordinance.

Commissioner Lavender said that he believes that most Yucca Valley citizens are against residential gun sales.

Commissioner Whitten believes that there should be a workshop, and that regulations need to be changed to reflect the changing climate regarding guns. He also believes that the Town should send a building inspector to make sure a home fits home occupation permit. He also suggest that these permits come to Planning Commission for review, and that permitted operating hours be changed. He believes that 7:00am

is too early and 8:00pm is too late. He also thinks that home animal rescue and home animal care and boarding should be prohibited, and believes that this should be revisited in a workshop.

Commissioner Drozd suggested that arm sales under a certain lot size should prohibit ammunition sales.

There was a consensus among the Commissioners that a workshop in this issue would be appropriate.

Deputy Town Manager Stueckle agreed that this will be revisited at a later date for further discussion.

There was no motion, but there was a consensus to hold a workshop at a later date

CONSENT AGENDA:

1. 2013 GENERAL PLAN ANNUAL REPORT

Government Code Section 65400 mandates that all cities and counties submit to their legislative bodies an annual report on the status of the General Plan and progress on its implementation. The report must then be filed with the state's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD). This annual review addresses the January 1, 2013 through December 31, 2013 time period.

2. MINUTES

A request that the Planning Commission approve as submitted the minutes of the meetings held on October 08, 2013, November 12, 2013 and February 11, 2014.

PUBLIC COMMENTS

None

Commissioner Whitten moved that the Commission approve Consent Agenda items one and two. The motion was seconded by Commissioner Bridenstine and was carried unanimously.

STAFF REPORTS AND COMMENTS:

None

FUTURE AGENDA ITEMS:

Development Code Update - Article 3
Site Plan Review 01-24 – Phase 1 Hawks Landing

COMMISSIONER REPORTS AND REQUESTS:

Commissioner Drozd thanked everyone for their participation.

Commissioner Lavender stated that it was a good discussion and he appreciates that.

Commissioner Whitten said that he wanted to know where adult orientated businesses are covered in the code. Deputy Town Manager Stueckle replied that it is covered in Article 2, and that conversation will be coming forward. Commissioner Whitten also stated that the recent rainstorm may have identified some

3. The strict application of the land use regulations would require extensive land disturbance on the site, would change the natural appearance of the site and could limit the ability to construct a single family residence on the property.

4. The variance is compatible with the following polices of the General Plan.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

Joanne Ballinger, the applicant, told the Commission that the intent of the project was to avoid disturbing as much of the landscape as possible, and that they were requesting the variance to avoid extensive changes given the limited size of the level portion of the lot.

Commissioner Lavender asked if they had considered alternative configurations which would allow them to build on that location without the variance.

The applicant said that they had looked at alternative options, but found that even a smaller home would require a variance, and that they wanted to keep the grading to a minimum.

Chair Humphreville said that he understood the issues with construction on that property, and that he appreciated their intent to preserve the attractive boulder piles.

Commissioner Bridenstine said that she felt a setback of 30 feet was reasonable given the circumstances.

MOTION

Chair Humphreville moved to approve variance, V 02-14. Commissioner Lavender seconded, and it passed unanimously.

2. DEVELOPMENT CODE AMENDMENT, DCA 02-14 HOME OCCUPATION REGULATIONS

Deputy Town Manager Stueckle presented the staff report. Staff presented the Commission with draft regulations for Home Occupation Permits for their consideration. A brief overview of the history of the Town's Home Occupation Permit regulations was provided. Staff stated that Article 4 of the development code was approved by the Town Council in October of 2013, but that the Commission had opted to defer Home Occupation Permits until they had received additional input from the community.

Deputy Town Manager Stueckle said that the Commission had talked about holding a workshop on the Home Occupation Permit regulations, and it was staff's interpretation that the Commission's intent was to receive maximum participation from the public. Staff explained that, in order to receive the maximum participation from the community, notice of the public hearing

on HOP regulations was provide not only through the usual notice of the meeting published in the newspaper and website, but also through the Community Updates, an additional press release, and through the Chamber Commerce. It was staff's opinion that this process met the Commission's intent for maximum participation, and if there are member of the community who are working on the regulations the Commission is always delighted to receive that information.

Staff provided an overview of the current Home Occupation Permit regulations and the changes presented in the draft regulations presented to the Commission. The changes in the draft regulations included:

- Staff recommended changing the approval authority from Director for all Home Occupation Permit's to two levels of approval authority including Director and Planning Commission, where the Planning Commission would be the approval authority for all home occupations involving sales activities from the home, customers visiting the home, or outdoor screened business activity.
- Staff recommended that the renewal authority is the same as the approval authority.
- Staff recommended that approvals be given for 2 or 3 years instead of for one unless a complaint is received and violations have been verified by a field investigation.
- Staff asked that the Commission consider any additional uses which should be added to the prohibited list.
- Staff recommended additional language to clarify what home based businesses are exempt from obtaining a permit.
- Staff said that the language allowing outside storage needed further clarification and standards. Staff recommended modifications which prohibited outside storage in smaller lots and allowed some outside storage on lots larger than one acre.
- Staff stated that the current standards only address the maximum areas for storage which can be used by a business and identify 25% and 35%, or 250 square feet or 500 square feet, as maximum areas for conducting home based businesses. Staff stated that the Commission may desire to discuss modifications to these standards.
- Staff asked that the Commission should discuss the standards regarding where business activities are to be conducted and direct staff as to the allowable locations for home based business activities.
- Staff recommended modifying the allowed business operating hours from between the hours of 7:00 a.m. and 8:00 p.m. to the hours of 9:00 a.m. and 5:00 p.m. for business which have sales on the premises or customers on the site. All other homes based business would be limited to between 7:00am and 7:00 pm. The Commission may desire to discuss the necessity for hours of operation where no customers visit the site, and when the business activity is in compliance with Town regulations.

PUBLIC COMMENTS

1. John Barriage, San Deigo, spoke. He stated that he is the attorney for Fritz Koenig. He said that he does not believe the staff's recommendations regarding where business activities are to be conducted were more restrictive. He also objected to allowing people to

apply for a Conditional Use Permit for uses which do not strictly comply with the Home Occupation Permit regulations.

2. Sabrina Peukert, Yucca Valley, asked if the regulations included provisions to make sure that sales tax was correctly paid to the jurisdiction when good are sold. She said that she can't run the same business as the Fallosi's.

3. Fritz Koenig, Yucca Valley, asked that the public comment period be continued at the next meeting on this subject. He said that he believes the recommended changes presented by staff are less restrictive and that allowing Conditional Use Permits would allow the Planning Commission to permit any business they want, including a brothel. He believes home occupation business activities should be limited to the primary dwelling unit.

4. Margo Sturges, Yucca Valley, said that she believes that the regulations should prohibit more uses including gun sales, brothels, salons and mortuaries. She said that there should be workshop on the issue and that the public hearing wasn't enough.

5. Barry Shaw, Yucca Valley, said that selling guns and/or ammunition in a residential area should be strictly prohibited. He said that no one wants to live in a neighborhood where guns and ammo are sold.

6. Janice Pask, Yucca Valley, spoke in support of the proposed changes to the HOP regulations that take in to account the differences in lot sizes. She is a neighbor of David Fallosi, an artist, and feels that his home business is appropriate to the neighborhood.

7. David Cooper, Yucca Valley, commented on the proposed changes to the HOP regulations. He was on the planning commission when the current regulations were first drafted. He said he didn't have a problem with a properly licensed gun dealer operating a small home based business. He said that home occupation permits are not controversial, and that Yucca Valley is a rural area that doesn't face the same issues as a metropolitan area. He believes the regulations should have a light touch. Rural areas on large parcels should be allowed to do a lot of things that they can't do on small urban parcels. He also said he felt that the 9 to 5 retail hour limit was too restrictive. He also approved of the 2-3 year period for renewal.

8. David Fallosi, Yucca Valley, spoke asking the Commission to consider what is reasonable for artists. He is an artist with a home occupation business and the area has a large community of artists, and that this type of business improves the Town. He said that he doesn't think it is reasonable for a home owner to be discriminated against because they have a Home Occupation Permit. What is allowed for any home owner should not be prohibited simply because they have a HOP.

9. Herb Orban, Yucca Valley, said that he supports some home based businesses, but doesn't think the ordinance should be changed to allow a broader spectrum of home based businesses. He also does not support any home business which would increase traffic or increase crime related activities. He does not support residential gun sales.

10. Dennis Pask, Yucca Valley, spoke. He said he is a neighbor of David Fallosi and that he represents 30 residents of his neighborhood who support the proposed changes. He supports local artists who work out of their homes, and said that many of them may have developed their studios prior to incorporation. He believes the Town should encourage artists. He submitted a document for Commission review.

11. Bonnie Brady, Yucca Valley, said she thinks that any gun based businesses should be prohibited in residential areas. She also agreed with Fallosi about the needs of art based home businesses. She has participated in the art tours and believes they are important.

12. Ed Koesling, Yucca Valley, is a potter in Yucca Valley. He spoke in support for the new rules for rural areas with large lots. He encouraged the Commission to make it easier for artist to work in large areas. He said it wasn't clear to him whether or not the ordinance allowed artists to participate in art tours or open house type events. He also felt that the fee for the applying for a HOP is high.

13. Nora Fraser, said that she is a neighbor of David Fallosi and that his business is successful and should have a commercial space.

14. Marissa Corson, Yucca Valley, said that she felt that it is not fair that someone with a Home Occupation Permit is not allowed to have the same kind of commercial deliveries that someone without a home business would be allowed.

15. Esther Shaw, Yucca Valley, said that gun sales should be prohibited in residential neighborhoods with small lots. She said that gun shops have safety measures in place that residential homes do not have. She also spoke in support of regulations that support local artists.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

END PUBLIC COMMENTS

Chair Humphreville opened the Commission discussion on the Home Occupation Permit regulations.

Commissioner Drozd said that he agreed with the graduated ordinance based upon lot size. The regulations need to take into account both the business owners and the neighbors, and a graduate ordinance is a good way to go. He also stated that, while he understand the concern caused by gun

sales, he does not believe that sale of disassembled, non-operational guns are a problem, particularly when limited to less than ten visits per month, but he does believe that prohibiting ammunition sales on small lots may be a good solution.

Commissioner Bridenstine suggested adding language to make it clear that only legal businesses are allowed. She also said that she thinks that firearm sales should only be allowed in residential lots one acre or larger. She also doesn't think that firearms and ammunition should be allowed to be sold together. She thinks that restricting the number of sales and the licensing requirements for gun sellers both need to be clearly reviewed. She also said that there are extenuating circumstances effecting artist. Art tours and open houses are important for artists, and many artist need to use accessory structures. She suggested either having a separate section addressing artist or liberating the ordinance enough to allow them to fit.

Commissioner Lavender said that he felt there needed to be a workshop on this item, and he didn't feel that there should be a decision in the next meeting. He said that the process needed more informal discussion. He also said that he did some research into the regulations of cities with similar demographics to Yucca Valley, and that most had regulations similar to what is currently in place. He also stated that some other communities go into much greater detail about what is allowed and what isn't allowed than what the Town currently has, and he felt that expanding that may create greater clarity. He also asked if staff has enough time to inspect properties to see if they are complying. Staff informed the Commission that currently inspections occur at the time the permit is granted, and subsequently only if there is a complaint. Commissioner Lavender also said that he felt that gun sales in general should be limited for personal reasons.

Chair Humphreville said that he agreed with Commissioner Bridenstine that language clarifying that only legal businesses are allowed should be included. He said that he doesn't believe that all gun businesses are the same. A legal home occupation business would have the same wait time requirements as a gun shop. He does understand the concerns caused by residential gun sales. He thought that were plenty of restrictions on the Home Occupation Permit previously issued by the Commission, and that gun sales are a legal business. He also said that he felt the Commission should consider prohibiting or restricting Home Occupation Permits in multi-family zones. He asked if there were currently any permits in multi-family zones, and was informed by staff that there are not.

Chair Humphreville called a recess at 7:35 p.m.

RECESS

The meeting resumed at 7:40 p.m.

Chair Humphreville opened a discussion on the exemption requirements. Staff stated that the draft language presented was intended only to clarify not modify what types of business are exempt from Home Occupation Permits. Commissioner Lavender said that he would like the businesses that are currently exempt to remain exempt.

Chair Humphreville opened a discussion on the conditions of approval.

Commissioner Bridenstine asked for clarification of the sign allowance. Staff provided clarification that the intent was that signage not change the character of the residential neighborhood and that sign size was limited to 2 square feet. Commissioner Bridenstine said that she agrees with small signs.

There was discussion on outside storage. Staff clarified that the intent of the proposed language was that all permits involving outside storage would go before the Planning Commission, but said that the language needs some fine tuning.

There was a discussion about the screening of storage. Commissioner Bridenstine and Commissioner Drozd agreed that the standard should be screened from the street level.

Commissioner Bridenstine also stated that she didn't want the rules to eliminate the possibility of having a separate studio. She stated that the rules either need to be permissive enough to allow for it, or there needs to some kind of exception. She believes that the limit of 25% of the dwelling used for the operation of the business is too restrictive.

Chair Humphreville agreed that the 25% restriction was way too small. He said that he doesn't see any difference between allowing someone to use a barn for equestrian use and allowing them to use it for a home occupation. He stated that he would like to see storage size limited by parcel size.

Commissioner Lavender also agreed that the 25% or 250 square foot limitation is too small.

Chair Humphreville said that the average number of trips per day allowed may need to be modified to match the 12 trips per day which would occur in home daycare business with 6 or fewer clients.

There was a discussion of proposed changes to the sections addressing Review Authority. Staff provided an overview of the current process for Home Occupation Permit approval. Staff also explained that if sales taxes was an element of the business, it is included as part of the permit process. Both Commissioner Bridenstine and Chair Humphreville stated that they liked the change to a tiered approval authority.

There was a discussion of the proposed changes to the section addressing the Home Occupation Permit renewal. There was Commission consensus that the renewal authority should remain as the Director for both proposed tiers, provided that there were no complaints associated with the permit. The Commission also stated that they would like renewal notices be sent out when permits are due for renewal. Commissioner Lavender said that he would like to see inspections at the time of renewal. Commissioner Bridenstine agreed with a 3 year renewal period. Commissioner Lavender said that he would like to see inspections at the time of renewal.

Staff also explained that the language regarding permit revocation had been changed to a reference to Article 5, Chapter 9.84 to avoid duplication of that language.

Chair Humphreville asked if the Commissioners had any general comments regarding Home Occupation Permit Regulations.

Commissioner Drozd said that he thought it was a great process was glad that there was going to be another meeting on the topic.

Commissioner Bridenstine agreed with Commissioner Drozd and said that she hopes to hear more from the public at the next meeting.

Chair Humphreville said that he appreciates people attending the meeting, and that there will be another opportunity for community input, and that there was nothing nefarious on the part of staff to prevent comments.

Deputy Town Manager Stueckle provided a summary of the recommendations provided by the Commission.

Chair Humphreville said that they hadn't had a discussion on restrictions of deliveries. Chair Humphreville stated that he doesn't think that deliveries which would be allowed otherwise should be restricted by a HOP. Commissioner Drozd agreed, and pointed out how many UPS and trash deliveries go through residential areas. Commissioner Bridenstine said that the Commission needs to be careful in how the limit is worded and consideration should be given to the issue of size. There is a big difference between a semi-truck and a UPS truck. Commissioner Lavender thinks that the restrictions need to be relaxed.

Deputy Town Manager Stueckle asked if the Commission wished to hold a workshop on Home Occupation Permits on the 27th and continue the public hearing to the June 10th, meeting. The Commission agreed with this approach.

MOTION

Chair Humphreville moved that the Public Hearing on Development Code Amendment, DCA 02-14 Home Occupation Regulations, be continued to the June 10th meeting. It was seconded by Commissioner Bridenstine, and the vote passed unanimously.

RECESS

Chair Humphreville called a recess 8:12

The meeting reconvened at 8:17

3. DEVELOPMENT CODE AMENDMENT, DCA 07-13 ARTICLE 3 CEQA EXEMPTION, SECTION 15061

Deputy Town Manager Stueckle spoke on behalf of staff. He stated that this was a continuation of prior meetings on this issue and provided a brief overview. He stated that staff was still waiting for a response regarding whether or not the Town was able to prohibit mining. Staff recommended that, given the lateness of the hour, the Commission continue this issue until the next meeting. Staff also recommended that the Commission wait until the whole code is finished before forwarding their recommendations to the Council.

PUBLIC COMMENT

None

END PUBLIC COMMENTS

TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
May 27, 2014

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were Bridenstine, Drozd, Lavender, Whitten and Chair Humphreville.

The Pledge of Allegiance was led by Chair Humphreville.

Commissioner Whitten moved to approve the agenda. Commissioner Bridenstine seconded, and the motion passed unanimously.

PUBLIC COMMENTS

1. Margo Sturges, Yucca Valley, said that she likes the Planning Commission using the workshop format.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

1. WORKSHOP – HOME OCCUPATION PERMIT REGULATIONS

Chair Humphreville opened the public workshop on Home Occupation Permit regulations. Deputy Town Manager Stueckle provided background on the Home Occupation Permit regulations and an overview of the purpose of the workshop. Chair Humphreville recessed the meeting for the workshop at 6:09, and one hour was dedicated to round table discussion with members of the public and the Commissioners. At 7:10, after the table discussion, Chair Humphreville resumed the meeting and opened the floor to reports from the table discussions and individual public comments. Posters listing each table's findings were displayed, and forms on which individuals wrote their suggestions were also submitted to the Commission.

PUBLIC COMMENTS

1. Nalini Maharaj, Yucca Valley, said that she would like to see gun sales prohibited as a home occupation.

2. Margo Sturges, Yucca Valley, said that she appreciated the workshop process, and would like the public hearing on the ordinance to be delayed.

3. Mark Miller, Yucca Valley, said that he approves of the changes in the regulation that makes the process of acquiring a home occupation permit easier and clearer. He said that the intent of the revisions should be to make it easier not harder to do business in Yucca Valley. He said that the regulations should be administered equally and without prejudice,

and we shouldn't unfairly discriminate against some businesses just because they are unpopular.

4. Dennis Pask, Yucca Valley, said that he approves of the changes in the draft ordinances. He said that it is unfair that artists with a HOP aren't allowed to display art in their front yard when anyone else in town is able to.

5. James Walker, Yucca Valley, said that he appreciates the workshop process, and that he believes that the process should be directed towards the regulations as whole and not specific cases.

6. Fitz Koneig, Yucca Valley, said that he believes that home business should be limited only to equipment or structures normally found within the home. He also objects the Planning Commission being able to issue Conditional Use Permits. He also doesn't think the noise ordinance is sufficient.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Commissioner Whitten said that he appreciated the public coming out to participate. He said he wants a balanced approach to Home Occupation Permits. Property owners should be able to exercise their rights while respecting the rights of their neighbors. He believes that the Planning Commission need to work to fine tune the ordinance to make it a softer.

Commissioner Lavender said that some of the individuals he spoke with were concerned about the number of deliveries which might be made to some home occupations. He suggested providing some kind of public space for artists to use. He also said he was happy with the ordinance the way it was, but he would like to see gun sales prohibited.

Commissioner Drozd said that it was great to see so many people come out to participate. He asked staff if, under the current complaint driven process, complaints were made anonymously. Staff replied that complaints could be made either anonymously or not. Commissioner Drozd believes that it is important to keep neighborhood character, but also allow business. He said he like the graduated scale for different size lots. He said that home based business have been becoming more popular with the current economy. He also said that while different sized parcels should be treated differently, people on the same size parcels should be treated the same.

Commissioner Bridenstine also thanked everyone for coming out to participate. She agreed that we need a tiered system. Some business would not be appropriate for a multi-family zone, but would be appropriate on a five acre parcel. Someone on a five acre parcel who is operating a legal business, which is not effecting anyone, should be allowed the freedom to do so. She believes that we should be more concerned about illegal guns rather than legal, licensed sales. She also believes that that the concern about deliveries doesn't take into account the fact that trash trucks, which regularly travel these roads, weigh more than delivery trucks. Rather than creating nitpicky regulations, we should rely more on common sense. If you are causing a nuisance in your

neighborhood, your neighbors have the right to complain. There is a procedure in place for those complaints to be investigated and your permit possibly revoked. Having a clear procedure for addressing complaints is more important that a lot of overly specific regulation.

Commissioner Lavender said that plots that do not have maintained roads may create an issue.

Chair Humphreville asked staff to clarify the intent of the language prohibiting the storage or use of explosives or highly combustible or toxic materials beyond that permitted by the Building, Fire Code, or adopted restrictions. He pointed out that artists and welders use paint and material which may be combustible or toxic. Staff explained that the purpose of that section was to limit the amount of that kind of material to amounts more typically found in residential uses, so that we don't see the type of volume associated with large scale commercial operations. Chair Humphreville suggested further clarification to that language. He also asked about the fee schedule, particularly the $750 fee for the appeal process. Deputy Town Manager Stueckle explained that the fee structure was based on total cost recovery, but that staff would look at the fees. Chair Humphreville said that he would like to see some kind of language differentiating between commercial welding and art welding. He also though that allowing artists to display some art in their front yards is something the Commission should discuss. He also said that allowing 6 or 8 deliveries a year is reasonable, and he doesn't think that someone with a Home Occupation Permit should have greater weight restrictions than other property owners. He doesn't think gun sales should be prohibited; it is a legal and regulated business. He also believes that home occupations which are exempt from acquiring a permit are fine in multi-family zones, but an activity requiring a Home Occupation Permit should be prohibited.

RECESS

Chair Humphreville called a five minute recess at 7:45. The meeting resumed at 7:50.

PUBLIC HEARING

2. DEVELOPMENT CODE AMENDMENT, DCA 07-13 ARTICLE 3CEQA EXEMPTION, SECTION 15061

Deputy Town Manager Stueckle gave the staff report. He stated that there have been multiple meetings on this public hearing, and that the only outstanding issue is the pending answer from the Town Attorney's office regarding whether or not surface mining can be prohibited and that section removed from the regulations. Staff recommended that, after receiving any public comments, if there were no further questions from the Commission, the Commission not send the item forward to the Town Council until the full draft of the Code has been completed.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

MOTION

Commissioner Whitten moved that the Planning Commission finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act, and that the Commission recommends that the Town Council adopts the Ordinance, but delays forwarding that recommendation to the Council until the draft of the complete code is finished. Chair Humphreville seconded. The vote passes unanimously.

DEPARTMENT REPORTS

3. FIVE YEAR CAPITAL IMPROVEMENT PROGRAM

Project Engineer Qishta presented the staff report. He provided a brief explanation of the purpose of a Capital Improvement Plan. The Capital Improvement Plan is a short-range, five year plan, which identifies capital projects, provides a planning schedule, and identifies options for financing the program. Staff went over the capital projects identified in the plan presented to the Planning Commission.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

Chair Humphreville said that he was concerned about the implications of doing work on Black Rock Canyon road without also putting in flood control measures. Staff explained that the original estimate for repairs was over $600,000, much of which was due to the cost of the flood control measures. The flooding issue is a serious concern, and engineering is currently working on solutions. Chair Humphreville is concerned that maintaining that road as a gravel road without additional flood control measures will cause problems. Chair Humphreville also said that construction of the Safe Routes to School improvements on only one side of the street is better than nothing.

Commissioner Whitten asked about tiered catch basins at Black Rock Canyon. Staff said that basins are probably not a practical solution in this case. Commissioner Whitten agreed that improving one side of Sage Avenue for Safe Routes to School is better than nothing, but suggested that some money be set aside in the future to improve the upper end of Sage Avenue. He also asked if we had ADA park facilities, particularly playground equipment. Staff replied that Miracle Field is specifically designed for ADA access and that Staff believed that the playground equipment selected for the Brehm Park is ADA accessible. He also suggested that the Town might look into Rino Snot, a soil stabilization and dust abatement product, for use on Black Rock Canyon Road to increase its durability.

Commissioner Bridenstine asked if the Town was actively looking for new grants, particularly any federal grants, to help provide future funding. Staff replied that the Town was.

Commissioner Drozd asked about the signal synchronization project. He asked if signs informing drivers that the lights are synchronized had been considered as part of that project. Staff said that they would look into it.

Commissioner Lavender had no comments on this issue.

MOTION

Chair Humphreville moved that the Commission find the project except from CEQA in accordance with Section 15378(b)(4) and Section 15061 (b)(3), and that the Commission recommends to the Town Council that they adopt the Five Year Capital Improvement Plan for Fiscal Years 2014/2015 through 2018/2019. Commissioner Bridenstine seconded, and the vote passed unanimously.

STAFF REPORTS AND COMMENTS:

Staff provided an overview of the status of current land development projects.

COMMISSIONER REPORTS AND REQUEST:

1. Commissioner Drozd thought it was great that everyone came to the meeting. The process shows that the Town listens to its residents. The Alleyway improvement is an example of something that was brought up by public comment in a meeting. Thanks to everyone for their hard work.

2. Commissioner Lavender thought the meeting was interesting.

3. Commissioner Whitten thanked staff and the Commissioners. He approves of the volunteerism he has seen. In honor of Memorial Day, he thanked the veterans for their service. He also thinks that workshops are great, and that they need to balance the Home Occupation Permit regulations to what is best for the community not just a small group.

4. Commissioner Bridenstine thanked staff and thanked the public for showing up. She said that they may not be able to solve all of the problems associated with Home Occupation Permit regulations, but it is a balancing act to try and solve as many as possible. It is important to have the public bring forth all the issues. The Commission will have to do their best.

5. Chair Humphreville said that a home occupation ordinance is not going to be able to resolve a dispute between two individuals. He believes that the Commission needs to get the Home Occupation Permit regulations done.

ANNOUNCEMENTS:

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, June 10, 2014.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:34

Respectfully submitted,

Allison Brucker
Secretary

TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
June 10, 2014

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were Bridenstine, Drozd, Lavender, Whitten and Chair Humphreville.

The Pledge of Allegiance was led by Chair Humphreville.

Chair Humphreville moved to approve the agenda. Commissioner Whitten seconded, and the motion passed unanimously.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

PUBLIC HEARINGS

1. **HOME OCCUPATION PERMIT, REQUEST FOR RENEWAL/APPROVAL, HOP 01-11 HOP 02-14, ZORAWICKI EXEMPT FROM CEQA UNDER SECTION 15301, CLASS 1, EXISTING FACILITIES 84.0635 (b) SPECIAL USE PERMITS MAY BE ISSUED FOR LIMITED TIME PERIODS. NEW APPLICATIONS MAY BE REQUIRED FOR SPECIAL USE PERMIT RENEWAL.**

The staff report was presented by Deputy Town Manager Stueckle. He provided an explanation of the home occupation and the location of the requested renewal. The request is for the renewal of a Home Occupation Permit for the assembly of firearms that are purchased in kit form, and the buying and selling of firearms to the public from a single family home. The home is located in an area zoned for rural living with a five acre minimum lot size, and the surrounding lots are either single family residences on five or more acres, or vacant land. Clients visit the residence by appointment only. The applicant is requesting to be allowed three client visits a day, which is less than the five visits permitted by the ordinance. The applicant is requesting business hours of 3 to 6PM. The storage area related to the business is 17% of the floor area. The permit was originally approved in March 22, 2011, and the home occupation was issued renewals at the director level in 2012 and 2013. All business registrations and state and federal licensing requirements are current, and there have been no complaints associated with this home occupation. At the time that the staff report was written, no comments on this issue had been submitted, but one comment has been submitted subsequently and distributed to the Planning Commission. There were also additional conditions added to the conditions of approval, including annual proof of an active alarm system, all doors and windows being equipped with glass break alarms, and that the applicant's home address shall not be used in any type of advertising or business promotion.

Staff recommended that the Planning Commission find the project exempt from CEQA, and approve the renewal of the Home Occupation Permit as recommendations A and B. Staff also provided the alternative recommendations that the Planning Commission either approve the continued operation of the Home Occupation Permit until such time as the Town Council acts upon the draft Home Occupation Permit regulations and directs staff to return the project to the Planning Commission following Town Council action on the draft regulations, or that the Planning Commission continue the public hearing based on the need for additional information.

After the presentation of the staff report Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- Jonathan Zorawicki, the applicant, said that the security and safety of the Morongo basin were his primary concern with regards to his business. He is selective with his customers, and exceeds all safety requirements. His business has all of the same safety features that large businesses are required to have. Chair Humphreville asked if Mr. Zorawicki had any issues with the additional Conditions of Approval. Mr. Zorawicki said that he did not have any problems with the conditions.

- Mike Reynolds, Yucca Valley, spoke in support of approving the Home Occupation Permit. He said that it is a light use in a rural area, and it is kept clean.

- Susan Simmons, Yucca Valley, said that the Zorawicki Home Occupation Permit is probably fine because it is on a five acre rural lot. She also said that gun sales should not be allowed in smaller lot sizes.

- Margo Sturges, Yucca Valley, said that she thought that gun sales on lots of five acres or more should be allowed but not on smaller lots, and she spoke in support of approving the Zorawicki Home Occupation Permit.

- David Cooper, Yucca Valley, spoke in support of approving the Zorawicki Home Occupation Permit. He also said that there is no reason to limit firearm sales to lots five acres or larger, as smaller lots would still be need to meet the same safety requirements.

- Bonnie Brady, Yucca Valley, said that there is a nationwide problem with firearms. She said that she doesn't see a problem with the renewal of the Home Occupation Permit given the safety measures and its location on a rural five acre lot.

- Fritz Koenig, Yucca Valley, said that firearm sales should not be allowed in residential areas.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Commissioner Drozd said that he saw no reason to delay the renewal of the permit, and that he was in favor of accepting staff's recommendations A and B.

Commissioner Lavender said that he doesn't think gun sales belong in residential areas. He believes there are too many guns in America. He also said that some provisions might be made for large parcels such five acre lots.

Commissioner Bridenstine said that the issue was not about gun control, and it wasn't the Commission's place to decide which types of guns are safe. She said it was an issue of a business permit. There is nothing in our current ordinance which would prohibit this home occupation, and given that there have been no complaints and the applicant has agreed to additional conditions to improve safety, she said she supported approving the Home Occupation Permit as described in staff's recommendations A and B.

Commissioner Whitten said they need to look at the application based on its own merit, and it had to be weighed against the current ordinance. The applicant has agreed to additional conditions to enhance security. He also asked staff about the renewal period. Staff said that the renewal period is one year, but that the Commission had discretion to modify that period. Commissioner Whitten said that he was in favor of the renewal of the Home Occupation Permit.

Chair Humphreville said that he respects the anti-gun opinion, but he believes the community feels that we are over regulated at it is. Chair Humphreville also said that, given that the business has had no complaints and that Mr. Zorawicki neighbors support his business, he would recommending renewing the permit for a period of two years.

Commissioners Whitten, Bridenstine, and Drozd said that they would support renewing the permit for a period of two years.

MOTION

Commissioner Whitten moved that the Planning Commission find the project exempt from CEQA pursuant to Section 15301 Class 1, existing facilities, and that the Planning Commission approve the Home Occupation Permit, HOP 02-14 based upon the information contained within the staff report, all evidence presented at the public hearing, and the required findings for a period of two years, expiring on June 10, 2016, unless a request for renewal and related approval are obtained prior to that date. Chair Humphreville seconded the motion. Motion carried 5-0 on a roll call vote.

AYES:	Commissioners Bridenstine, Drozd, Lavender, Whitten and Chair Humphreville.
NOES:	None
ABSTAIN:	None
ABSENT:	None

2. HOME OCCUPATION PERMIT REQUEST FOR RENEWAL/APPROVAL, HOP 11-06 HOP 01-14, FALOSSI EXEMPT FROM CEQA UNDER SECTION 15301, CLASS 1, EXISTING FACILITIES 84.0635 (b) SPECIAL USE PERMITS MAY BE ISSUED FOR LIMITED TIME PERIODS. NEW APPLICATIONS MAY BE REQUIRED FOR SPECIAL USE PERMIT RENEWAL

The staff report was presented by Deputy Town Manager Stueckle. This project is a request for a renewal/approval of a Home Occupation Permit for an artist studio within an accessory structure of an existing single family residence. The home occupation will also include outdoor activity within a 53' X 58' screened area that encompasses the studio building. The property in question and its surrounding lots are zoned rural living, five acre minimum, and are signal family residences or vacant land. Staff said that the Home Occupation Permit was first approved in December of 2005. Renewals were issued in 2009 and 2013, and the business registration was kept current. There had been no complaints associated with this property prior to the renewal in November 2013. The Town received its first complaint on this property was received on December 16, 2013.

Staff then provided a brief overview of places in the development code where the language was seeming contradictory, for the Planning Commission to consider. Staff also provided some modified Conditions of Approval for this Home Occupation Permit, which were drafted after the staff report was written. Those changes included:

- modifying COA 1 to include the language "to include outdoor activity within a 53' x 58' screened area that also encompasses the workshop building;"
- modifying COA 10 to include the language "except for architectural or similar stone;"
- modifying COA 16 to change the number of customers allowed from five per day to two per week;
- modifying COA 17 to read "All employees of the home occupation, except one (1), shall be members of the resident family and shall reside on the premises provided all the required findings can be made, in all RS land use districts. All employees of the home occupation, except two (2), shall be members of the resident family and shall reside on the premises provided all the required findings can be made in all RL land use districts. The applicant must demonstrate that the lot can accommodate the parking of all personal and employee vehicles on site;"
- modifying COA 18 to read "Up to thirty-five percent (35%) or five hundred (500) square feet, whichever is greater, of the total floor area of the dwelling unit and the related accessory structures may be used for storage of material and supplies related to the use;"
- modifying COA 20 to change the hours of operation to 8AM to 5PM;
- modifying COA 21 to include "The use of a rental crane or forklift is permitted a maximum of six times per year;"
- and adding COA 22, which will read "The applicant shall be permitted to participate in public art tours as they occur in the Morongo Basin."

Staff recommended that the Planning Commission find the project exempt from CEQA, and approve the renewal of the Home Occupation Permit for the period of one year as recommendations A and B. Staff also provided the alternative recommendations that the Planning

Commission either approve continued operation of the Home Occupation Permit until such time as the Town Council acts upon the draft Home Occupation Permit regulations, and directs staff to return the project to the Planning Commission following Town Council action on the draft regulations, or that the Planning Commission continue the public hearing based on the need for additional information.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- David Fallosi, the applicant, said that he was there to ask for an update and clarification of his Home Occupation Permit. He said he has had his art studio on their rural two and a half acres lot in Yucca Valley since 1989, and art studios were exempt from permit at that time. The neighborhood has been important to him, and he has been active in helping to maintain neighborhood signs and roads. He also clarified that he does not sell art supplies, and does not have a gift shop, museum or welding shop. He said he participates in a limited number of events a year, exhibiting and delivering his artwork to collectors after these events. He said he completes 95% of his sculptures inside his workshop, but uses the enclosed fence area for assembly, storage and occasional carving. He doesn't use trucking companies to ship his artwork from his home, have scheduled deliveries, or violate the noise ordinance. He uses a rental crane or forklift to move finished large sculptures or stones one or twice a year. Any welding associated with the sculptures is preformed off site. He is requesting reasonable conditions of approval, and is the only artist in town with a Home Occupation Permit.

- Dennis Pask, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He is a neighbor of Mr. Fallosi and said he was speaking on the behalf of other in his neighborhood. He said that Mr. Fallosi is an excellent neighbor and causes no trouble with his business.

- Edward Tucker, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He said that he has been a neighbor of the Fallosi family for over 20 years, and in that time there has never been a problem with excessive noise or traffic. He said that the property was well maintained and that the business was well camouflaged.

- Chris Bolin, Twentynine Palms, spoke in opposition of the approval of the Home Occupation Permit. He believes that there is favoritism and that acid runoff has killed nearby vegetation.

- Adam Fallosi, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He said that the practice of artistry has not had a negative impact on the neighborhood.

- Janice Pask, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. They are neighbors of the Fallosi's, and said that they have had no problems with dirt from vehicles.

- Ernie Saenz, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He has been Fallosi's neighbor for two years and hasn't had any problems.

- Teresa Judd, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. She objected to statements at a prior meeting that said that Fallosi should have a commercial space.

- David Cooper, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He suggested that Fallosi should be grandfathered in given that he started his home studio ten years before the town incorporated.

- John Barriage, San Diego, submitted a written report to the Commission. He said that he believes that there is no specific allowance in the ordinance for outdoor activity or use of an accessory structure in a home occupation. He also believes that the use is an industrial use and not a commercial use, so it should not be allowed.

- Fritz Koenig, Yucca Valley, objected to the procedures of the meeting. He objected to the fact that information was suppressed from release by a court order and not included in the packet and that information was redacted. He also felt that staff had impeded his ability to record the meeting.

- Robert Dunn, Yucca Valley, spoke in support of the approval of the Home Occupation Permit. He agreed with Mr. Cooper that it should be grandfathered in.

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Deputy Town Manager Stueckle clarified that, based upon staff's conversations with the applicant, approximately 95% of the business activity taking place occurred indoors and 5% occurred in an enclosed outdoor area. Since 1989 there have been seven sculptures of a large enough size that they had to be worked on outdoors. Ordinance 178 is clear that accessory structures are included in the calculation of space allowed for storage as the regulations are written today. Staff has previously identified in discussions of the HOP regulations that the ordinances is not completely clear on the intent of outdoor activities. There is language in the ordinance that implies that outdoor activities will be ongoing. Staff did not feel that grandfathering existed in this particular case. He also stated that staff had not impeded the public's ability to record the meeting, and had provided an area for video equipment. He also stated that Mr. Koenig had received information from the Town Attorney regarding the court order, and that the action taken in redacting

information was directed by the Town Attorney's office and based upon court records. He also stated that this is a land use issue and not related to civil matters.

Chair Humphreville asked the applicant, Mr. Fallosi, if he had any objections to the additional conditions provided by staff. Mr. Fallosi said that he had no objections.

Commissioner Bridenstine asked about rumors that Mr. Fallosi intended to enlarge his business and add a gift shop. Mr. Fallosi said that they were false. His business is limited to the amount of art he can generate. He said he had no intent to expand his business or open a gift shop.

Commissioner Whitten asked what his average sales per year were. Mr. Fallosi said that it varies and can be just a few or up to 30. On average he has between 12 to 30 sales per year.

Commissioner Lavender said that they should change the ordinance to make it easier for Mr. Fallosi to do business. He said that what they were doing what creating a double standard, one for artists and one for everyone else. He believes it creates a precedence if we make an exception for artists. Mr. Fallosi said he was currently the only artist with a Home Occupation Permit, and if the Town wants more artist to have Home Occupation Permits, they should streamline the process to make it easier for artists to operate in Yucca Valley. The Planning Commission should not try and regulate the type of art created and instead should just look at the land use and what is decent and reasonable.

Commissioner Lavender said that because Mr. Fallosi is successful and prominent in the community he should have a commercial space. Mr. Fallosi said he could say the same of Mr. Lavender, who runs a successful business from his home.

Commissioner Whitten asked if Mr. Fallosi has participated in the Morongo Valley art tour. Mr. Fallosi replied that he hasn't participated in the past, but he was asking to be allowed to participate in the future. Mr. Fallosi said that he believes the current regulations would keep an artist with a Home Occupation Permit from being able to participate in the art tours.

Mr. Fallosi additionally stated that he had just purchased the property directly to the south of his, so it would not be effected by the land use. He also said that, because of the nature of the area and the need to maintain the roads, people frequently brought in equipment to do work. He submitted a photo of equipment on a nearby property to the Planning Commission.

Chair Humphreville opened the floor for the Commissioners to ask the staff questions. Chair Humphreville asked for clarification on the purpose of having both the Conditions of Approval item 3 and 11, as they seemed repetitive. Staff provided clarification.

Commissioner Bridenstine asked if it was staff's opinion that the outdoor activity that is currently taking place is implied by the current ordinance. Staff said that it was, and that was why staff has asked the commission to consider that issue with regards to Home Occupation Permits.

Chair Humphreville called a recess at 7:41.

RECESS

Chair Humphreville reconvened the meeting at 7:47

Commissioner Drozd stated that this is a complicated issue, but the Commission is just looking at the Home Occupation Permit. He said that it is not an unreasonable request for a Home Occupation Permit, and that he supports it, but there are some issues that need to be discussed.

Commissioner Bridenstine said that it was ironic that rock storage is an issue and Boulder Ridge. She said that we need to take into account the current ordinance. Commissioner Bridenstine said that Commissioner Lavender had stated that the Commission was making special rules for this home occupation, but she doesn't see it. The applicant is requesting fewer visitors and shorter hours than what is currently allowed by the ordinance. She doesn't see any reason to deny this request.

Chair Humphreville said that this type of business was the intent of the ordinance, and individuals who are opposed to a business can always find some kind of language to argue against. Chair Humphreville asked staff the approximate cost of the time and resources staff has spent on this project. Staff replied that approximately $3,500 to $3,700 in person hours had gone into this project. Chair Humphreville said that he didn't want to see Home Occupation Permits that do not have legitimate issues creating those kinds of costs for the town. For that reason, he suggested renewing the Home Occupation Permit for three years. He said that he has received dozens of calls in support of this home occupation.

Commissioner Whitten said that he likes this Home Occupation Permit, and it provides culture to our community. He also noted that if this activity was done as a hobby it would be allowed under the current ordinances. He said that he doesn't think that the permit should be approved for a renewal of three years, but would support a renewal for a period of two years.

Commissioner Lavender said he wanted to respond to some comments that had been made about thirty truckloads of rocks being dumped on the road way on a neighboring property. He clarified that only three loads of rocks had be dumped where they encroached on the road intersection, and the rest had been placed further in on the property. He said he would like more time to consider this issue.

Commissioner Drozd said that he would like to clarify that when he said he would approve the permit for one year it was because, while he is all for changing the Town ordinance for Home Occupation Permits to a period of three years, he doesn't want to jump the gun before the ordinance changes.

Commissioner Bridenstine said that she thinks that the Planning Commission set the precedent for a renewal for two years during this meeting.

Chair Humphreville said that he would be fine with a renewal for two years.

MOTION

Chair Humphreville moved that the Planning Commission find the project exempt from CEQA pursuant to Section 15301 Class 1, existing facilities, and that the Planning Commission approve Home Occupation Permit, HOP 01-14 based upon the information contained within the staff report, all evidence presented at the public hearing and the required findings for a period of two

years, expiring on June 10, 2015, unless a request for renewal and related approval are obtained prior to that date. Motion was seconded by Commissioner Bridenstine. Motion carried 4-1 on a roll call vote.

AYES:	Commissioners Bridenstine, Drozd, Whitten and Chair Humphreville.
NOES:	Commissioner Lavender
ABSTAIN:	None
ABSENT:	None

3. DEVELOPMENT CODE AMENDMENT, DCA 02-14 HOME OCCUPATION REGULATIONS

Deputy Town Manager Stueckle provided the staff report. He provided a brief summary of the history of this item, noting that there had been a prior public hearing on this issue on May 13, 2014 and a public workshop was held on May 27, 2014. It was staff's understanding that there was Planning Commission consensus that the ordinance should be tiered based upon lot size. Staff asked for direction from the Commission.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

- David Cooper, Yucca Valley, said that from a general standpoint he would like to see the Commission relax the standards and extend the time frame for renewal. If all applicants have to go through the process they saw that night, people are either not going to comply or they will choose not move here.

- Margo Sturges, Yucca Valley, said that she believes that Home Occupation Permits should be limited to the home owner. She also said she believed that the requirement that a renter get approval from the landlord had been removed, and that the proposed ordinance would allow large truck signs. She believes that the appeal fee is too high and that multiple houses in the same area should not be allowed to operate the same type of business.

- Fritz Koenig, Yucca Valley, said that he would like agenda items 1 and 2 to be incorporated into the record for agenda item 3. He said that the Town does not inspect Home Occupation Permits each year, and that action is only taken when someone makes a complaint. He also objected to the language allowing the Planning Commission to grant Conditional Use Permits to activities which do not comply with the Home Occupation Permit regulations.

Seeing there were no more individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

Chair Humphreville introduced a discussion of firearm sales as a home occupation.

Commissioner Whitten said that a distinction should be made between home occupations and home based businesses. Commissioners Drozd, Bridenstine, Whitten and Chair Humphreville all said that gun sales should be allowed is some residential zones. There was Commission consensus that firearm sales should be prohibited in multifamily zones. Commissioner Whitten said that he felt that firearm sales should be allowed in RL5 zoning, and didn't think ammunition should be sold on site. Chair Humphreville said that he didn't think firearm sales should be limited to five acre lots, and that if the business was legal and meets the criteria, it should be allowed on half acre lots. He also said that he didn't object to ammo sales as long as it was done as drop shipments and not stored on the property, but he would be ok with restricting it. Commissioner Whitten said he thought firearm sales need the buffer provided by RL lot sizes.

Commissioners Drozd, Bridenstine, and Humphreville said that a half acre or greater lot size might be an appropriate lot size for gun sales. Commissioner Bridenstine clarified that she did not approve of allowing firearm sales, or any traffic generating business, in any of the RS zones, and that they should only be allowed in RL or above. Commissioner Lavender asked about the lot sizes in tracks. Commissioner Whitten said that he thought that firearm sales should be prohibited in RS and RN, but allowed in RL zones. He also said that he liked the additional safety features required in the Zorawicki Conditions of Approval. Chair Humphreville said that the Commission should not try to make standards based on gun size. Staff said they would take the Commission's direction to structure new recommended standards.

Chair Humphreville asked the Commissioners for comments on the purpose section of the draft regulations. Commissioner Whitten said he doesn't want to see any Home Occupations strictly prohibited. He also suggested that staff included language in the draft ordinance adding a sunset clause.

There was a discussion about how to address restrictions in multifamily zones. Commissioner Whitten said he would like to see definitions first and a tiered system. Staff asked if the Commission felt that exempt home occupations which are exempt from permitting should be allowed in multifamily zones. Commissioner Whitten said that he was ok with allowing the occupations listed as exempt allowed in multifamily zones, but would like to see a tiered table. Commissioner Drozd suggested having a set of standards rather than a list of exempt home occupations.

Commissioner Whitten said that he thought that the landlord should have to give approval for a renter's home occupation. Staff said that there was no intent to remove that requirement, and while staff may have missed including that language, getting landlord approval is a requirement of law. Staff said they would include that language.

Chair Humphreville asked for clarification from staff that a business which was listed as prohibited, could be allowed through a Conditional Use Permit. He thinks including a list of prohibited occupations helps clarify what is generally allowed.

Commissioner Bridenstine also suggested getting rid of the list of exempt occupations. There was commission consensus that they would like to see a tiered table.

Staff said that they will take the Commission's direction and work on a new draft of the regulations.

Commissioner Drozd suggested the Commission consider something to address allowing artist to participate in the art tours.

Commissioner Bridenstine said that she likes the tiered idea, and that she would prefer not to add more restrictions, and instead see it taken on a more case by case basis for Conditions of Approval.

Chair Humphreville asked if there were any comments on section G, Review. Commissioner Whitten asked staff if a single Commissioner could appeal a decision made at the Director level. Staff said that is not addressed in the code.

Chair Humphreville introduced a discussion of permit renewal. There was Commission consensus on a renewal period of three years. Commissioner Whitten said that he would like to see an option for extensions. Commissioner Bridenstine disagreed, and pointed out that the staff costs for approving an extension would be comparable to approving a renewal. There was Commission consensus that renewals would happen on the Director level provided that there are no complaints. Commissioner Whitten suggested removing the fee for renewal on permits with no complaints.

The Commissioners had no comments on the sections addressing revocation, or appeals.

Chair Humphreville asked the Commissioners for any general comments they had on Home Occupation Permits.

Commissioner Whitten asked if violation of property maintenance standards was included as a reason for revocation of a Home Occupation Permit. Staff said that being in violation of any code would be a reason for revocation.

CONSENT AGENDA

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENT

- Margo Sturges, Yucca Valley, requested that the minutes submitted to the commission be amended. She felt that the reason for the recess during the May 13, 2014 meeting should be included in the minutes.

CLOSE PUBLIC COMMENT

MOTION

Chair Humphreville moved that the Planning Commission approve the submitted minutes of the meetings held on May 13, 2014 and May 27, 2014. Commissioner Bridenstine seconded. The motion passed unanimously.

COMMISSIONER REPORTS AND REQUEST:

Commissioner Drozd said that it was great seeing everyone at the meeting, but it is difficult to see a divided community. It is important that everyone is heard. He also thanked staff.

Commissioner Lavender apologized for his lack of preparation due to his recent health issues.

Commissioner Whitten thanked the citizens, and he said he appreciates the public coming out. He said that he appreciates what Margo does in the community. He said he would like a public announcement regarding the changed law regarding bicycles. He thanked staff, and said he is looking forward to progressing on the development code.

Commissioner Bridenstine thanked staff for their work, and thanked the public for coming out. She said we are not always going to agree, and that's ok. It take diversity to create a great community. She hopes not to see any more personal vendettas play out in front of the Commission, as it is a misuse of staff and Commission time.

Chair Humphreville thanked staff for their efforts. He said he hopes to complete the Home Occupation Permit regulations.

ANNOUNCEMENTS:

The next regular meeting of the Planning Commission is scheduled for June 24, 2014 and 6:00pm.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:04pm.

Respectfully submitted,

Allison Brucker

Allison Brucker
Secretary

Approved by the Planning Commission on June 24th, 2014.