



## Guidelines for Cottage Food Businesses

This document provides guidance for allowable foods that may be produced and sold by a Maryland Cottage Food Business. [Code of Maryland Regulations \(COMAR\) 10.15.03.02B\(17-1\)](#) Food Service Facilities, defines a cottage food business that “(a) produces or packages cottage food products in a residential kitchen in Maryland; and (b) has annual revenues from the sale of cottage food products in an amount not exceeding \$25,000.” It also defines a cottage food product as a **non-potentially hazardous food** (see discussion below) that is sold in the State directly to a consumer from a residence, at a farmer's market, at a public event, by personal delivery, or by mail delivery; or directly to a retail food store (defined below). Interstate sales or sales outside of Maryland are prohibited.

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## Allowable Foods

One of the most important things to know about cottage foods is the difference between “potentially hazardous” and “non-potentially hazardous.” In common terms, the difference is that “potentially hazardous foods “ are more likely to need some special handling (for example, refrigeration) because at room temperature they are more likely to allow harmful bacteria to grow and therefore to potentially cause a foodborne illness. The following paragraphs will help you to understand this difference and understand why certain foods are allowed and not allowed under the cottage food law and regulations.

A **non-potentially hazardous/non-perishable** food, when stored under normal conditions without refrigeration, will not support the growth of microorganisms (bacteria, molds, viruses, fungi) that can cause foodborne illness. A food’s water activity (i.e. available water) and pH (acidity) determine whether it is considered potentially hazardous. While some foods will almost always be non-potentially hazardous (such as chocolate chip cookies), other foods may or may not be potentially hazardous, depending on the ingredients, recipe, and cooking method (such as banana bread).

If you think that your food product should be considered non-potentially hazardous but is not on the allowed list, it is possible to have it tested\*. A food product that is laboratory-tested to confirm it is shelf-stable and not potentially hazardous may be sold as a cottage food (see **Foods that May Be Allowable with Food Laboratory Testing\***). The guidelines below are meant to help cottage food businesses understand the types of foods that are generally allowed or not allowed.

### Examples of allowable foods that may be produced under [COMAR 10.15.03.27 Food Service Facilities - Farmer's Market, Bake Sales, and Cottage Food Business](#):

- Baked breads, cookies and pastries without potentially hazardous topping or fillings:
  - Pies, turnovers, and fruit tarts from fruits with a natural pH of 4.6 or less
  - Bread, biscuits, tortillas, and muffins
  - Cakes and cupcakes
- Hot-filled canned acid foods such as:
  - Fruit jelly, jam, and preserves from fruits with a natural pH of 4.6 or less
  - Fruit butters from apple, apricot, grape, peach, plum, prune, quince
- Non-potentially hazardous candy

For a complete list of example foods, refer to the Allowable Foods list in Appendix C.

### Examples of foods that cannot be allowed as cottage foods:

- Baked goods that require any type of refrigeration (e.g., meringue pies, pecan pies, pumpkin pies, cheesecakes, cream and custard pies, and pies and cakes or pastries with cream cheese/buttercream icings or fillings). Note: Some buttercream and cream cheese icings, and quick breads, e.g. banana, pumpkin, and zucchini breads, may be considered potentially hazardous and require refrigeration.

- Low-acid canned foods
- Acidified foods/pickled products such as corn relish, pickles, salsa, pepper jelly, barbeque sauce, mustard, or condiments
- Garlic and/or fresh/dried vegetables in oil mixtures
- Raw-seed sprouts, including but not limited to alfalfa sprouts or bean sprouts
- Fish or shellfish products
- Meat or meat products
- Poultry or poultry products
- Milk and dairy products
- Beverages

For a complete list of example foods, refer to the Not Allowed Foods list in Appendix D.

Foods that cannot be offered under cottage foods require a health department food license. To determine if your food item is allowable see the Decision Tree tools for allowable products (see Appendix C) and not allowable products (see Appendix D).

### **Foods that May Be Allowable with Food Laboratory Testing\***

The following items may be considered potentially hazardous and require refrigeration depending upon the recipe. Note: These items will need to have product testing to assure they can safely be considered a non-potentially hazardous food.

- Icings, frosting and glazes with added water or containing potentially hazardous ingredients (such as cream cheese, milk, butter, etc.)
- Moist quick fruit breads with a natural pH above 4.6 such as banana, pumpkin, and zucchini breads.

\* Laboratory results for water activity and pH are required for each recipe that you would like to offer. A water activity ( $a_w$ ) result of 0.85 or below and/or a pH of 4.6 or below are considered non-potentially hazardous and allowable under cottage food sales. If your lab results are not within the non-potentially hazardous parameters, your product is potentially hazardous and therefore not allowable under cottage foods. Certified food testing laboratories are not required to be located within the state of Maryland.

## **Labeling**

Allowable foods produced under the cottage foods regulation must be prepackaged at the cottage food business and labeled with the following information:

- The name and address\* of the cottage food business;
- The name of the cottage food product;
- The ingredients (and sub-ingredients) of the cottage food product in descending order of the amount of each ingredient by weight;
- The net weight, count, 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 health or nutritional information claim is made; and
- 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.”

- For cottage food products sold at retail stores, labels must additionally include:
  - The phone number and e–mail address of the cottage food business; and
  - The date the product was made.

\* **Unique identification number** - A cottage food business may request from the Maryland Department of Health a unique identification number (ID#) to use on the label as an alternative to a business address. If a unique ID# is used, the label must additionally include the name and phone number of the cottage food business. To obtain a unique ID #, the business must submit a request to the Maryland Department of Health via the [Cottage Food Business Request Form](#).

### Sample Cottage Food Labels:

#### Label with or without a Unique Identification Number issued by the Department

<p>Chocolate Chip Cookies with Walnuts Delicious Desserts Any Street <i>(may substitute with Unique ID#)</i> Any City, MD Any Zip <i>(may substitute with Unique ID#)</i> Phone Number <i>(if using Unique ID#)</i></p> <p>Ingredients: Enriched flour (wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), semi-sweet chocolate chips (sugar, chocolate, cocoa butter, milkfat, soy lecithin, natural flavors) walnuts, sugar, eggs, salt, artificial vanilla extract (water, caramel color, vanillin, citric acid, and sodium benzoate as preservatives, ethyl vanillin and artificial flavor), baking soda (sodium bicarbonate).</p> <p>Contains: Wheat, eggs, milk, soy, walnuts</p> <p>Net Wt. 3 oz. / 85 grams</p> <p><b>“Made by a cottage food business that is not subject to Maryland’s food safety regulations.”</b></p>
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*\*The address may be substituted with a unique identification number if one has been issued to the cottage food business by the Department. The cottage food business’ phone number must be included.*

Cottage foods sold at retail labels must also include the cottage food business email address, phone number, and date the product was made, see example on page 5.

### Label for food sold to a retail food store

Chocolate Chip Cookies with Walnuts

Delicious Desserts

Any Street *(may substitute with Unique ID#)*

Any City, MD Any Zip *(may substitute with Unique ID#)*

Phone Number

E-mail address

Ingredients: Enriched flour (wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), semi-sweet chocolate chips (sugar, chocolate, cocoa butter, milkfat, soy lecithin, natural flavors) walnuts, sugar, eggs, salt, artificial vanilla extract (water, caramel color, vanillin, citric acid, and sodium benzoate as preservatives, ethyl vanillin and artificial flavor), baking soda (sodium bicarbonate).

Contains: Wheat, eggs, milk, soy, walnuts

Net Wt. 3 oz. / 85 grams

Date Made: 1/2/2021

**“Made by a cottage food business that is not subject to Maryland’s food safety regulations.”**

## Sampling of Cottage Foods

Cottage foods may be sampled if the product meets the requirements in this Cottage Food guidance document and is a non-potentially hazardous food. Samples must be prepackaged in the home kitchen (e.g., if bread is sampled, it cannot be cut at the market, but it can be cut in the home kitchen and individually wrapped or packaged into sample cups with lids). An individual label for each sample is not needed, but the packaged products on display must be properly labeled so the customer can review the ingredient list and required information. The product cannot be cooked or prepared in a way that makes it a potentially hazardous food/temperature control for safety food (e.g., a dried dip mix added to sour cream or serving anything that cannot be kept safely at room temperature). Foods requiring temperature control would require a food license from the local health department.

## Selling to a Retail Food Store

Before a cottage food business can sell to a retail food store (e.g. a grocery store, convenience store, retail market, retail bakery, or food cooperative) the business must submit the following information to the Maryland Department of Health via the [Cottage Food Business Request Form](#). View the [Cottage Food Business Checklist](#) prior to making your submission.

- The label that will be affixed to the cottage food product (see label example for food sold to a retail food store on page 5); and
- Documentation of the owner’s successful completion of a food safety course in the past 3 years that is approved by the Department and the [American National Standards Institute](#) which includes, at a minimum, the following subjects:
  - Basic food safety;
  - Cleaning and sanitizing;
  - Personal hygiene;
  - Pest control and prevention; and
  - Receiving, storing, preparing, and serving food.

This information will be reviewed for compliance with the cottage food laws and regulations. The owner of a cottage food business may not sell or offer for sale a cottage food product to a retail food store until notified by the Department, in writing, that the requirements of the regulation are satisfactorily met.

## Definitions

### *Allergen*

A “major food **allergen**” is defined by [COMAR 10.15.03.02B\(44\)](#) and means:

milk; egg; fish (such as bass, flounder, or cod) crustacea (such as crab, lobster, or shrimp); tree nuts (such as almonds, coconut, pecans, or walnuts); wheat; peanuts; soybeans; and a food ingredient that contains protein derived from milk, egg, fish, tree nuts, wheat, peanuts, or soybeans.

### *Potentially hazardous food*

A “**potentially hazardous food**” is defined by the COMAR 10.15.03.02B(55) and means a natural or synthetic food that requires temperature control because the food is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or in raw shell eggs, the growth of *Salmonella* Enteritidis.

A "**potentially hazardous food**" includes a food of animal origin that is raw or heat-treated; a food of plant origin that is heat-treated; raw seed sprouts; cut melons; cut raw tomatoes; garlic and oil mixtures that support growth as specified in §B(55)(a)(i) and (ii) of COMAR 10.15.03; and cut leafy greens.

A “**potentially hazardous food**” does not include a hard-boiled shell egg that has been air-cooled with the shell intact; food with an  $a_w$  value of 0.85 or less; food with a pH level of 4.6 or below when measured at 75°F; commercially sterile food in a hermetically sealed container; or food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of *Salmonella* Enteritidis in eggs or *Clostridium botulinum* cannot occur, such as a food that has an  $a_w$  or a pH that is above the levels specified in §B(55)(c)(ii) and (iii) of COMAR 10.15.03 or that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms.

### *Retail Food Store*

A “**retail food store**” is defined by [COMAR 10.15.03.02B\(68-1\)\(a\)-\(b\)](#) Food Service Facilities as:

“a licensed food service facility that sells prepackaged food items either fresh, refrigerated, frozen, or shelf-stable. A retail food store includes a grocery store, convenience store, retail market, retail bakery, or food cooperative.”

[COMAR 10.15.03.02B\(68-1\)\(c\)](#) further defines a retail food store to not include:

“a restaurant, mobile food service facility, coffee shop, cafeteria, short order café, luncheonette, tavern sandwich shop, produce stand that only offers whole, uncut fresh fruits and vegetables, or an establishment that offers only prepackaged non-potentially hazardous foods.”

## **Additional Resources**

Cottage Food Business decision tools in the appendices can be used to determine if your food product qualifies as a cottage food. Additional resources, including a list of frequently asked questions (FAQs), can be found on the Cottage Food Business [webpage](#).

### **Contact Information for the Office of Food Protection’s Center for Facility and Process Review:**

Email: [mdh.foodplanreview@maryland.gov](mailto:mdh.foodplanreview@maryland.gov).

Website: <https://phpa.health.maryland.gov/OEHFP/OFPCHS/Pages/plan-review.aspx>

## **Appendices**

Appendix A - Allowable Cottage Foods

Appendix B - Foods Not Allowed

Appendix C - Cottage Foods Decision Tool for allowable products

Appendix D - Cottage Foods Decision Tool for products not allowed

# Appendix A

## Cottage Food Businesses - Allowable Foods

What types of foods are allowed to be produced for sale by a cottage food business?

### Baked goods (non-perishable):

- Bagels
- Biscuits
- Breads
- Brownies
- Cakes without perishable icing or fillings
- Cookies
- Cupcakes without perishable icing or fillings
- Granola bars
- Muffins
- Pastries
- Tortillas
- Buns without perishable icing
- Cookies, brownies, breads, muffins baked from a commercially prepared mix (without perishable icings or fillings)
- Sourdough bread, rolls, etc.

### Candies (Non-perishable):

- Brittles
- Freeze dried non-potentially hazardous commercial candies
- Gummy bears
- Lollipops
- Toffee
- Marshmallows (with non-potentially hazardous ingredients)

**Chocolate confections/candies** made from commercially manufactured chocolate, or made from commercial non-potentially hazardous ingredients such as cocoa powder, coconut oil, and honey. \*All fillings must be from a commercial source and must be non-potentially hazardous

- Chocolate peanut butter cups\*
- Chocolate covered dried fruits\*
- Chocolate covered caramels\*
- Chocolate covered marshmallows
- Chocolate covered nuts
- Chocolate covered pretzels

### Whole roasted coffee beans

**Fruit products** - fruit leathers, pies, turnovers, hot-filled jams, jellies, preserves, and fruit butters from fruits with a natural pH of 4.6 or below:

- Apples
- Apricots
- Blackberries
- Blueberries
- Boysenberries
- Cherries
- Cranberries
- Grapes
- Nectarines
- Oranges
- Peaches
- Prunes
- Quince
- Raspberries
- Red currants
- Strawberries
- Tangerines
- Another fruit with a natural pH of 4.6 or below

**Raw (un-flavored) honey** (agricultural product)

### Repackaged commercial ingredients:

- Seasoning blends
- Spice blends
- Tea blends

### Snacks (non-perishable):

- Kettle corn
- Popcorn balls
- Nuts
- Popcorn

### Snack mixes from commercial sources:

- Cereal Mixes
- Granola Mixes
- Trail Mixes

# Appendix B

## Cottage Food Businesses - Foods Not Allowed

Examples of what types of foods are NOT allowed to be produced for sale by a cottage food business

### Acidified or pickled products:

- Corn relish
- Pepper jelly
- Pickled beets
- Pumpkin butter
- Salsa
- Other acidified or pickled products not listed above

### Baked goods (perishable):

- Baked goods with perishable icings and fillings (e.g. buttercream, cream cheese, and royal icings)\*
- Banana, pumpkin, and zucchini breads with water activity value greater than 0.85\*
- Cheesecakes
- Cream and custard pies
- Focaccia style breads with vegetables and/or cheeses
- Macarons
- Meringue cookies
- Meringue pies
- Pumpkin pies
- Sweet potato pies
- Waffles
- Other perishable baked goods not listed above

\*Icings and fillings made with perishable ingredients and moist quick breads such as these may be considered potentially hazardous and are not allowable under cottage foods without laboratory testing.

### Beverages - none of any kind

### Chocolate confections/candies made from raw cocoa beans or potentially hazardous ingredients

### Chocolate confections/candies:

- Chocolate covered fresh fruits
- Chocolates with homemade fillings
- Chocolates with potentially hazardous filling ingredients

### Coffee:

- Flavored coffee
- Ground coffee

### Condiments or sauces:

- Barbecues sauce
- Hot sauce
- Ketchup
- Mustard
- Condiments or sauces not listed above

### Fermented foods:

- Kimchi
- Kombucha
- Pickles
- Sauerkraut
- Other fermented foods not listed above

### Fish or shellfish products - none of any kind

### Freeze Dried Products - none of any kind except for non-potentially hazardous commercially prepared candy

### Fruit and fruit products:

- Baked food products made with low acid fruits with a natural pH above 4.6
- Chocolate or candy-covered fresh or canned fruit
- Dehydrating of fruits
- Fresh cut fruit
- Fresh cut fruit of any kind added as an unbaked topping

### Ice or ice products - none of any kind

### Meat and poultry products:

- Dried or dehydrated meat and poultry
- Egg rolls, meat pies
- Fresh meat and poultry
- Meat and poultry jerkies
- Other meat and poultry products not listed above

**Milk and dairy products:**

- Butter
- Cottage cheese
- Gelato
- Hard and soft cheeses
- Ice cream
- Kefir
- Yogurt
- Other milk or dairy products not listed above

**Nut butters (homemade):**

- Almond butter
- Hazelnut butter
- Peanut butter
- Pecan butter
- Other butters made from any nut not listed above

**Pasta:**

- Dehydrating of pasta
- Fresh/refrigerated pasta

**Raw dough and energy balls:**

- Cookie dough
- Energy/protein balls/bites that are not baked
- Pizza dough
- Other raw/no bake combined ingredient recipes

**Raw seed sprouts**

- Alfalfa sprouts
- Bean sprouts
- Garbanzo bean sprouts
- Mung bean sprouts
- Snow pea sprouts
- Other raw seed sprouts not listed above

**Seed Butters**

- Pumpkin seed butter
- Sesame seed butter
- Sunflower seed butter
- Other seed butters raw seed sprouts not listed above

**Soft candies:**

- Homemade caramel/caramels
- Homemade fudge
- Other soft candies not listed above

**Sugar-free products such as:**

- Fruit butters
- Jams
- Jellies
- Marmalades
- Preserves
- Syrups

**Syrups:**

- Blueberry syrup
- Elderberry syrup
- Maple syrup
- Other syrup not listed above

**Vegetables and vegetable products:**

- Dehydrating (drying) of herbs and vegetables including vegetable chips
- Foods containing cooked vegetables
- Foods containing fresh-cut vegetables
- Fresh cut vegetables
- Garlic and/or vegetable in oil mixtures

# Cottage Foods Decision Tool

Cottage food businesses are not licensed, but must comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage food products. Contact your local permits, licensing and zoning department to inquire about specific requirements.

## Appendix C

I want to sell food made in my home

I want to make non-perishable baked goods, high-acid jams and jellies, granola, package commercially prepared spice blends, etc.

See Appendix A for a list of allowable products, which are considered non-perishable foods.

I want to sell my food to a grocery store or food cooperative in Maryland.

### YES! COTTAGE FOODS

**Maryland Department of Health (MDH) review required.** Submit plans to MDH using the link for “Cottage Food Business Request” form  
[Cognito Forms](#)

Once you have met the requirements you will receive a letter of compliance. No fee for review and no license is required. Compliance with labeling requirements and maximum annual sales limit. Changes in products/business location/labeling/ sales locations must receive prior approval.

[Cottage Foods](#)

I want to sell my food directly to consumers at farmers’ markets or other public events, by personal delivery, by mail, or customer pick-up. Must be in Maryland.

### YES! COTTAGE FOODS

**No license or health department review needed.** Must comply with labeling requirements and maximum annual sales limit.

Contact the local health department jurisdiction in advance of participating in a farmers’ market or public event for additional requirements

[LHD Food Contact](#)

I want to sell my food in another state either directly to consumers (such as through the mail) or wholesale (to restaurants, etc.)

### NO - NOT ALLOWED UNDER COTTAGE FOODS

**You will need a commercial kitchen and either a retail food or food processing license.**

To sell direct to consumers (retail) or up to 25% wholesale contact the local health department. Fees vary depending on jurisdiction.

[Local Health Departments](#)

To sell only wholesale or over 25% wholesale contact the Maryland Department of Health (MDH) for a food processing license. Submit plans and applicable fees to MDH. Once plans are approved and a pre-opening inspection is conducted, you will apply for a license (annual fee).

[Plan review](#)

I am the owner of a farm (agriculturally zoned)

**Some products not allowed under Cottage Foods can be produced with an on-farm home processing license.**

See our website for information and Plan Review application.

[plan-review](#)

# Cottage Foods Decision Tool

Cottage food businesses are not licensed, but must comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage food products. Contact your local permits, licensing and zoning department to inquire about specific requirements.

## Appendix D

I want to sell food made in my home

I want to make perishable baked goods (like pumpkin pie), jams/jellies with ingredients that are not acidic (e.g, pepper jelly), products requiring refrigeration, acidified foods, or other food not listed as approved for Cottage Foods.

**NOT ALLOWED UNDER COTTAGE FOODS – OTHER REGULATIONS APPLY**

See Appendix B for examples of items not allowed under Cottage Foods.

I am the owner of a farm (agriculturally zoned)

**Some products not allowed under Cottage Foods can be produced with an on-farm home processing license.**  
Click below for information and Plan Review application.

[plan-review](#)

I am NOT the owner of a farm (agriculturally zoned).

**A local health department or state license will be required.**  
You will need a facility with a commercial kitchen.

I want to sell my products **directly to consumers** via retail sales (this includes internet sales nationwide) OR retail with the ability to sell wholesale to other businesses (wholesale not exceeding 25% of my total sales).

**Food Service Facility License Needed from the Local Health Department**

Contact the local health department for plan review and licensure.

[LHD Food Contact](#)

Note: The following foods cannot be manufactured under a local health department license: certain canned foods (i.e. acidified and low acid) such as green beans and pickled eggs, smoked fish, pasteurized crabmeat, bottled water, or soft drinks.

I want to sell only to other businesses (wholesale) or more than 25% of my total sales will be wholesale.

**Food Processing Plant License Needed from the Maryland Department of Health**

Submit plans and applicable fees to this office. Once plans are approved and a pre-opening inspection is conducted, you will apply for a license (annual fee).

[MDH plan-review](#)