

Chapter 16.89

COTTAGE FOOD OPERATION PERMIT

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16.89.010 Purpose.

It is the purpose of this Chapter to comply with California State Law Assembly Bill 1616 (AB1616) and Assembly Bill 2297 (AB2297) which allows individuals to prepare and/or package certain non-potentially hazardous foods in private home kitchens, referred to as cottage food operations, and sell directly to the public on- and off-site. The intent of this chapter is to provide a permitting process to allow cottage food operations to comply with AB1616 and AB2297, while protecting the integrity and character of existing residential neighborhoods.

16.89.020 Definitions.

For the purposes of this chapter, the following items are defined as follows:

A. "Class A cottage food operation" means a cottage food operation that may engage only in "direct sales" of cottage food products from the cottage food operation or other direct sale venue.

B. "Class B cottage food operation" means a cottage operation that may engage in both "direct sales" and "indirect sales" of cottage food products from the cottage food operation, from direct sales venues, from off-site events, or from a third party retail food facility.

C. "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.

D. "Cottage food operation" means an

enterprise that is operated by a cottage food operator in a private home, classified as a Class "A" or "B", and has not more than one full-time employee, not including a family member or household member(s) of the cottage food operator, where cottage food products are prepared or packaged for direct or indirect sale to consumers.

E. "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.

F. "Cottage food products" means non-potentially hazardous foods that are prepared for sale in the kitchen of an approved cottage food operation. Foods containing cream, custard or meat fillings are potentially hazardous and are not allowed.

G. "Direct sales" means a transaction between a cottage food operation operator and a consumer, where the consumer purchases cottage food products made by the cottage food operation. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales of food swaps, certified farmer's markets, and transactions occurring in person at the private home where the cottage food operation conducts business.

H. "Indirect sales" 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. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be consumed on the premises.

I. "Planning Director" means the Director of Planning and Economic Development or his/her designee.

J. "Private home" means a dwelling, including an apartment or other leased space, where individuals primarily reside.

K. "Registered or permitted area" means the portion of a private home that contains the private home's kitchen used for the preparation,

L. packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and one additional room within the home that is used exclusively for storage.

16.89.030 Permitting Process.

A. All cottage food operations must comply with the requirements of the San Joaquin County Environmental Health Division and the California Department of Public Health. Applicants must first obtain a Cottage Food Operation Class A or Class B Permit from the county prior to submitting an application for a cottage food operation permit under this chapter. A copy of a valid county Class A or Class B permit must be furnished with the application to the Planning Department.

B. An application to operate a cottage food operation shall be submitted on forms provided by the Planning Department. Upon submittal, the Planning Director may require additional information to show full compliance with this chapter and other regulations of the City.

C. When the cottage food operator is not the owner of the residence where the business will be conducted, the property owner's written authorization shall be submitted with the application for a cottage food operation.

D. A fee, as specified by resolution of the City Council is required with the application. The applicant has the right to request a fee verification for any fee paid pursuant to this chapter. (See California Government Code Section 51035).

E. Applications for a Cottage Food Operation shall be acted upon within thirty (30) days of submittal of a complete application. Upon submittal of a completed application, the Planning Director may approve the application, subject to the provisions of this chapter. If the application does not comply with the minimum provisions, the Planning Director may approve in modified form to comply with the provisions of this chapter, or deny the application. Any action of the Planning Director may be appealed to the Planning Commission as outlined in

Chapter 16.08.060 of this code.

F. Approvals granted to operate a cottage food operation may be revoked by the City at any time if such use is found to be in non-compliance with provisions of this chapter.

G. Cottage food operation permits shall be valid for a period of two (2) calendar years. Cottage food operation permits shall date from the first day of January, regardless of the date in which the permit is issued.

16.89.040 Standards of Operation

Cottage food operations shall be permitted in all single or multi-family residential zones and shall be subject to the following conditions:

A. No cottage food operation shall be allowed to operate without first securing all required permits and approvals from the San Joaquin County department of public health and the City of Ripon.

B. Permitted cottage food products that may be produced at the residential dwelling as part of the cottage food operation are limited to those cottage food products listed by the California Department of Public Health.

C. Employees. Not more than one full-time employee, paid or voluntary, not including an immediate family member or household member(s) of the cottage food operator, shall be employed by the cottage food operation.

D. Visitation and deliveries incidental to the cottage food operation are limited to no more than sixteen (16) visits per day and the hours of seven (7) a.m. to seven (7) p.m., Monday through Friday, and are not permitted on Saturdays, Sundays or holidays. This subsection applies to deliveries made by commercial vehicles, as defined in Chapter 10.44 of this code, as well as deliveries made by non-commercial vehicles.

E. Cottage food functions including storage, preparation, mixing, assembling, packaging, labeling, or direct sales must occur only within the permitted area.

F. Only cottage food products produced at the cottage food operation may be sold or sampled at the dwelling unit.

G. No sit down dining or meal service other than the brief sampling of the cottage food products produced on the premise is permitted.

H. The establishment of the cottage food operation may not change the principal residential character of use of the dwelling unit involved.

I. No exterior alteration may be made to the dwelling unit for the purposes of use by the cottage food operation that would change the residential character of the dwelling.

J. No signs identifying or advertising the cottage food operation are permitted on the premises, except those required by government agencies.

K. Placement/Spacing of cottage food operations. No cottage food operations may be located within 300 feet of the property line of any single family home where another cottage food operation is located; or no cottage food operation shall be located within the same building of an apartment complex or other multi-family housing development (i.e. condominiums or townhouses) where another cottage food operation exists.

L. The cottage food operation must comply with all applicable inspection requirements.

M. Cottage food operations may not create noise levels in excess of those allowed by this code in the applicable zone in which the dwelling unit is located.

N. Size requirements. Cottage food operations shall occupy no more of a residence than the lesser of: 1) 30 percent of the floor area of the dwelling excluding garage area; or 2) The area permitted by the San Joaquin County department of environmental health food safety division.

O. No outdoor sales shall be allowed at the site of the cottage food operation.

P. Parking requirements for cottage food operations:

1. No vehicles, trailers (including pick-up trucks and vans) or other equipment, except those normally incidental to the residential use,

may be kept on the site or in the near vicinity in a manner that obstructs the free flow of traffic.

2. Commercial vehicles, as defined in Chapter 10.44, may not be kept permanently on the site or in the near vicinity to the cottage food operation unless engaged in the delivery of goods or services to the cottage food operation.

3. For single family homes, the cottage food operation shall not occupy any required parking for the private home.

4. For multi-family developments, the cottage food operator's designated space(s) must be available for the actual parking demand created by the use, including parking spaces for the applicant's and applicant's family members' vehicles, and a parking space for an employee if an employee is present. On-site parking in an apartment complex or other multi-family residence requires written consent from the property owner, landlord, homeowners association or property manager.

5. All applicants must demonstrate reasonable on-street parking within a 300 foot radius of the residential dwelling. On-street parking spaces may be used for persons picking-up and/or delivering materials for the operation, third party retailers, and customers if direct sales the property are proposed.

6. Deliveries and customer visitations to the cottage food operation may not unreasonably interfere with the free flow of traffic in the residential zone.

Q. Cottage food operations are subject to all residential zoning requirements set forth in this code, so long as such zoning requirements are not in conflict with the provisions of this chapter. Cottage food operations may not engage in any activity that would result in a violation of this code or any local, state or federal law or regulation.

R. In addition to a cottage food operation permit, cottage food operations must obtain all applicable permits, licenses, and certificates required for the operation of a business under this code. Cottage food operation permits are non-transferable to another person, location,

type of food sales, distribution activity or time period of activity.

S. Cottage food operations must at all times comply with the restrictions on gross annual sales as set forth in California Health and Safety Code Section 113758. Cottage food operators must at all times maintain applicable tax returns or other proof of gross annual sales for the cottage food operation, and must promptly provide such documentation to city officials upon request.

T. There shall be no outdoor storage of goods or materials visible from off-site.

U. Additional conditions relating to concentration, traffic control, parking, noise and odor control may be imposed as deemed necessary by the Planning Director.