

# Cottage Food Operations

Division of Food Safety

July 2021

Cottage food operations do not require a license or permit from the Florida Department of Agriculture and Consumer Services (FDACS) and are not inspected by any state government entity.

Gross sales for a cottage food operation must not exceed \$250,000 annually. A Cottage food operation may advertise for sale, offer for sale and accept payment for cottage food products on their website or by mail-order. Cottage food products may be sold and delivered directly to the consumer, to the consumer's private event venue such as a wedding or birthday party, or by mail. Sales of cottage food products are prohibited for wholesale.

Cottage food products must be labeled in accordance with the requirements as outlined in Section 500.80(3), Florida Statutes, and United States Code of Federal Regulations Title 21, Part 101.

All cottage food products offered for sale to the general public must be labeled: "Made in a cottage food operation that is not subject to Florida's food safety regulations."

## Quick Reference Definitions

**Cottage Food Operation** means a natural person or an entity that produces or packages cottage food products at the residence of a natural person or at the residence of a natural person who has an ownership interest in the entity, and sells such products in accordance with Section 500.80, Florida Statutes.

**Cottage Food Product** may not be Time/Temperature Controlled for Safety (TCS) Food (formerly "potentially hazardous" food). This means the final product may not be a food product that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation; an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation.

**"Hemp"** refers to the plant *Cannabis sativa L.* and any part of that plant, including the seeds, that has a total delta9-tetrahydrocannabinol (THC) concentration which does not exceed 0.3%

**"Hemp Extract"** refers a substance or compound intended for ingestion that is derived from or contains hemp and does not contain other controlled substances.

*FDACS may investigate any complaint received against a cottage food operation.*



# Florida Labeling Requirements

The cottage food law requires specific labeling requirements for the sale of cottage food products.

A cottage food operation may only sell cottage food products which are prepackaged with a label affixed that contains the following information (printed in English):

- The name and address of the cottage food operation;
- The name of the cottage food product;
- The ingredients of the cottage food product in descending order of predominance by weight;
- The net weight or net volume of the cottage food product;
- Allergen information as specified by federal labeling requirements;
- If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements; and
- The following statement printed in at least 10-point type in a color that provides a clear contrast to the background label: “Made in a cottage food operation that is not subject to Florida’s food safety regulations.”



**A sample is shown below and may assist with developing your cottage food product label.**

**MADE IN A COTTAGE FOOD OPERATION  
THAT IS NOT SUBJECT  
TO FLORIDA’S FOOD SAFETY REGULATIONS**

## **Chocolate Chip Cookie**

Ashley Christopher  
Bryant 1019 Food

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 (milk), Soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.

Contains: wheat, eggs, milk, soy, walnuts

**Net Wt. 3 oz**

# SALES

## **Can I sell cottage food under a permitted or licensed vendor such as a mobile unit, at a farmer's market or another temporary event?**

No. Cottage food products may not be sold with or associated with a regulated food business under the Florida Department of Agriculture and Consumer Services or Florida Department of Business and Professional Regulation. All cottage food products must be sold separately from non-cottage food products.

## **How do I sell my cottage food products?**

You may sell your cottage food products from your residence directly to the consumer. Sales are also approved by mail-order, at farmers' markets, flea markets and roadside stands, provided you have no other food items in your space that require a food permit.

## **If I have a roadside stand that is already inspected and permitted, can I also sell my cottage food products?**

No. A permitted food establishment cannot sell cottage food products since they originate from an unapproved source.

## **Can I use the internet and my website to sell my cottage food products?**

Yes, Florida law allows orders and payments over the internet.

## **Can I sell my cottage food products to restaurants?**

No. Cottage food is not allowed to be sold to local restaurants or grocery stores. These types of sales are considered "wholesale" and are not allowed under the law.

## **Can I place my cottage food products in a store or restaurant on consignment?**

No. Cottage food products cannot be sold on consignment. The sale must be person-to-person which means from the producer to the actual consumer.



## **Can I sell my cottage food products to a wholesaler, broker or distributor?**

No. Under the cottage food guidance document, it is not legal for a producer to sell to a wholesaler, broker or distributor who would then resell the product.

## **Can nonprofit organizations produce and sell cottage food products?**

No. Nonprofits do not have a single-family domestic residence, and therefore do not qualify as a cottage food business.

## **Can I sell my cottage food products for special events such as wedding and birthday parties?**

Yes, provided the cottage food products are produced and sold by the cottage food operator themselves and delivered by the cottage food operator to the specific event venue.

## **The farmer's market where I want to sell my products says I need a food license, even though I am a cottage food business. Can the market require a license?**

Yes. Even though an entity may meet the requirements of a cottage food operation, some farmers' markets or other direct marketing venues may require vendors to have a food establishment license or to meet other requirements. Local policies enacted by farmer's market boards and other local governing bodies are generally outside the scope of any cottage food regulations.

## **Can cottage food products be picked up or distributed by a third party?**

No. Cottage food products must be delivered and distributed directly to the consumer or the consumer's private event venue by the cottage food operator.

## **Can the county or city restrict me from having a cottage food operation?**

No. The regulation of cottage food operations is preempted to the state. A local law, ordinance, or regulation may not prohibit a cottage food operation or regulate the preparation, processing, storage, or sale of cottage food products by a cottage food operation; however, a cottage food operation must comply with all applicable county and municipal laws and ordinances regulating traffic, parking, noise, signage, and hours of retail operation.

## **He lease space in a retail building where I operate a small antique shop. As a cottage food baker, can I sell my own baked goods from my shop under the current Cottage Food Guideline?**

No. Since your small antique store does not meet the definition of a cottage food operation, you would not be able to sell your cottage food products from this type of location.

# PROCESSING LOCATION

## Can I make and sell cottage food products from my motor home kitchen?

No.

## Can I make cottage food products in a rented kitchen and sell them under the cottage food guidelines?

No. Cottage food can only be made in the kitchen of your home.

## Are there any special requirements regarding my home on-site well?

Only potable water from a properly constructed on-site well or municipal water system can be used.

## Are there any concerns related to my home septic system?

Depending on the nature and volume of the food products you will make for sale, there can be adverse effects to the existing system serving the home. The adequacy of the home system to handle additional wastewater loading can be evaluated by the local health department. The health department can advise you if modifications to the existing system may be needed.



# LABELING

## What does allergen labeling, as specified in federal labeling requirements, mean?

It means you must identify if any of your ingredients are made from one of the following food groups: milk, eggs, wheat, peanuts, soybeans, fish (including shellfish, crab, lobster or shrimp) and tree nuts (such as almonds, pecans or walnuts). If you have an ingredient made with a wheat-based product, you can:

- Include the allergen in the ingredient list. For example, a white bread with the following ingredient listing: whole wheat flour, water, salt and yeast. In this example, the statement 'whole wheat flour' meets the requirements of federal law. OR
- Include an allergen statement "Contains: (ingredients contained in the product)" after the ingredient list. For example, a white bread with the following ingredients: whole wheat flour, water, sodium caseinate, salt and yeast will be written as "Contains: wheat and milk." The 'Contains' statement must reflect all the allergens found in the product. In this example, the sodium caseinate comes from milk.

## Are there any special requirements for tree nuts labeling for allergens?

Yes. If your cottage food has tree nuts as an ingredient you must identify which tree nut you are using. For example, if you made nut bread, an acceptable ingredient list would be: Ingredients: wheat flour, water, almonds, salt, yeast. The following would not be acceptable: Ingredients: flour, water, nuts, salt, yeast.

## Am I required to send my products to a laboratory to obtain an official ingredient list, or is it something I can put together on my own?

You are not required to have your product analyzed by a laboratory to obtain an official ingredient list. If you use a prepared item in your recipe, you must list sub-ingredients as well. For example, just listing soy sauce is not acceptable. You would need to list "soy sauce (wheat, soybeans, salt)" on your label. Allergen labeling, as specified in federal labeling requirements, must also be included.

## I am concerned that some of my product ingredients that are not allergens are "trade secrets" and listing all my ingredients would lead to unfair competition. Do I have to list all of my ingredients or can I protect my trade secrets?

According to federal regulations (Food and Drug Administration (FDA), 21CFR 101.100g(1)(2)), exceptions to labeling can be made. In particular, if the Commissioner of Food and Drugs finds that alleged secret ingredients are harmless an exemption may be granted. You should contact the FDA to discuss and propose an exemption from labeling.



## Do I have to include my home address on my product labeling or is a post office box sufficient?

You must use the physical address of your home kitchen on your product label, not a post office box. The purpose of including an address on product labels is in case of a recall or traceback associated with a foodborne illness complaint or outbreak.

## If I make and sell wedding or other specialty cakes, how can I meet the labeling requirements, when I can't stick a label on the cake?

For cakes that are not easily packaged, you must include all labeling requirements on the invoice and deliver the invoice with the cake. If boxed, the label must be included on the box.

# IS IT COTTAGE FOOD?

**Can I make and sell food containing hemp extract as defined in s. 581.217, F.S.? [Please note that this includes CBD, THC or any other compound from the hemp plant.]**

No. Any food containing CBD, THC or any other compound from the hemp plant must be processed in a permitted regulated food facility.



**Can I make homemade icings/frostings from dairy based cream cheeses and/or buttercream (with real butter)?**

No. Cream cheese and butter icings are not allowed to be produced under cottage food. These items require refrigeration due to the high-water content (made from cow's milk) and are considered a TCS food. Margarine (vegetable oils), Shortening (solidified fat), vegan butter/margarine (made with vegetable oils) would be considered permissible.

**Can I make homemade nut butters from ground shelled nuts (peanuts, almonds, cashews)?**

Yes. Ground nuts are not considered TCS, and therefore may be sold under a cottage setting. All applicable allergens MUST be identified on the product's label (see page 2).

**Are pet treats considered cottage food?**

No. The cottage food guidance document applies to human food only.

**Can I produce and sell cooked vegetable products like salsas, tomato sauces, spaghetti sauces, or focaccia bread with roasted vegetables as a cottage food?**

No. Food products made with cooked vegetable products do not qualify under the cottage food guidance document.

**Can I produce salsa, barbeque sauce, mustard and other "wet" products?**

No. These food products must meet significant federal and state requirements.

**Can I roast coffee beans in my home kitchen and sell them?**

Yes. You can roast and sell whole bean coffee or ground coffee; however, you may not sell ready-made coffee and you may not wholesale the product.

**Can I bake bread in a wood fired oven?**

Yes, provided that the oven is in your home kitchen.

**Can I make and sell cake pops?**

Yes, provided the cake pops do not have a filling that is not allowed or inedible decorations (e.g. disco dust).

**Can I make and sell caramel and candy apples?**

Yes.

**Can I make and sell apple butter or other fruit butters?**

Yes. Butters made from fresh fruits are considered cottage food products. Fruit butters have significantly less sugar than a traditional jam or jelly. It is the combination of acid, sugar, pectin and heat that assures the safety of jams/jellies.

**Can I make and sell vegetable butters such as pumpkin butter?**

No. Butters using vegetable are not allowed.

**Can I sell raw honey?**

Yes, but ONLY if you harvest the honey from the hives, package and sell the product yourself.

**Can I purchase bulk honey, repackage and sell the bottles of honey?**

No. This is considered a manufacturing process that requires a food permit from FDACS.

**Can I make and sell pumpkin and sweet potato pies?**

No. Pies using these vegetables are not allowed.

**Can I make vanilla extract?**

Yes. Contact Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco for additional information about alcohol.



**Can I make tinctures?**

Yes. Contact Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco for additional information about alcohol.

**Can I juice produce and bottle them for sale?**

No. Juicing and bottling would require a food permit from FDACS.

**Can I grind wheat and other grains and make them into flour?**

Yes. You may grind any type of grain into flour, provided the packaging and labeling requirements are met.

**Can I make and sell dehydrated meats under the Cottage Food Law?**

No. Dehydrated meats and jerky are not allowed.

**Can I make and sell foods with meat fillings such as empanadas?**

No. Meat products or foods with meat fillings are not allowed.

**Can I make and sell hard candies or lollipops?**

Yes. Hard candies, such as lollipops or peppermint candies are allowed.

**Can I make and sell sweet breads, muffins or other baked goods made with fresh fruits and vegetables like zucchini, pumpkin and strawberries?**

Yes, but only if the fruits or vegetables are incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh fruits or vegetables.

**Can I use homegrown fruits and vegetables in baked goods?**

Yes. You should take care to thoroughly wash the homegrown produce and the fruits or vegetables must be incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh fruits or vegetables.

**Can homegrown produce be canned and used for making baked goods, like sweet breads, at a later date?**

No. Home canned products cannot be used to make cottage food. Commercially canned fillings such as canned pumpkin, cherry pie filling, etc. can be used.

**Can I freeze homegrown produce and use it for making baked goods, like sweet breads?**

Yes, as long as the frozen fruits or vegetables are incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh or frozen fruits or vegetables.

**Can I make and sell dry bread mixes or instant bread mixes?**

Yes. Any kind of dry baking mix such as dry bread mixes are an acceptable product to produce and sell.

**Does my chocolate fountain business qualify as a cottage food business?**

If your business is involved in any processing, preparation and storage of food items, including offsite, this food service business would not be eligible to operate under the cottage food guidance document and would require a food license from the Department of Business and Professional Regulation. If your service is hired to deliver the fountain equipment to the event but the food product is purchased and delivered for each individual event and assembled at the event, it would be considered a cottage food business.



# PREPARING COTTAGE FOODS

## Where can I store ingredients and finished products for my cottage food business?

Ingredients and finished cottage food products must be stored in your single-family domestic residence where the cottage food products are made. This includes your kitchen, a spare room or a basement that is free of dampness/water, pests or other unsanitary conditions. You may not use a garage, shed, barn or other outbuilding as a storage facility for your cottage food business.

## Can I serve free samples of my cottage food products?

Yes. Approved cottage foods for sample must be pre-packaged in your home kitchen (e.g., if you sample bread, you cannot cut it at the market, but can cut it in your home kitchen and individually wrap or package the bread samples into sample cups with lids.) Although you do not need an individual label for each sample, you must have properly labeled packages of your product on display with the samples, so your customer can review the ingredient list.



## What Types of Cottage Foods

### Can I Produce?

Loaf breads, rolls and biscuits

Cakes, pastries and cookies

Candies and confections

Honey

Jams, jellies and preserves made from high acid-fruits ONLY

Fruit pies and dried fruits

Dry herbs, seasonings and mixtures

Homemade pasta

Cereals, trail mixes and granola

Coated or uncoated nuts

Vinegar and flavored vinegars

Popcorn and popcorn balls

Nut butters (including almond, peanut, cashew, etc.)

## What Foods Are Prohibited?

Salsa, barbecue sauces, ketchups and/or mustards

Canned fruits and vegetables, chutneys, vegetable butters and jellies, flavored oils, hummus, garlic dip and salsas

Fish or shellfish products

Canned pickled products such as corn relish, pickles, sauerkraut

Raw seed sprouts

Bakery goods which require any type of refrigeration such as cream, custard or meringue pies and cakes or pastries with cream cheese icings or fillings

Eggs, milk and dairy products including hard, soft and cottage cheeses and yogurt

Cut fresh fruits and/or vegetables. Juices made from fresh fruits or vegetables

Ice and/or ice products

Fresh or dried meat, or meat products including jerky

Focaccia-style breads with vegetables and/or cheeses

Homemade icings and frostings made from dairy based cream cheese and/or butter

Any products containing hemp, hemp extract or CBD derived from the plant *Cannabis sativa L.*

Juicing and bottling produce

## Links:

### LABELING:

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm>

### ALLERGENS

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Allergens/ucm106890.htm>

<http://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/ucm059116.htm>

### 2017 Food and Drug Administration Food Code

<https://www.fda.gov/media/110822/download>

### Chapter 500, Florida Statutes

<https://www.flsenate.gov/Laws/Statutes/2019/Chapter500/All>

### Chapter 559.955, Florida Statutes

<https://www.flsenate.gov/Session/Bill/2021/266/BillText/c2/HTML>

Division of Food Safety

1 800 HELP-FLA

FDACS.gov

## Committee on Regulated Industries

### **CS/HB 663 — Cottage Food Operations**

by Regulatory Reform Subcommittee and Reps. Salzman, Botana, and others (CS/SB 1294 by Rules Committee and Senator Brodeur)

The bill revises the regulations on cottage food operations and cottage food sales. Under current law, a cottage food operation is a natural person who produces or packages cottage food products, defined by the Department of Agriculture as any food that is not a potentially hazardous food, at his or her residence.

The bill allows individual cottage food operations to sell, offer for sale, and accept payment for cottage food products as a business entity. The bill also allows cottage food products to be sold, offered for sale, and paid for by mail order, and permits cottage food products to be delivered by mail.

Under current law, cottage food operations are exempt from food permitting requirements if the cottage food seller complies with s. 500.80, F.S., and has annual gross sales of up to \$50,000. The bill increases the maximum allowable gross sales to \$250,000.

The bill preempts the regulation of cottage food operations to the state. However, cottage food operations must comply with all applicable county and municipal laws and ordinances regulating traffic, parking, noise, signage, and hours of retail operation.

The bill provides that this act may be cited as the “Home Sweet Home Act.”

Under the bill, cottage food operations must comply with the conditions for the operation of home-based businesses under s. 559.955, F.S., which is a provision created by CS/HB 403 to prohibit the licensing and regulation of home-based businesses by local governments. CS/HB 403 also establishes standards for the conduct of a home-based business, including requiring compliance with relevant traffic, noise, and signage requirements. CS/HB 403 was adopted by the Legislature during the 2021 Regular Session. If approved by the Governor, CS/HB 403 takes effect July 1, 2021.

If approved by the Governor, these provisions take effect on the same date that HB 403 or similar legislation takes effect, if such legislation is adopted in this legislative session and becomes law.

*Vote: Senate 30-10; House 90-28*