



ZONING ADMINISTRATOR ADVICE
November 29, 2016

SUBJECT: Food Preparation and Home Occupations

ISSUE: What is the policy regarding the sale of food products prepared in the home?

RELEVANT ACZO CITATIONS:

The ACZO §18.2 defines a home occupation as follows:

An accessory use conducted pursuant to §12.9.11, in or from a residential dwelling or its accessory building by person(s) whose principal residence is on the premises.

The ACZO §12.9.11 details the use standards for home occupations, including the permitted types, the unpermitted types, and the limitations imposed on their operations.

SUMMARY RESPONSE:

The ACZO §12.9.11 does not explicitly provide for home cooking and food preparation as a permitted home occupation. However, the Zoning Administrator has determined that specific types of home cooking and food preparation activities have the same general character as home crafts, which is a permitted home occupation (§12.9.11.A.5). Furthermore, the Code of Virginia §3.2-5130 (otherwise known as the Virginia Cottage Food Law) details a limited number of home cooking and food preparation activities that do not require an inspection from the Virginia Department of Agriculture and Consumer Services (VDACS). This exemption applies only to a small list of eligible food products, and there are specific regulations for how they must be labeled, as well as how much can be sold and in what locations. The specific regulations are discussed below in greater detail. Taken together, the regulations of the ACZO and the Virginia Cottage Food Law make certain home cooking and food preparation activities permissible home occupations.

DISCUSSION:

Generally speaking, The ACZO permits home occupations as an accessory use in R, RA, and C districts. However, home cooking and food preparation are not explicitly listed among the permitted uses of the ACZO §12.9.11.A, nor are they explicitly listed among



the unpermitted uses of §12.9.11.B. Similarly, home cooking and food preparation are not specifically listed uses elsewhere in the ACZO. As detailed in the ACZO §12.2.5.B, food establishments are considered retail, service, and commercial uses. Such uses are not permitted in residential (R and RA) districts, are permitted by-right in some commercial and mixed use (C) districts, and may be subject to use permit and/or site plan approval from the County Board in certain other C districts.

The Virginia Cottage Food Law ([Code of Virginia §3.2-5130](#)) provides additional guidance with regards to home cooking and food preparation. The Virginia Cottage Food Law permits the sale of food produced from private homes without requiring a health inspection from the Virginia Department of Agriculture and Consumer Services (VDACS), so long as the food products do not require time and temperature control after preparation, maintain a specified pH value for acidified vegetables, and/or consist of honey produced from a resident's own hives. Details regarding the specific food types permitted are provided in "Table 1" below. Furthermore, the Virginia Cottage Food Law includes labeling, production, and sales requirements that must be followed in order to qualify for this exemption, also listed in "Table 1" below.

The Zoning Administrator may grant home occupations which have the same "general character" of those uses explicitly listed as permitted in ACZO §12.9.11.A. The Zoning Administrator has determined that home cooking and food preparation activities permitted under the Virginia Cottage Food Law have a similar general character as home crafts (§12.9.11.A.5) and are therefore permissible home occupations in R, RA, and C districts.

DETERMINATION:

Home cooking and food preparation activities consistent with Virginia Cottage Food Law (Code of Virginia §3.2-5130), are a permissible home occupation in R, RA, and C districts, having the same general character as home crafts (§12.9.11.A.5). Any applicant seeking a home occupation for home cooking and food preparation uses must comply with the relevant provisions of the Code of Virginia §3.2-5130, as well as the limitations and use standards for a home occupation detailed in the ACZO §12.9.11.C.



TABLE 1
SUMMARY OF VIRGINIA COTTAGE LAW REGULATIONS FOR
FOOD PRODUCED FROM PRIVATE HOMES
 ([Code of Virginia 3.2-5130](#))

Food Product	Production Restrictions	Sales Restrictions
Baked goods	<ul style="list-style-type: none"> • Must not require time or temperature control after preparation. 	<ul style="list-style-type: none"> • Sold to an individual for their own consumption and not for resale. • Sold at a private home or farmers market. • Not sold with the intent to be used in (or offered for consumption at) retail food establishments. • Not offered for sale over the Internet or in interstate commerce. • For pickles and other acidified vegetables ONLY, sale cannot exceed \$3,000 annually.
Candies, jams, and jellies	<ul style="list-style-type: none"> • Must not be considered low-acid or acidified low-acid food products. 	
Cereals		
Cotton candy		
Dried fruits, pastas, and teas		
Dry baking mixes, herbs, mixtures, and seasonings		
Granola and trail mixes		
Nuts (coated and uncoated)		
Pickles and other acidified vegetables	<ul style="list-style-type: none"> • Must have an equilibrium pH value of 4.6 or lower. 	
Popcorn and popcorn balls		
Roasted coffee		
Vinegars (flavored and unflavored)		
Honey	<ul style="list-style-type: none"> • Must be produced by resident's own hive. 	

Labeling Requirements:

All food products listed above (except honey) must be labeled in the following manner:

- Label must include name, physical address, and telephone number of the person preparing the food product.
- Label must include the date the food product was produced.
- Label must include the statement "NOT FOR RESALE – PROCESSED AND PREPARED WITHOUT STATE INSPECTION."

Honey must be labeled in the following manner:

- Label must include the statement: "PROCESSED AND PREPARED WITHOUT STATE INSPECTION. WARNING: Do Not Feed Honey to Infants under One Year Old."