



July Policy Committee Meeting

July 26, 2019

TOPIC: Cottage Industry Production

Guest: Ann Nyhuis of A Garden's Glory

Do you need a FDAC license or training for your local, artesian product under the Cottage Industry?

Let's have a discussion:

Where to get the knowledge on Florida Cottage Food?

So what's really up with the phrases like "end user" or "not allowed foods" mean to a start up cottage business?

What's mandatory when labeling your cottage products?

How to stay up to date with cottage regulations!

Florida Legislation set guidelines on:

1. Types of cottage food products allowed
2. Limiting where cottage food products can be sold
3. Registration, licenses, permit requirements
4. Limits on sales
5. Requirements on labeling of cottage food products
6. Minimal regulatory requirements and/or licenses on Cottage Foods
7. & much more

YES

SAFETY GUIDELINES FOR COTTAGE FOOD OPERATIONS

Know the difference:

Permitting Food: All food preparation, processing, repackaging and storage must be performed in a permitted establishment

Exempt from Permitting/Cottage Food Operation: Non potentially hazardous foods prepared in a consumers primary residence and sold directly to the consumer from the home, flea market, green market or roadside stand

Approved sale locations

Sell direct to the **end consumer**
from:

Primary residence
Farmer's Market
Flea Market
Green Markets

Prohibited method of sales

Sell direct to the **end consumer**
from:

Wholesale
Restaurants/Grocery stores
Mail order
Consignment

NOTEWORTHY: Specific rules on Internet Sales Exits

Cottage Law allows small time producers

- Single family residence with at least one stove/oven
- To use appliances at home to process & manufacture low risk foods for direct sales to consumers

WHAT'S **NOT** APPROVED UNDER COTTAGE OPERATIONS:

- Permitted facilities
- Garages
- Sheds
- Barns
- Outbuildings
- Summer house

NEED TO KNOW

- ➔ Sell and deliver directly to consumers only: Cottage food products must be sold and delivered directly to the consumer or to the consumer's private event venue such as a wedding or birthday party.
- ➔ No wholesale sales: Sales of cottage food products are prohibited for wholesale.
- ➔ Only within Florida: Cottage food operators can sell cottage foods only within the state of Florida and not across state lines.
- ➔ Mail order: No Cottage food operators may advertise for sale, offer for sale and accept payment for cottage food products on their website but the products are prohibited to be delivered by mail order.
- ➔ Internet sales: Yes. The law allows orders and payments over the internet, however, the cottage food products must be delivered directly to the consumer or to the consumer's private event venue such as a wedding or birthday party.

NOTE: A permitted food establishment cannot sell cottage foods since they are from an unapproved source. For example, you may not sell cottage foods to or at a restaurant.

Cottage Food operations may only sell cottage food products which are prepackaged with a label affixed that contains specific information (printed in English)

Most Cottage Food operations forget this very specific & required labeling statement:

MADE IN COTTAGE FOOD OPERATION THAT IS NOT SUBJECT
TO FLORIDA'S FOOD SAFETY REGULATIONS

This statement should be printed in at least 10 point font type (clear contrast from background to enable easy reading)



KNOW WHEN
A CHANGE
IN BUSINESS
DIRECTION
IS NEEDED

Example:
an addition of a
non-allowable food
ingredient to a recipe



The Cottage Foods that I wanted to handcraft and was allowed to produce under Cottage Food Legislation:

Jams, jellies and preserves

The Cottage Foods I was not allowed to produce:

Salsa, barbecue sauces, ketchups and/or mustards

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

Canned pickled products such as corn relish, pickles, sauerkraut

When you are ready to start, you should call 1-800-HELP-FLA

Ask the experts –

Melissa Durkin, Consumer Services Specialist
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Division of Food Safety
Bureau of Food Inspection
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Their mission is to

“Ensure the safe and wholesome food supply and support Florida’s Food Industries”

Cottage Food Operations

Division of Food Safety

June 2017

Cottage food operations require no 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 \$50,000 annually. Cottage food operators may advertise for sale, offer for sale and accept payment for cottage food products on their website but the products are prohibited to be delivered by mail order. Cottage food products must be sold and delivered directly to the consumer or to the consumer's private event venue such as a wedding or birthday party. 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(5), 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 person who produces or packages cottage food products at his or her residence and sells such products in accordance with Section 500.80, Florida Statutes.

Cottage Food Product means food that is not a potentially hazardous food, as defined by FDACS rule, which is sold by a cottage food operation in accordance with Section 500.80, Florida Statutes.

Residence is defined to mean a primary residence that is occupied by an individual who operates a cottage food operation and that contains a single kitchen with appliances designed for common residential usage. The residence may only contain one stove or oven, which may be a double oven designed for non-commercial use.

Potentially Hazardous Food means a food that requires time/temperature control for safety (TCS) 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.

As a cottage food operator, you are allowed to produce food items that are considered not potentially hazardous.



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 Safety Drive
Tallahassee, Florida 32399

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

What Types of Cottage Foods Can I Produce?

Loaf breads, rolls, biscuits
Cakes, pastries and cookies
Candies and confections
Honey
Jams, jellies and preserves
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, popcorn balls

What Foods Are Not Allowed?

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

SALES

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 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?

No. A permitted food establishment cannot sell cottage foods since they are from an unapproved source.

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

yes, the law allows orders and payments over the internet, however, the cottage food products must be delivered directly to the consumer or to the consumer's private event venue such as a wedding or birthday party.

Can I sell my cottage foods 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 foods 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 foods?

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 foods 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 farmers 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 farmers market boards and other local governing bodies are generally outside the scope of any Cottage Foods regulations.

Can cottage foods 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?

Yes. County, city, and local governments can enact laws restricting a cottage food operation in your home. Check with the licensing agency in your area for details.

I 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 antiques store is not the cottage food operation, you would not be able to sell your cottage food products from this location.

PROCESSING LOCATION

Can I make cottage food products in an outbuilding on my property, like a shed or a barn?

No. Outbuildings such as sheds or barns are not allowed.

Can I make and sell products from my motor home kitchen, cottage or summer home under the cottage food guidelines?

No. Cottage foods may only be made in the kitchen of your primary residence. Second homes, vacation homes or motor homes do not qualify if they are not your primary residence.

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

No. Cottage food can only be made in the kitchen of our 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 :") after the ingredient list. For example a white bread, with the following ingredients: whole wheat flour, water, sodium caseinate, salt and yeast. 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?

Yes. 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?

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 foccacia 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 make liquid beverages/drinks?

No. Drinks and beverages are not allowed.

Can I bake bread in a wood fired oven?

Yes, as long as that 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 and disco dust is not used as a decoration.

Can I make and sell caramel and candy apples?

Yes as long as the apples are raw and intact.

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 and would require 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?

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 press and sell apple cider?

No. Apple cider is not a food allowed to be produced under cottage food, and beverages are not allowed.



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. 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, lollipops and 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, at a later date?

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. 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, 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

Can I utilize commercial type equipment such as large rotary mixers in my cottage food operation?

No. A private home is not equipped with sinks large enough to effectively wash large commercial equipment.

Does my equipment, stove and/or refrigerator need to be NSF (a food equipment evaluation group) approved?

No. As a cottage food operator, you are not required to meet NSF standards for your equipment used to manufacture cottage food products.





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 can't 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.

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>

2009 Food and Drug Administration Food Code

<https://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm2019396.htm>

Chapter 500, Florida Statutes

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0500-0599/0500/0500ContentsIndex.html&StatuteYear=2015&Title=-%3E2015-%3EChapter%20500

Division of Food Safety

1-800-HELP-FLA
FreshFromFlorida.com

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