

# **Cottage Food Operations**

## **Additional Questions & Answers**

*This is a set of additional questions and answers about cottage food operations. Please also see Technical Information Bulletin #44 from the Illinois Department of Public Health.*

**What is a “primary domestic residence”?** It is the place where you live, whether you own the home or are renting. So, a house, an apartment, condominium or a rental home all could be a primary domestic residence. It does not include group or communal residential settings, such as group homes, sororities or fraternities or second homes, vacation homes or motor homes (if they are not your primary residence).

**Can I make cottage food products in an outbuilding on my property, like a shed, barn or garage?** No. The law requires that cottage food products be made in your kitchen in your primary domestic residence.

**Where can I store ingredients and finished products for my cottage food operations?** Ingredients and finished products must be stored in your primary domestic residence. This includes your kitchen, a spare room, bedroom or a basement. You should consider an area that is free of dampness/water, household chemicals, pests, pets, toilets or other unsanitary conditions.

**Can nonprofit organizations produce and sell cottage foods?** No. Nonprofits do not have a primary domestic residence, and therefore do not qualify as cottage food businesses.

**Are there any special requirements regarding my home on-site well?** Although the law does not mention water supplies for food preparation, it is advised that only potable water from a properly constructed on-site well or municipal water system be used. If a well is used, the well water should be tested, at least annually, for coliform bacteria and nitrates. Please contact Pike County Health Department for information and a test kit.

Water from wells with any of the following features should be avoided: a dug well; very shallow depth (< 25 ft); producing cloudy water; located in a below-ground pit; a buried wellhead; missing a cap or seal; opening around the casing pipe; located in close proximity to a septic system; near domesticated animals or dog pens.

A list of water testing laboratories and information about water well construction is available online. See our website address listed above.

**Are there any concerns related to my home on-site wastewater (septic) system?** Depending on the nature and volume of the food products which will be manufactured for sale, there can be adverse effects to the existing system serving the home. For instance, adding significant bakery wastewater may not only increase the total volume discharged but may also result in an increase in the organic strength of the wastewater discharged to the system, leading to the possibility of accelerated system failure. The adequacy of the home septic system to handle additional wastewater volume and strength should be evaluated. If you are a Pike county resident, we can advise you if modifications to the existing system may be necessary.

**Can I make and sell sweet breads, muffins or other baked goods made with homegrown/fresh fruits and vegetables like zucchini, carrots, apples, and strawberries?** Yes, as long as the fruits or vegetables are incorporated into the batter and properly baked, packaged and labeled.

**Can homegrown produce be canned and used for making baked goods, like sweet breads, at a later date?** No, but you can use commercially canned products for baked goods, like canned apple pie filling. Home-canned products are not approved for production under the cottage food law, with the exception of some types of jams, jellies and fruit butters.

**Can I freeze fresh 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 minimally processed (washed and cut only) and then incorporated into the batter and properly baked, packaged and labeled.

**Can I produce and sell fresh raw prepared and/or cooked vegetable products, like salsas, tomato sauces, spaghetti sauces, or foccacia bread with roasted vegetables?** No. Food products made with fresh raw prepared and/or cooked vegetable products do not qualify. Cooked vegetables, whether from fresh, frozen or canned are considered a potentially hazardous food/temperature controlled for safety (PHF/TCS) food. Under the Illinois Food Code, cooked vegetables must be held either hot (above 135°F) or cold (below 41°F). They can't be stored at room temperature, which makes them ineligible for production as a cottage food operation. Cut fresh tomatoes that may be in cold prepared foods, e.g., salsa, is a PHF/TCS. Primary domestic residence kitchens cannot be used for processing produce (e.g., wash, cut or slice) for ready-to-eat service.

**Can I press and sell cider as a cottage food operation?** No. Cider is not an acceptable item. Actually, no beverages are allowed to be produced.

**Are honey and maple syrup covered under the cottage food law?** No. Honey and maple syrup producers should contact the Illinois Department of Public Health at (217) 278-5900.

**Can I make and sell prepackaged herb mixes?** Yes. Dried herbs and dried herb blends can be made and sold. However, you cannot mix the dried dip mixes with sour cream or another PHF/TCS food and sell the mixture or serve samples without a permit.

**Can I include on my label a nutritional or health claim?** If a claim is made (i.e., low fat, high fiber reduces disease), federal labeling requirements must be met. See the Food & Drug Administration (FDA) website:

<http://www.fda.gov/Food/LabelingNutrition/LabelClaims/default.htm>

**If I've properly labeled each individual package of food to include the required "home kitchen" phrase, do I also need to display a placard in my booth?** Yes, a placard with the "home kitchen" phrase must be displayed in a prominent location at each point of sale.

**How do I sell my foods?** *Cottage food operations may only sell directly to the consumer at a farmers' market.* You cannot sell your foods to a retailer for them to resell or to a restaurant for use or sale in the restaurant. You cannot sell your cottage foods over the Internet, by mail order, on consignment, at craft shows without a farmers' market, to wholesalers, or to brokers or other food distributors who will resell the cottage foods.

**Why can't I sell my cottage foods to my favorite restaurant or grocery store?** The cottage food law does not allow this. Because your kitchen is unpermitted and not inspected, safe food handling practices are not evaluated by any food safety official. Since safe food handling practices are not being evaluated, *the food is not considered an approved source for use in a restaurant or grocery store.* Foods from cottage food operations found at restaurants, grocery stores, etc. will be detained for disposition, and/or destroyed.

**Can I donate my cottage food products to a public auction or other give-away venue; e.g., for silent auction baskets, as a fundraiser or to potlucks?** No. It is not a direct sale to a consumer at a farmers' market.

**If more than one family member is involved in the preparation and selling of cottage food products, does each individual family member need to obtain a food service sanitation managers certificate?** Yes. Our website includes a list of local organizations offering classes in Pike County and a registration form for an online class.

[www.pikecoilhealth.org/Services/Food.htm](http://www.pikecoilhealth.org/Services/Food.htm)

**Will I need to meet local zoning or other laws?** Possibly. The cottage food exemption only exempts you from the health department requirements of permits and routine inspections. Contact your local unit of government (village/city/county) to determine if there are local regulations that will affect your business.

**Do I need to collect and report retailer's occupation tax (sales tax) for my cottage food business?** Possibly. Cottage food businesses, although exempt from food permitting requirements, may meet other provisions of law regarding businesses, including tax law. You may need to maintain sales records and may need to provide them to the Internal Revenue Service, Illinois Department of Revenue, farmers' market sponsor or for village/city/county sales tax collection.

**Are there any liability exemptions?** No. It is your responsibility to assure that your foods are safe, unadulterated and properly labeled. Contact your attorney and/or insurance representative for advice.

**Should I initiate a recall or market withdrawal of my foods if found to be misbranded (e.g., did not declare milk on the label) or adulterated (e.g., foreign object in food)?** You should consider a press release or other public notice. See the following FDA website:

<http://www.fda.gov/Safety/Recalls/IndustryGuidance/ucm129259.htm>

## **Ready to Move Beyond a Cottage Food Operation?**

If you decide you would like to wholesale your products, which is not allowed under the cottage food law, you are ready to move to the next step and become a wholesale food processor. Contact the Illinois Department of Public Health at (217) 278-5900.

If you would like to operate a retail business, you must obtain a Food Service Establishment License from the Health Department. Contact the Pike County Health Department at (217) 285-4407 for more information. The Champaign-Urbana Public Health Department has prepared a guide for Cottage Food vendors at the following website.

<http://www.c-uphd.org/non-regulated-food-events.html>