

# COTTAGE FOOD GUIDE



Arkansas Department of Health

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COTTAGE FOOD GUIDE

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## COTTAGE FOOD GUIDE

### Introduction

The Cottage Food Guide was developed to provide standards, guidelines, and consistent information for food vendors, and regulators to provide fresh, safe and quality food to the consumer. The food vendor should verify that the sale of Cottage food is not in violation of local ordinances by contacting the local city and county offices.

The Cottage Food Guide offers advice on food items that may be sold and conditions that must be met at the point of sale. For any food item that doesn't fall into one of the categories or if you have questions about what category it belongs in, please contact the Environmental Health Specialist at the local health unit.

All food manufactured, produced, processed, sold or dispensed in the State of Arkansas must comply with the Arkansas Food Drug and Cosmetic Act and cannot be contaminated, adulterated, misbranded or dishonestly presented.

Depending upon the product sold, a vendor may be required to obtain a permit from the Arkansas Department of Health (ADH) as a Retail Food Establishment or a Food Processing Plant. Contact an Environmental Health Specialist with the local health unit to determine if a Retail Food Establishment Permit is required.

The ADH's Rules and Regulations Pertaining to Retail Food Establishments define a "Retail Food Establishment" as "an operation that stores, prepares, serves, packages, vends or otherwise provides food for human consumption."

### **Foods that do not require a permit from the Arkansas Department of Health**

#### **Cottage Food:**

1. What is Cottage Food?

Act 399 of 2017 defines a "Cottage food production operation" as food items produced in a person's home that are non-potentially hazardous/non-Time/Temperature Control for Safety (TCS) foods such as bakery products, candy, fruit butter, jams, jellies and chocolate-covered fruit and berries that are not cut.

Only these products are covered in ACT 399 and are the only products allowed to be sold under ACT 399 of 2017.

NOTE: Jams, jellies and fruit butter made with Splenda® and similar sugar substitutes are considered TCS food and may not be sold.

2. Who and where can Cottage Food be sold?

Cottage food items can only be sold direct from the manufacturer to the consumer either from the site where the food is made, at a physical or on-line farmer's market, a county fair, special event, or at a pop-up shop within another established business. **Internet sales of Cottage Food that are unassociated with an online farmer's market are not allowed.**

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### 3. What is a “Pop-Up Shop”?

A cottage food production operation selling items in an unaffiliated established business for a limited time period with the consent of the owner of the unaffiliated established business and the owner or employee of the cottage food production operation is present at the point of sale.

### 4. What is required on the label?

Each cottage food item shall be clearly labeled and make no nutritional claims. The label on each food item shall include the name and address of the manufacturer, the name of the product, the ingredients in the product, and state in 10-point type, “This Product is Home-Produced”.

### 5. What is Time/Temperature Control for Safety (TCS) Food?

Food items that must be kept refrigerated or hot to be remain safe, are not allowed to be sold as a Cottage Food Item.

Examples of bakery items that would not be allowed to be sold include cheesecakes, Tres Leches cakes, cream or cheese filled items, cream pies, meringue pies, custard pies, pies or bakery items containing meat, and cream cheese based frostings or fillings.

### 6. Limitations in the ACT

If the food item is not a bakery product, candy, fruit butter, jam, jelly or chocolate-covered fruit and berries that are not cut or punctured, it is not to be sold as a cottage food item.

### **Raw Fresh Fruits and Vegetables:**

Whole, uncut fresh fruits and vegetables may be offered for sale without a permit or inspection from the ADH.

### **Maple Syrup, Sorghum, or Honey**

Maple syrup, sorghum, or honey that is produced by maple syrup, or sorghum producer, or beekeeper may be sold.

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### Commercially Prepackaged Non-Time/Temperature Control for Safety (non-TCS) Food

Commercially pre-packaged food that is non-TCS refers to food that is bottled, canned, bagged, wrapped, or packaged in a sealed carton by a permitted retail food establishment or a food processing plant and does not require refrigeration or heating/cooking to remain safe.

Each item sold must be labeled with the identity and weight or volume of the product, the name and address of the food manufacturer, and a complete list of ingredients.

The commercially pre-packaged food, for each seller, at the Farmer's Market must be contained in displays and not exceed 100 cubic feet.

Food items that are not properly labeled, or that are in nondurable containers, such as unsealed carry-out boxes are not allowed.

Commercially pre-packaged food that must be kept refrigerated or hot to limit bacterial growth for food safety is not allowed.

### Food Items that must be prepared or manufactured at ADH permitted and inspected facility:

All the items listed below must be prepared and packaged in an ADH permitted and inspected Retail Food Establishment or Food Processing Plant.

#### 1. Acidified Foods:

Acidified foods include pickled vegetables and most salsas. These food products are typically packed in hermetically sealed (air tight) containers that have a finished equilibrium pH of 4.6 or less.

An acidified food can pose a risk of botulism if pH and other critical factors are not carefully controlled during processing to prevent the germination and growth of viable spores of *C. botulinum*.

The establishment must also have a variance approved by the ADH for this specific food processing operation that addresses all the critical food safety factors for this product, including the monitoring of the finished pH of the food product.

#### 2. Canned Food:

Canning is the process of preserving food by packing the food into glass jars and heating the jars to kill the organisms that would create spoilage or cause illness. Canning is typically used to preserve fruits, vegetables, and sometimes meat.

Growth of the bacterium *Clostridium botulinum* in canned food may cause botulism, a deadly form of food poisoning. Botulinum spores are very hard to destroy at boiling- water temperatures; the higher the canner temperature, the more easily they

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are destroyed.

The establishment must have a variance approved by the ADH for this specific food processing operation that addresses all the critical food safety factors for this product, including the monitoring of the cooking temperatures and pressures obtained during the processing of the food product.

### **3. Smoked, Cured, or Dried Meats:**

Smoking, curing, and drying meat is a preservation process that removes the available moisture in the meat. The amount of moisture in these food items is called water activity or  $a_w$ . By removing moisture, enzymes cannot efficiently contact or react with the food. There are concerns of various illness-causing organisms that can survive the drying or curing process, even though the organisms will not continue to grow in the dried food there could be enough present to cause illness.

The establishment must also have a variance approved by the ADH for this specific food processing operation that addresses all the critical food safety factors for this product, including the monitoring of the processing temperatures and the measure of the water activity level of the finished food product.

### **4. Sprouted Seeds or Beans**

Sprouts may include alfalfa, clover, sunflower, broccoli, mustard, radish, garlic, dill and pumpkin as well as mung, kidney, pinto, navy, soybeans and wheat berries (wheat grass).

Raw and lightly cooked sprouts, especially alfalfa, clover and mung bean sprouts have been associated with food borne illness in a number of outbreaks. Microorganisms already on the seeds or introduced during the sprouting process grow quickly during the ideal conditions of germination and sprouting. There is no step in the production of raw sprouts such as cooking or pasteurization to reduce or eliminate pathogens before consumption.

The establishment must also have a variance approved by the ADH for this specific food processing operation that addresses all the critical food safety factors for this product, including the disinfection of the seeds used to grow the sprouts and testing of the irrigation water from each batch of sprouts for the presence of pathogenic microorganisms.

### **5. Processed Fruits or Vegetables:**

Fruits or vegetables that are no longer in a whole, raw, uncut form must be processed at an ADH permitted and inspected food service establishment or food processing plant. Examples of processed fruits and vegetables include:

- Dried Fruit/vegetables/herbs/spices
- Shelled peas and nuts
- Sliced fruit and/or vegetables (including those offered as samples)
- Milled grain/flour/meal
- Juices

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The processing or manufacturing of juices may require additional food safety measures and requirements by the ADH.

### **6. Time/Temperature Control for Safety (TCS) Commercially Pre-Packaged Food**

Any TCS food even if the food is commercially pre-packaged, can only be sold or served from an ADH permitted and inspected facility. This is to ensure that the proper refrigeration and monitoring is present to maintain food safety. These food items must be kept in refrigeration equipment that can maintain the food at 41°F or above 135°F at all times.

Commercially pre-packaged TCS foods must be bottled, canned, bagged, wrapped, or packaged in a sealed carton by an ADH permitted and inspected retail food establishment or a food processing plant.

Nondurable containers, such as Styrofoam carry out boxes or plastic grocery sacks, for processed food containers are not allowed. Each item sold must be labeled with the identity and weight or volume of the product, the name and address of the food manufacturer, and a complete list of ingredients.

Examples of food items in this category would include dairy products, cheeses, juices, non-frozen meats, bakery items containing cream fillings or cream cheese based icings.

### **7. Ready-to-eat food prepared on site or commercially prepared food that is not prepackaged**

Any ready-to-eat food that is prepared on site or any food that is provided to the consumer in a non-prepackaged form can only be sold or served from an ADH permitted and inspected facility. Any establishment preparing, selling, or serving any of these food items must fully comply with the Arkansas Department of Health's Rules and Regulations Pertaining to Retail Food Establishments.

### **ADH permitted and inspected retail food establishment types:**

These definitions are basic definitions only and there may be additional requirements set forth in the Arkansas Department of Health's Rules and Regulations Pertaining to Retail Food Establishments.

1. Fixed based establishment such as a restaurant.
2. Mobile food establishment – a vehicle mounted kitchen with its own permanently mounted fresh water and wastewater holding tanks.
3. Seasonal food establishment – an establishment with its own water supply and wastewater holding tanks, limited to water/ice based beverages and operate no more than 150 calendar days out of the year.
4. Coffee Kiosk – not vehicle mounted, has its own fresh water and wastewater holding tanks, can only sell prepackaged food and coffee based beverages.

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5. Temporary Food Establishment – a food establishment that is only set up for a temporary event. Temporary permits can only be issued in conjunction with a **single** event or celebration organized by a single entity. The permit is valid for one event; another temporary permit must be issued at the next event. Food preparation is limited. Farmer's Markets **do not** meet this definition.
  
6. Push cart - a non-self-propelled vehicle limited to serving food requiring minimal handling or commissary wrapped food maintained at proper temperatures. Minimal handling means that the food has been cooked and prepared at a fully permitted establishment and the food is only dispensed and/or served from the push cart. Food products prepared on and served from a push cart are limited to non-TCS items or the preparation and service of frankfurters. A push cart must operate from an approved, permitted, commissary and must report back to the commissary daily for cleaning and resupply.

## **Cottage Food Quick Reference**

### **No Permit Required to Sell**

Bakery Products	Jam
Brownies	Jelly
Cakes without cream icing	Chocolate- covered fruit and berries that are not cut or punctured
Candy	Maple Syrup
Cookies	Sorghum
Fruit Butter	Whole, Uncut Fruits/Vegetable
Honey	
Commercially Pre-packaged Non-TCS Food	

**NOTE: Only legal ingredients are to be used in cottage food products.**

### **Permit Required to Sell**

Anything requiring handling, bagging, dividing, portioning, weighing, etc	Dried Meats
Anything requiring refrigeration	Juices
Canned foods	Meringue Pies
Cheesecake	Milled Grain/Flour/Meal
Cream Cheese based Frosting or Filling	Pickled Vegetables
Cream Pies and Cream Filled Items	Salad
Cured Meats	Shelled Peas or Nuts
Custard Pies	Sliced Fruit or Vegetables
Dried Fruit/Vegetables/Herbs/Spices	Smoked Meats
Salsa	Sprouted Beans
	Sprouted Seeds

### **Prohibited from Sale**

Homemade Cheeses  
Raw Milk  
Wild Harvested Mushrooms

**For additional clarification contact the Environmental Health Specialists located in the  
County Health Unit.**