

## Food Cottage Questions and Answers

### What is a **cottage food** production operation?

A **cottage food** production operation is defined as an individual, operating out of the individual's home, who:

- Produces at the individual's home:
  - a baked good that is not a time and temperature control for safety (TCS) food,
  - candy,
  - coated and uncoated nuts,
  - unroasted nut butters,
  - fruit butters,
  - a canned jam or jelly,
  - a fruit pie,
  - dehydrated fruit or vegetables, including dried beans,
  - popcorn and popcorn snacks,
  - cereal, including granola, dry mix,
  - vinegar, pickled fruit or vegetables, including beets and carrots, that are preserved in vinegar, brine, or similar solution at an equilibrium pH values of 4.6 or less,
  - mustard,
  - roasted coffee or dry tea,
  - a dried herb or dried herb mix,
  - plant-based acidified canned goods, fermented vegetable products, including products that are refrigerated to preserve quality,
  - frozen raw and uncut fruit or vegetables,
  - or any other food that is not a time and temperature control for safety food.
- Has an annual gross income of \$50,000 or less from the sale of described food.
- Sells foods produced directly to consumers.
- Delivers products to the consumer at the point of sale or another location designated by the consumer.

### Is a **cottage food** production operation a food service establishment?

No. A **cottage food** production operation is not a food service establishment.

## What is the definition of a baked good?

A baked good is a food item prepared by baking the item in an oven, which includes cookies, cakes, breads, Danish *pastries*, donuts, pastries, pies, and other items that are prepared by baking. A baked good cannot be and does not include a time and temperature control for safety food (TCS).

## What are some examples of foods that can be prepared at a **cottage food** production operation?

The following are examples of non-TCS that may be prepared and sold at a **cottage food** production operation:

- Breads, rolls, biscuits,
- Sweet breads, muffins,
- Cakes (birthday, wedding, anniversary, etc.)
- Pastries,
- Cookies,
- Fruit pies,
- Canned Jams and jellies,
- Dry herbs and dried herb mixtures,
- Candy,
- Coated and uncoated nuts,
- Unroasted nut butters,
- Fruit butters,
- Popcorn and popcorn snacks,
- Dehydrated fruit or vegetables, including dried beans,
- Cereal, including granola,
- Dry mix,
- Vinegar,
- Pickled fruits and vegetables,
- Mustard,
- Roasted coffee or dry tea
- Plant-based acidified canned goods, including salsa, BBQ sauce, ketchups.
- Dried Pasta
- Fermented vegetable products
- Frozen raw and uncut fruits or vegetables.

## **What types of foods are *not allowed* to be sold at a cottage food production operation?**

The following foods are examples of food that can not be produced by a cottage food production operation.

- Fresh or dried meat or meat products including jerky
- Kolaches with meat
- Fish or shellfish products
- 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
- 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, that require refrigeration
- Ice or ice products
- Foccaccia-style breads with vegetables or cheeses
- Beverages including but not limited to Lemonade, juices, hot chocolate
- Meat or Poultry
- Seafood
- TCS Products

## **What is a time and temperature controlled for safety food (TCS)?**

A time and temperature control for safety (TCS) food requires time and temperature control for safety to limit pathogen growth or toxin production. In other words, a food must be held under proper temperature controls, such as refrigeration to prevent the growth of bacteria that may cause human illness. A TCS is a food that: contains protein, moisture (water activity greater than 0.85), and is neutral to slightly acidic (pH between 4.6 -7.5).

## **Where may a cottage food production operation (CFPO) sell products?**

A CFPO may sell products directly to consumers.

## **Can I use the Internet to sell my cottage food products?**

A cottage food production operation may sell through the Internet or by mail order only if: the consumer purchases the food through the Internet or by mail order from the operation and the operator personally delivers the food to the consumer. A cottage food production operation may not sell at wholesale.

## **What are the labeling requirement for internet and mail order cottage food operators?**

Before the operator accepts payment for the food, the operator provides all labeling information required by Health and Safety Code section 437.0193 and Texas Administrative Code §229.661(d) to the consumer by:

- posting a legible statement on the operation 's Internet website;
- publishing the information in a catalog; or

- otherwise communicating the information to the consumer.

The operator of a **cottage food** production operation that sells a food in this state in the manner internet or wholesale:

- is not required to include the address of the operation in the labeling information before the operator accepts payment for the food; and
- shall provide the address of the operation on the label of the food in the manner required after the operator accepts payment for the food.

### **Can I make **cottage food** products in another building on my property?**

The law requires **cottage food** products to be produced in an individual's home which is a primary residence that contains a kitchen and appliances designed for common residential use.

### **Is labeling required on food items produced by a **cottage food** production operation?**

Yes. Foods sold by a **cottage food** production operation must be packaged and labeled. The food must be packaged in a manner that prevents product contamination, except for foods that are too large or bulky for conventional packaging. The labeling information for foods that are not packaged must be provided to the consumer on an invoice or receipt.

The label must include the following information:

- The name and physical address of the **cottage food** production operation;
- The common or usual name of the product;
- If a food is made with a major food allergen, such as eggs, nuts, soy, peanuts, milk or wheat that ingredient must be listed on the label; and
- The following statement: *"This food is made in a home kitchen and is not inspected by the Department of State Health Services or a local health department."*
- Labels must be legible.
- Also, cottage operator selling frozen raw or uncut fruits must label or provide on invoice or receipt the following statement in at least 12-point font: "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria, keep this food frozen until preparing for consumption."
- For each batch of pickled fruit or vegetables, fermented vegetable products, or plant-based acidified canned goods, a **cottage food** production operation must: label the batch with a unique number.

### **Do I need a permit or license for my **cottage food** production operation?**

**Cottage food** production operations are not retail food establishment, therefore, a retail food establishment license is not required.

**Is there a limit as to how much I can earn from my cottage food production operation?**

Yes. A cottage food production operation is limited to an annual gross income of \$50,000 or less from the sale of food produced at the cottage food production operation.

**Is there a process for submitting a complaint against a cottage food production operation?**

Yes. A complaint may be submitted to the Texas Department of State Health Services (DSHS) for cottage food production operations located under DSHS jurisdiction at: <https://www.dshs.texas.gov/foodestablishments/complaints.aspx>  
Complaints concerning cottage food production operations that are located under the jurisdiction of a local health authority must be reported to the local health authority. <https://www.dshs.state.tx.us/regions/lhds.shtm>

**Will the Department of State Health Services conduct inspections at cottage food production operations?**

No. The Texas Department of State Health Services does not have authority to conduct inspections at a cottage food production operation. However, the Department may investigate a complaint regarding preparation of time and temperature control for safety (TCS) food at a private residence. In the event of a foodborne illness outbreak, the department or local health authority may act to prevent an immediate and serious threat to human life or health.

**Will I need to comply with local zoning or other laws?**

Local Government Code, Sec. 211.032, Certain Zoning Regulations Prohibited, states a municipal zoning ordinance may not prohibit the use of a home for cottage food production operations.

**Will the Department be required to write rules concerning cottage food production operations in a separate chapter outside the Texas Food Establishment Rules?**

Yes. The department will adopt a rule concerning the regulation of cottage food production operations. Title 25 of the Texas Administrative Code, Section 229.661 provides definitions for cottage food production operations, labeling requirements, complaint database requirements, and sales location requirements.

**Can a cottage food production operation deliver food produced by the operation to the customer who purchased the food product?**

Yes. A **Cottage Food** Production Operation may deliver products to the consumer at the point of sale or another location designated by the consumer.

### **What are the requirements to pickle, ferment, or acidify can goods?**

A **cottage food** production operation that sells to consumers pickled fruit or vegetables, fermented vegetable products, or plant-based acidified canned goods shall:

- use a recipe that: is from a source approved by DSHS,
- has been tested by an appropriately certified laboratory that confirmed the finished fruit or vegetable, product, or good has an equilibrium pH value of 4.6 or less; or
- is approved by a qualified process authority; or
- if the operation does not use a recipe described by DSHS, test each batch of the recipe with a calibrated pH meter to confirm the finished fruit or vegetable, product, or good has an equilibrium pH value of 4.6 or less.
- For each batch of pickled fruit or vegetables, fermented vegetable products, or plant-based acidified canned goods, a **cottage food** production operation must:
  - label the batch with a unique number; and
  - for a period of at least 12 months, keep a record that includes:
    - the batch number;
    - the recipe used by the producer;
    - the source of the recipe or testing results, as applicable;
    - and the date the batch was prepared.
- These testing requirements do not apply to pickled cucumbers.

### **Does a cottage food operator have to have a Food handler certification?**

An individual who operates a **cottage food** production operation must have successfully completed an accredited basic food safety education or training program for food handlers.

### **If I have Food Manager Certification, do I also need to have a food handler certification?**

The department will recognize a food manager certification from an accredited program in lieu of a food handler certification.