



Cottage Food Frequently Asked Questions

Registration

Q. How much does the registration cost?

- A. There is a one-time registration fee of \$40.00. However, if the location of the operation moves, or additional recipes and labels are submitted, the operator is required to re-register and pay the fee again.

Q. Are vendors at the Farmers' Market exempt from having to have the cottage food license?

- A. If you only plan on selling goods that are on the Farmers' Market exemption list and you are only doing it at a Farmers' Market, then you do not need to register as a Cottage Food Operation.

Q. How do I register my business name?

- A. If you are using a trade name that is different from your own legal name, you must register it with the Montana Secretary of State (for sole proprietorships & partnerships).

<https://sos.mt.gov/business>

Rules and Regulations

Q. Can I sell cottage foods to a small grocery store?

- A. No, the foods produced must be sold directly to the customer and only from the producers' home, or at a farmers' market, bazaar, or small venue. These foods can only be sold directly to the customer or individual purchasing the cottage food product as a gift. Selling or providing these food products to grocery stores or other retail food establishments such as restaurants is prohibited.

Q. I want to set up a small table in a parking lot next to my car and sell my cottage food products. Is this allowed?

- A. This is allowable under the cottage food regulations. However, many towns and counties have local ordinances that ban sales of any type without a local business permit or license, including sales from your home. You would also need the parking lot owner's permission to conduct business there. Your product may only be stored temporarily in the motor vehicle used to transport it.

Q. How about selling online?

- A. A cottage food operator may advertise and coordinate the sale of their approved products via the internet, social media, other electronic communications, or phone. However, it must be a face-to-face sale to the consumer. Third party delivery services such as motorized or bike courier, USPS, UPS, FedEx, or any other mailing or shipping firm is not allowed. Services such as Amazon, eBay, or other similar services where the transaction does not include face to face interaction between the buyer and seller are also not allowed.

Q. What can I do to ensure that I am still meeting legal requirements if my cottage food operation grows and I decide that I want to make another type of food product that is not on the approved food list or I want to sell to retail stores or in other states besides Montana?

- A. Contact your local Environmental Health office for licensing and requirements to expand the types of products produced or how the product can be sold.

Q. Are Cottage Food Operations inspected?

- A. No, Cottage Food Operations are not inspected, unless there is a complaint or illness investigation.

Labels

Q. What must be on my cottage food label?

- A. The requirements for labeling are contained in ARM 37.110.504 and are also listed in the Montana Department of Public Health and Human Services Cottage Food Operation Guidance and Registration Application available on our website at ehfs.mt.gov.

Q. I want to bake gluten-free products. The recipes that I have do not have any gluten in them, but someone told me that since my kitchen is not “gluten-free” I cannot label them gluten-free...how do I label them?

- A. You may indicate on the label that the product does not contain gluten but first be certain you follow the labeling requirements and be well educated about what ingredients contain gluten and how to prevent cross-contact with gluten in your kitchen. For information from the FDA about gluten-free labeling, see: <https://www.fda.gov/food/nutrition-education-resources-materials/gluten-and-food-labeling>.

Q. If I am selling a single cupcake without a package, can I put up a sign with the ingredients and display it next to the cupcakes?

- A. All cottage foods must be packaged and labeled. For most items, the label must be on the package. There are a few exceptions for large items, such as wedding cakes (see below).

Q. How do you label a wedding cake that is unpackaged?

- A. For cakes that are not easily packaged, you must include all labeling requirements on the invoice and deliver the invoice with the cake directly to the consumer (purchaser).

Q. How do I find the metric equivalent of the weight or volume of my final product?

- A. Use an online conversion site, or use the following conversion factors:
- | | |
|---------------------------|--|
| 1 Ounce = 28.349 Grams | 1 US Fluid Ounce = 29.5735 Milliliters |
| 1 Pound = 453.59237 Grams | 1 US Gallon = 3.785 Liters |

Kitchens

Q. When a home is mentioned, does that also apply to my apartment?

- A. Yes, as long as the kitchen is in your primary residence. Do check policies of your landlord about operating a small business out of your rented home or apartment.

Q. Would a home with a mother-in-law living space converted into a second kitchen be allowed as well?

- A. Yes, it would, as long as the kitchen is located in your primary residence.

Sanitization

Q. Do you have a recipe for making my own fruit and veggie wash?

- A. The FDA recommends thoroughly washing produce under running water before eating, cutting, or cooking. Use of soap, detergent, or other commercial produce washes is not recommended.

Q. What sanitizer can I use for my counter top and sink area?

A. A sanitizer for your kitchen counters could be mixed in a food grade plastic spray bottle: 1 scant teaspoon of unscented household bleach (5.25% to 6%) in a quart of water. Spray onto your counter and let stand for one minute and then wipe off. Disinfectant wipes may also be used.

Approved Foods

Q. What cottage foods am I permitted to produce?

A. Only specific foods that are defined as “non-potentially hazardous” are approved for preparation by Cottage Food Operators. These are foods that do not require refrigeration to keep them safe from pathogens. Pathogens are germs that can make people sick.

Q. What about cotton candy? Candy mints?

A. Yes, cotton candy and most candy mints are acceptable. They must be non-potentially hazardous foods, thus do not require refrigeration for safety.

Q. Are all pies allowed?

A. Many pies are allowed, however, potentially hazardous pies such as pumpkin and cream pies are not allowed since they require refrigeration to prevent pathogen growth.

Q. Would specialty baked items be allowed (like gluten free dairy using almond or coconut flours and milks)?

A. Yes, but only non-potentially hazardous baked goods are allowed. Certain baked goods are actually potentially hazardous, for example, some pumpkin and cream pies, cheese cakes, and pastries will support pathogenic growth and therefore require refrigeration.

Q. Will cakes and cupcakes be allowed with butter cream frosting?

A. Only butter cream frosting that does not require refrigeration, for instance, if the recipe uses shortening instead of butter or the recipe has been tested and determined to be non-potentially hazardous.

Jams and Jellies

Q. Are freezer jams or jellies allowed?

A. No, products that must be stored in the refrigerator or freezer are not allowed.

Q. Why is jam production allowed but canned fruits are not?

A. The preserved products allowed in Montana as cottage foods (jams, jellies, some fruit butters) have different characteristics than canned fruits and vegetables. Higher amounts of sugar in these products lower the water activity and therefore don't allow the growth of pathogens.

Fermented Foods

Q. Are traditionally fermented foods allowed, for instance, lacto-fermented pickles and such?

A. No, fermented foods are not allowed under the Montana Cottage Food Rules.

Ingredients

Q. What about using my own homegrown ingredients such as vegetables, fruits, and eggs?

A. You may use home grown vegetables, fruits, and eggs in the products you produce for sale. Vegetables and fruits can be frozen for later use, as well. Safe food handling/processing guidelines should be followed, and all fruits and vegetables should be rinsed before use.

Dairy and Eggs

Q. If I want to sell dairy products (such as goat cheese) and free-range eggs – what do I need to do to sell those?

- A. Dairy products and eggs are not eligible cottage food products. Eggs may be sold at farmers' markets with restrictions. Contact the Montana Department of Livestock—Milk and Egg Bureau for more information.

Laboratory Testing

Q. Do I need to have my product tested by a lab?

- A. Any product, process, or recipe that the local authority or the Department of Public Health and Human Services thinks may not be “non-potentially hazardous” must be submitted to a process authority for review and laboratory testing.

Q. When using a recipe from the Ball Blue Book can you substitute honey for sugar?

- A. Not necessarily. Any substitutions can change the safety of a preserved product. If you want to try different substitutions in recipes, you may need to have your product tested to ensure that it still meets the criteria for non-potentially hazardous food.

Q. Can I make candies like rum balls with alcohol?

- A. Yes, however, if there is no heat treatment to “burn off” the alcohol, the product will need testing to ensure it qualifies for non-beverage product status under Montana liquor laws.

Q. Can I make Pumpkin Butter? It is sold in the stores and I have a great recipe.

- A. Maybe. Due to the pH of pumpkin and the variations in how it is made, you would be required to have the recipe tested to determine if it is non-potentially hazardous.

Other

Q. Do pet treats fall under Montana’s Cottage Food Act?

- A. No, pet treats are not included in Montana’s list of allowed cottage foods.

Liability

Q. What is my liability as a cottage food business operating out of my home?

- A. You should check with your homeowner insurance company or your landlord if you are operating out of a rental property. Many homeowner insurance policies will not extend liability coverage to liabilities that result from the activities of a home-based business.

Taxes

Q. Am I expected to pay self-employment tax on my cottage food business?

- A. Self-employment tax is a tax consisting of Social Security and Medicare taxes primarily for individuals who work for themselves. It is similar to the Social Security and Medicare taxes withheld from the pay of most wage earners. You must pay self-employment tax and file Schedule SE (Form 1040) if the following applies:
- Your net earnings from self-employment (excluding church employee income) were \$400 or more.
- Note: the self-employment tax rules apply no matter how old you are and even if you are already receiving Social Security or Medicare.