



City of North Port

ORDINANCE NO. 2013-38

(Adoption of Amendments to the City of North Port, Florida
Unified Land Development Code, Chapter 53)

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE, CHAPTER 53, SEC. 53-239 I(5), HOME OCCUPATION, CONCERNING PERMITTING OF THE SALE OF COTTAGE FOODS IN A RESIDENTIAL AND AGRICULTURAL ZONING DISTRICT; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING OF AMENDMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Unified Land Development Code currently prohibits any retail sales from the premises of a residence; and

WHEREAS, the City has received questions and comments from interested citizens regarding the sale of cottage foods, as defined by the State of Florida; and

WHEREAS, at a workshop held on June 28, 2013, the City Commission directed staff to prepare an ordinance to permit the sale of cottage foods in all residential and agricultural zoning districts in the City of North Port; and

WHEREAS, the City Commission desires to amend the City's Unified Land Development Code which will be applicable to the sale of cottage foods, in compliance with the recently adopted legislation by the State of Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1. FINDINGS.

The City Commission hereby makes the following findings:

1.01 The City of North Port has broad home rule powers granted by the Florida Constitution to enact ordinances which are not inconsistent with general or special law for the purposes of protecting the public health, safety, and welfare of its citizens; and

1.02 On June 14, 2010, through the adoption of Ordinance No. 2010-14, the City Commission enacted the updated Unified Land Development Code which regulates all land uses within the City of North Port; and

1.03 Regulations permitting the sale of cottage foods in residential zoning districts would meet the additional needs and desires of the citizens, enhance economic development, and ensure the health, safety

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and welfare of the entire citizenry.

SECTION 2. ADOPTION.

2.01 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code, as follows:

Sec. 53-239 (l)(5)

l. Home occupations.

It is the intent of this section to allow the operation of home occupations in any residential and agricultural zoning district as an accessory use and to regulate them so that a neighborhood, under normal circumstances, will not be disturbed or inconvenienced. The following conditions shall be met and complied with:

...

(5) No retail sales shall be conducted on the premises, except that cottage food products, as defined in Chapter 500, Florida Statutes, as amended, may be sold on the premises.

SECTION 3. CONFLICTS.

3.01 In the event of any conflicts between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4. SEVERABILITY.

4.01 If any section, subsection or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. CODING OF AMENDMENTS.

5.01 In this Ordinance, additions are shown as underlined and deletions as strikethrough. These editorial notations shall not appear in the codified text.

SECTION 6. EFFECTIVE DATE.

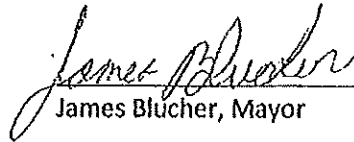
6.01 This Ordinance shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida.

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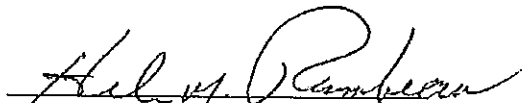
READ BY TITLE ONLY in public session this 27th day of January, 2014.

PASSED and ADOPTED on second and final reading in public session this 10th day of February, 2014.


CITY OF NORTH PORT, FLORIDA


James Blucher, Mayor

ATTEST:


HELEN RAIMBEAU, MMC
City Clerk

Approved as to form and correctness:


ROBERT K. ROBINSON
City Attorney



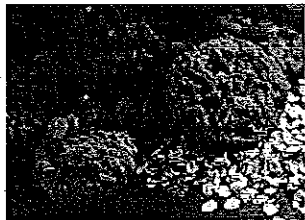
Florida Department of Agriculture and Consumer Services

Adam H. Putnam, Commissioner

Division of Food Safety

January 2013

Cottage Food Legislation Signed Into Law



The 2011 Florida Legislature enacted House Bill 7209 allowing individuals to manufacture, sell and store certain types of "cottage food" products in an unlicensed home kitchen.

Cottage food products include such items as breads, cakes, cookies, candies, jams, jellies, and fruit pies.

"Cottage food operations" as they are called require no license or permit from the Florida Department of Agriculture and Consumer Services (FDACS), and are



not inspected by any state government entity.

Gross sales for a cottage food operation must not exceed \$15,000 annually. Products must be sold directly by the cottage food operator to the consumer. Sales by Internet, mail order, consignment or at wholesale are prohibited.

Cottage food products must be labeled in accordance with the requirements as outlined in Section 500.80(5), Florida Statutes, and United States Code of Federal Regulations Title 21, Part 101.

All cottage food products, offered for sale to the general public, must be labeled: "Made in a cottage food operation that is not subject to Florida's food safety regulations."

The FDACS may investigate any complaint received against a cottage food operation.

The Division of Food Safety is pleased to provide cottage food op-

erators with general and specific information contained in this document.

If you are a prospective cottage food operator, please take some time to review this guidance document so that you are better informed about cottage food operation requirements.



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Quick Reference Definitions

Cottage Food Operation means a person who produces or packages cottage food products at his or her residence and sells such products in accordance with Section 500.80, Florida Statutes.

Cottage Food Product means food that is not a potentially hazardous food as defined by FDACS rule which is sold by a cottage food operation in accordance with Section 500.80, Florida Statutes.

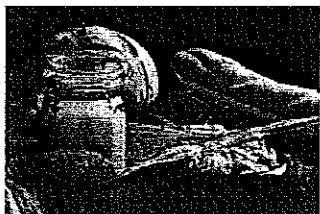
Residence is defined to mean a primary residence that is occupied by an individual who operates a cottage food operation and that contains a single kitchen with appliances designed for common residential usage. The residence may only contain one stove or oven, which may be a double oven designed for non-commercial use.

Potentially Hazardous Food means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation; An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation.

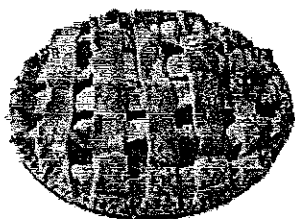


What Types of Cottage Foods Can I Produce?

As a cottage food operator, you are allowed to produce food items which are considered not potentially hazardous.



The table (at right) provides a listing of acceptable cottage food products. Although not all inclusive, it provides for most types of approved cottage food products.



If you have any questions regarding the production of a particular cottage food product please contact the FDACS's Division of Food Safety, Bureau of Food and Meat Inspection at (850) 245-5520.



Loaf breads, rolls, biscuits
Cakes, pastries and cookies
Candies and confections
Honey
Jams, jellies and preserves
Fruit pies and dried fruits
Dry herbs, seasonings and mixtures
Homemade pasta
Cereals, trail mixes and granola
Coated or uncoated nuts
Vinegar and flavored vinegars
Popcorn, popcorn balls

What Cottage Foods Are Not Allowed?

Fresh or dried meat or meat products including jerky
Canned fruits and vegetables, chutneys, vegetable butters and jellies, flavored oils, hummus, garlic dip, salsas etc.
Fish or shellfish products
Canned pickled products such as corn relish, pickles, sauerkraut
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
Ice and/or ice products
Barbeque sauces, ketchups and/or mustards
Focaccia-style breads with vegetables and/or cheeses

Frequently Asked Questions

Question: How do I sell my cottage food products?

Answer: You may sell your cottage food products from your residence directly to the consumer. Sales are also approved at farmer's markets, flea market and roadside stands.

Question: Can I use the internet to sell my cottage food products?

Answer: No, the law prohibits sales over the internet, by mail order, or at wholesale.

Question: Am I able to deliver my cottage food products?

Answer: Yes, you may deliver your cottage food products directly to the consumer or to a specific event venue (wedding, birthday celebration etc.)

Question: Do I need a permit or license for my cottage food operation?

Answer: No, you do not need a state permit or license for your cottage food operation. However, you should check with your city or county for any requirements they may have.

Question: Is there any limit to how much I can earn from my cottage food operation?

Answer: Yes, cottage food operators are limited to \$15,000 in gross sales per year. It is the operator's responsibility to comply with applicable laws, rules and regulations regarding the collection of sales tax.

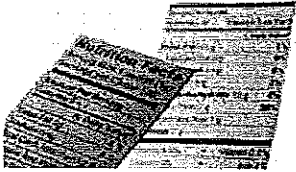
Question: Can I make pet treats?

Answer: No, the cottage food law applies to human-grade food only. For more information about pet treat licensing please contact the Feed Inspection Program at (850) 617-7855.

and Consumer Services

Florida Labeling Requirements

The cottage food law requires specific labeling requirements for the sale of cottage food products.



A cottage food operation may only sell cottage food products which are prepackaged with a label affixed that contains the following information: (printed in English)

- The name and address of the cottage food operation;
- The name of the cottage food product;
- The ingredients of the cottage food product, in descending order of

predominance by weight;

- The net weight or net volume of the cottage food product;
- Allergen information as specified by federal labeling requirements;
- If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements; and
- The following statement printed in at least 10-point type in a color that provides a clear contrast to the background label: "Made in a cottage food operation that is not subject to Florida's food safety regulations."

A sample is shown below and may assist with developing your cottage food product label.

MADE IN A COTTAGE FOOD OPERATION THAT IS NOT SUBJECT TO FLORIDA'S FOOD SAFETY REGULATIONS

Chocolate Chip Cookie

Ashley Christopher Bryant
1019 Food Safety Drive
Tallahassee, Florida 32399

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), Soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.

Contains: wheat, eggs, milk, soy, walnuts

Net Wt. 3 oz

Federal Allergen Labeling Information

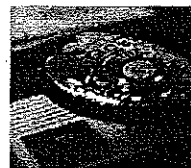
All cottage food products must be labeled in accordance with the United States Code of Federal Regulations Title 21, Part 101. As a cottage food operator, you must identify if any of your ingredients are made from one of the following food groups: eggs, milk, wheat, peanuts, soybeans, fish and tree nuts.

In the sample label (provided at left) possible allergens are identified as "Contains wheat, eggs, milk, soy and walnuts." This labeling allows consumers to avoid food which may be harmful to them.

To obtain additional information you may visit the following website which contains more information regarding federal allergen labeling information:

<http://www.fda.gov/Food/LabelingNutrition/FoodAllergensLabeling/GuidanceComplianceRegulatoryInformation/ucm106187.htm>

Cottage Food Inspections Know the Rules...



The FDACS may investigate any complaint received for a cottage food operation.

If your cottage food operation is the subject of a complaint, you must allow a FDACS employee or officer in your cottage food operation to conduct an inspection.

The FDACS employee or officer will inspect your cottage food operation to determine compliance with applicable laws, rules and regulations.

If you refuse to allow a FDACS employee or officer to inspect your cottage food operation, the FDACS may take disciplinary actions which may include a \$5,000 fine.

More information is available on page four of this publication.

State Agency Contact



A cottage food operation must comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage and sale of cottage food products. Below is a listing for state agency resources who may assist you in answering any questions regarding cottage foods:

FDACS of Agriculture and Consumer Services
Division of Food Safety
(850) 245-5520
<http://www.freshfromflorida.com/>

Be sure to check with your local municipal, city or county government for additional requirements!

Documents and Publications

The following websites provide additional information relating to food safety and subsequent requirements as well as the cottage food legislation:



United States Food and Drug Administration
2009 Food Code
<http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2009/>

Cottage Food House Bill 7209
<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=46868&SessionId=66>

Chapter 500, Florida Statutes
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0500-0599/0500/0500ContentsIndex.html&StatuteYear=2010&Title=%2D%3E2010%2D%3EChapter%20500

Food Allergen Labeling and Consumer Protection Act of 2004
<http://www.fda.gov/Food/LabelingNutrition/FoodAllergensLabeling/GuidanceComplianceRegulatoryInformation/ucm106187.htm>

Can I Sell My Cottage Foods to Restaurants?

Cottage food operators are not allowed to sell their cottage food products to local restaurants or grocery stores. These types of sales are considered "wholesale" and are not allowed under the law.

Cottage food operators must sell their cottage food products directly to the consumer.



Can I Make Salsas or Barbecue Sauce?

Processing of low-acid foods by retort canning or processing of acidified foods is not allowed by a cottage food operator.

These types of products must be commercially processed to ensure sterility under conditions of non-refrigerated storage and distribution.

Typically, canning or processing acidified foods are done in a state permitted facility.