



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only: Case No. ZRA-174 Date Filed: 1-9-17

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: To add a definition for Cottage Food Business to Section 103.0: Definitions and a new Cottage Food Business use to Section 128.0.C.1 of the Home Occupations section of the Supplementary Zoning District Regulations.

Blank lines for additional information.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Mary Kay Sigaty, Councilperson

Address 3430 Courthouse Drive, Ellicott City, MD 21043

Phone No. (W) 410-313-2001 (H)

Email Address mksigaty@howardcountymd.gov

2017 JAN -9 PM 1:28 HOWARD COUNTY COUNCIL RECEIVED

3. Counsel for Petitioner Paul Johnson, Esq.

Counsel's Address 3450 Courthouse Drive, Ellicott City, MD 21043

Counsel's Phone No. 410-313-2101

Email Address PJohnson@howardcountymd.gov

Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed The Howard County Economic Development Authority brought to my office the plight of several County residents who were seeking to sell cottage food products to the public on at farmers' markets. The residents prepare cottage food products at home and sell them to the public at fairs, bazaars, and farmers' markets. The State of Maryland, through the Department of Health and Mental Hygiene (DHMH), currently allows and regulates Cottage Food Businesses (COMAR 10.15.03.27). This proposed change to the Zoning Regulations will allow Cottage Food Industries to exist as Home Occupations, which would legitimize the use and foster micro-enterprises in the County.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County PlanHoward 2030, in Chapter 6 entitled “Growth”, has POLICY 6.4 – “Ensure that the County continues to capture future job and business growth opportunities.” Policy 6.4 also has two Implementing Actions A and B which call for “a. **Economic Development.** Partner with the Economic Development Authority to develop County policies and programs to implement the County’s Strategic Plan for Economic Development.” and “b. **Zoning Regulations.** Update zoning and other regulations to address the evolving commercial and industrial markets and development trends.” This policy, along with the two Implementing Actions, capture the plight of cottage food preparers seeking to legitimately operate in the County.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled “Response to Section 5”]

6. The Legislative Intent of the Zoning Regulations in Section 100.0.A. expresses that the Zoning Regulations have the purpose of “...preserving and promoting the health, safety and welfare of the community.” Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.0.A. The General Plan also states (on page 52) that “In 2009, about 83% of all jobs in the County were wage and salary jobs, while the remaining 17% were proprietor or self-employed. Proprietors increased by 42% from 2001 to 2009, a larger increase than the 9% increase in wage and salary jobs. This trend is likely to continue as both **home-based** and small businesses continue to prosper due to technological innovation and the changing economy.” Thus, it is imperative for the County to create policies and regulations that allow micro-business such as Cottage Food Businesses to thrive.

[You may attach a separate document to respond to Section 6. If so, this document shall be titled “Response to Section 6.”]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . The adoption of the proposed amendment allows citizens to legally pursue a supplemental source of income while adding a diversity of products available at farmers’ markets. In addition, this zoning change will allow Howard County residents to take advantage of the State law that is currently denied to them.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled “Response to Section 7.”]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Development, no. Use, yes. _____

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

By creating the new Cottage Food Business Home Occupation, theoretically, any dwelling that can meet the criteria for Home Occupations enumerated in the Zoning Regulations can qualify for the proposed use.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. ____

For more information, see the attached DHMH memo entitled, "Memo providing Guidance of Cottage Food Businesses."

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in **[[Double Bold Brackets]]**. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

MARY KAY SIGATY
 Petitioner's name (Printed or typed)

Mary Kay Sigaty 1.9.17
 Petitioner's Signature Date

 Petitioner's name (Printed or typed)

 Petitioner's Signature Date

 Petitioner's name (Printed or typed)

 Petitioner's Signature Date

Paul Tyburn 1/9/17
 Counsel for Petitioner's Signature

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night..... \$510.00*

* **The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.**

APPLICATIONS: One (1) original plus twenty (24) copies along with attachments.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: _____

AFFIDAVIT AS TO CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, _____, the applicant in the above zoning matter
_____, HAVE _____ HAVE NOT
made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a
candidate or the treasurer of a political committee during the 48-month period before application in or
during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final
disposition of the application by the County Council shall be disclosed within five (5) business days of
the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the
contents of the foregoing paper are true.

Printed Name: _____

Signature: _____

Date: _____

PETITIONER: _____

DISCLOSURE OF CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR
PARTY OF RECORD: _____

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Printed Name: _____

Signature: _____

Date: _____

PETITIONER: _____

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, _____, the applicant in the above zoning matter

_____, AM _____ AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: _____

Signature: _____

Date: _____

Attachment A

SECTION 103.0: - DEFINITIONS

C.

COTTAGE FOOD BUSINESS: A BUSINESS THAT PRODUCES OR PACKAGES NON-HAZARDOUS FOOD PRODUCTS IN A RESIDENTIAL KITCHEN AND OFFERS THESE PRODUCTS FOR SALE ONLY AT A FARMERS' MARKETS OR PUBLIC EVENT.

SECTION 128.0: - Supplementary Zoning District Regulations

C. Home Businesses

1. Home Occupations

Home occupations which meet the following requirements are permitted accessory uses in all residential zoning districts and in residential land use areas of the multi-use districts. If more than one home occupation is located within a residence or on a residential lot, the requirements given below apply to the cumulative total of all home occupations on the lot.

- a. The total area devoted to home occupations shall not exceed 33% of the gross floor area of the dwelling.
- b. The home occupation shall be located entirely within a dwelling, an existing accessory building, or both.
- c. The home occupation shall not alter the residential appearance and character of the dwelling, accessory building or the lot.
- d. There shall be no exterior evidence, other than a permitted sign, to indicate that the lot is being used for any purpose other than that of a dwelling. Exterior evidence shall include outdoor display or storage, noise, dust, vibration, glare, fumes, odors or extensive parking area.
- e. The unrestricted sale or rental of commodities may not take place on the lot.

Allowed sales related activities include: processing orders by mail, telephone or computer; receiving and mailing merchandise (subject to the limitation on truck deliveries); storage of catalogues, samples, previously ordered merchandise and inventory; office functions such as telephone, computer, and record keeping. In addition, occasional, small volume sales associated with home parties held for the purposes of the display and sale of goods such as cookware, fashion accessories, skin care products, etc. may occur on the site no more than once a month.

- f. A home occupation shall be principally conducted by persons residing in the dwelling. In addition, the following number of nonresident employees and clients may be present on the lot in connection with the home occupation:
 - (1) On a lot 20,000 square feet or larger, no more than three nonresident employees or clients shall be permitted at the same time.

- (2) On a lot smaller than 20,000 square feet which is improved by a single-family detached dwelling, no more than two nonresident employees or clients shall be permitted at the same time.
 - (3) Within a single-family attached or apartment dwelling, no more than two nonresident employees or clients shall be permitted at the same time. The nonresident employees shall work only between 9:00 a.m. and 5:00 p.m. Monday through Friday.
- g. No business-related deliveries by trucks with more than two axles shall be permitted. Parcel post and other similar delivery trucks are permitted.
 - h. Home occupations may include the uses listed below. All repair and refinishing items must be picked up from and delivered to customers.
 - (1) Art or hand craft studios involving the small scale production of non-edible commodities for off-site sales.
 - (2) COTTAGE FOOD BUSINESSES
 - (((2))3) Business services including record transcription, clerical and computer services.
 - (((3))4) Direct sale product distribution (e.g., Amway, Avon, Tupperware, etc.).
 - (((4))5) Internet, mail-order or telephone sales.
 - (((5))6) Dressmaker, seamstress, or tailor.
 - (((6))7) Repair services for products including, but not limited to: computer hardware, clocks, jewelry, cameras, guns, bicycles, small electronics, musical instruments and tools which can be transported in a standard passenger vehicle.
 - (((7))8) Individual or group instruction of up to 6 students at one time in an academic or non-academic subject.
 - (((8))9) Business or professional offices including administrative offices associated with an offsite business.
 - (((9))10) Furniture refinishing of items which can be transported in a standard passenger vehicle.
 - (((10))11) In the RC and RR Districts only, lawn mower, scooter and small engine repair on lots of five acres or larger.
 - i. Uses which require a Conditional Use in any residential zoning district are prohibited as accessory home occupations.
 - j. On an ALPP purchased or dedicated easement property, the following additional criteria are required:
 - (1) The use shall not interfere with the farming operations or limit future farming production.
 - (2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.
 - k. Certain home occupations which do not comply with the requirements of this section may be permitted as a Conditional Use, subject to the provisions of Section 131.0.N.29 and other applicable regulations.
 - l. For home occupations which require Department of Planning and Zoning approval of a federal, state or local permit or license, a home occupation confirmation must be

approved by the Department of Planning and Zoning based on the requirements of this section. The confirmation request shall include a plot plan showing the location and dimensions of structures, parking areas and driveways and a floor plan showing the dimensions and boundaries of the home occupation.



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Larry Hogan, Governor - Boyd Rutherford, Lt. Governor - Van Mitchell, Secretary

Memo providing Guidance of Cottage Food Businesses

This memo provides guidance for allowable foods to be produced and sold from a Cottage Food Business located in Maryland. COMAR 10.15.03 defines a cottage food as a business that a) Produces or packages cottage food products in a residential kitchen; and b) has annual revenues from the sale of cottage food products in an amount not exceeding \$25,000. Additionally, it further defines a Cottage Food Product as being a non-potentially hazardous food as specified in COMAR 10.15.03.27 that is offered for sale only at a farmer's market or public event. The following are examples of foods that may be permitted for sale from a Cottage Food Business.

Examples of Allowable Foods that may be produced under COMAR 10.15.03.27 Farmer's Market, Bake Sales, and Cottage Food Business:

- Breads and Pastries without potentially hazardous topping or fillings:
 - Pies, turnovers, and fruit tarts from fruits with a natural pH of 4.6 or less
 - Baked bread, biscuits, and muffins
 - Cakes and cupcakes
- Canned acid foods such as:
 - Fruit Jelly, jam, and preserves from the fruits with a natural pH of 4.6 or less
 - Fruit butters from apple, apricot, grape, peach, plum, prune, quince
- Popcorn/Kettle Corn
- Granola
- Repackaging of commercially processed dry ingredients (i.e. spice blends)
- Chocolate confections made from commercially manufactured chocolate (i.e. Chocolate covered pretzels). **Chocolate covered fresh fruits are prohibited.**
- Candy such as lollipops, gummy bears, or fruit leathers with a natural pH of 4.6 or less
- Raw Unflavored Honey

If the above foods are produced under the cottage foods regulation these products may only be sold at a farmers market or public event (Internet sales as well as interstate sales are prohibited) and the operator must:

- Pre-package all products at the cottage food business
- Provide a label that contains the following information:
- The name and address of the cottage food business;
- The name of the cottage food product;

201 W. Preston Street, Baltimore, Maryland 21201
410-767-6742 • Fax 410-333-5995

Environmental Health Bureau

6 St. Paul Street, Suite 1301, Baltimore, Maryland 21202
410-767-8400 • Fax 410-333-8931

Toll Free 1-877-4MD-DHMH

TTY for Disabled Maryland Relay Service 1-800-735-2258

Web Site: <http://phpa.dhmh.maryland.gov>

- The ingredients of the cottage food product in descending order of the amount of each ingredient by weight;
- The net weight or net volume of the cottage food product;
- Allergen information as specified by federal labeling requirements;
- Nutritional information as specified by federal labeling requirements, if any nutritional information claim is made
- Printed in 10 point or larger type in a color that provides a clear contrast to the background of the label:
“Made by a cottage food business that is not subject to Maryland’s food safety regulations.”

It is our intention that each approving authority will enforce and regulate these business consistently and uniformly as stated in the regulations. If you should have any questions, please contact the Office of Food Protection at (410) 767-8400.