

Zoning Changes proposed by Berkeley Edible Gardens Initiative
(changes are underlined)

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTIONS 23C.16.030 AND 23F.04.010
TO ESTABLISH SALE OF NON-PROCESSED EDIBLES HOME OCCUPATION USE AND THE
DEFINITION OF NON-PROCESSED EDIBLES

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 23C.16.030 is amended to read as follows:

23C.16.030 Moderate Impact Home Occupations Subject to Use Permit

A. A teaching-related home occupation which meets all of the following conditions shall be allowed subject to issuance of an Administrative Use Permit and subject to payment of gross receipts tax pursuant to the City's business license tax ordinance as set forth in Chapter 9.04.

1. Such Home Occupations must:
 - a. Be conducted entirely within the dwelling unit or group living accommodation room;
 - b. Operate within the hours of 10 a.m. and 10 p.m.; and
 - c. Occupy less than 400 square feet and less than 20% of the dwelling unit or group living accommodation room;
2. Such home occupations may not:
 - a. Involve more than four students at a time;
 - b. Involve storage, service, repair, handling or transport of goods or products on or at the subject premises;
 - c. Involve hazardous materials, or processes; or
 - d. Create offensive or objectionable noise, vibration, odors, heat, dirt or electrical disturbance perceptible by the average person beyond that lot line or party walls of multi-unit buildings, or the subject premises.

B. Home occupations involving the sale of fruits, vegetables and other Non-Processed Edibles, as defined in Section 23F.04.010, grown or raised as allowed by the Berkeley Municipal Code, which meet all of the following conditions, shall be allowed subject to issuance of an Administrative Use Permit:

1. Activity relating to the sale of Non-Processed Edibles, grown or raised as allowed by the Berkeley Municipal Code, may occupy no more than 400 square feet or 20% of the dwelling unit or group living accommodation room, whichever is smaller. Sales of Non-

Processed Edibles must take place either indoors or in a location not visible from public or private property.

2. Applicants must present results of a soils test with a lead level no greater than 300ppm, and shall attest that:
 - a. Testing was performed in accordance with City of Berkeley Specifications
 - b. Soils tested are those to be used for growing or raising
 - c. The applicant shall use reasonable care, including additional soils testing if warranted, to assure that any future imported soils used for growing or raising do not exceed 300ppm lead content
3. Sales of Non-Processed Edibles shall take place within the hours of 8 am to 8 pm.
4. Sales of Non-Processed Edibles may not:
 - a. Involve more than 4 customer visits per hour
 - b. Involve storage, service, repair, handling or transport of any goods or products on or at the subject premises, except that fruits, vegetables and other Non-Processed Edibles, other than marijuana/cannabis, grown or raised as allowed by the Berkeley Municipal Code, may be stored, handled and transported on or at the subject premises incidental to such sales
 - c. Involve hazardous materials or processes; or
 - d. Create offensive or objectionable noise, vibration, odors, heat, or electrical disturbance perceptible by the average person beyond that lot line or party walls of multi unit buildings, or the subject premises.

C. All other home occupations that involve customer visits, or products on the subject premises, as set forth in Sections 23C.16.020.B.1 and 23C.16.020.B.2, may be authorized only by a Use Permit and public hearing, and are subject to the payment of gross receipts tax pursuant to the City's business license tax ordinance as set forth in Chapter 9.04. (Ord. 6909-NS § 1 (part), 2006; Ord. 6478-NS § 4 (part), 1999)

Section 2. That Berkeley Municipal Code Section 23F.04.010 is amended to read as follows:

Non-Processed Edibles: Any foods, other than marijuana/cannabis, grown or raised, in their raw or natural state, that have undergone little or no processing. Washing, trimming, bundling, and other handling of otherwise raw or natural foods shall not be considered processing. Individuals engaged in the growing or raising of Non-Processed Edibles are encouraged to employ organic methods.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr.

Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 9.04.230 TO EXEMPT SALE OF NON-PROCESSED EDIBLES HOME OCCUPATION BUSINESSES FROM PAYMENT OF AN ANNUAL LICENSE FEE AND GROSS RECEIPTS TAX

Section 1. That Berkeley Municipal Code Section 9.04.230 is amended to read as follows:

9.04.230 Minimum tax--Real property rental, certain businesses operated from homes, nonprofit organizations, general.

A. Every person commencing, transacting or carrying on the business of renting real property, as defined in Section 9.04.195 of this chapter, shall pay a minimum license fee of seventy-seven dollars for each building, structure, or property subject to licensing.

B. Every person commencing, transacting or carrying on any business in his/her home in a residential zone not as a nonconforming use, whose annual gross receipts are two thousand dollars or less, shall pay an annual license fee of twenty-six dollars. Except that every person commencing, transacting or carrying on the sale of Non-Processed Edibles, as permitted in Section 23C.12.030.B, shall be exempt from payment of an annual license fee and gross receipts tax if annual gross receipts are greater than two thousand dollars.

C. Every nonprofit corporation or association as defined in Section 9.04.305 of this chapter, shall pay a minimum annual license fee of twenty-six dollars.

D. Every person or organization not covered by the provisions of subsections A, B or C of this section, or charged a flat license fee as provided in Section 9.04.235 of this chapter, who maintains an office or operates a business in the City of Berkeley, shall pay a minimum license fee of fifty-one dollars per year, whether or not any gross receipts of such person are derived from or attributable to the business activities by such person in the City of Berkeley.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.