

COTTAGE FOOD LAW REPORT

Berkeley County

West Virginia · Martinsburg · FIPS 54003 · Population
123,283 · Crosodo Index #2668*

STATE BASELINE

W. Va. Code §19-40-1 through §19-40-6 (eff. June 12, 2026); nonpotentially hazardous foods fully exempt; PHF foods require WV Dept. of Agriculture permit; direct sales only within WV

STATE TIER	ANNUAL SALES CAP (STATE)	CONFIDENCE	LAST VERIFIED
Good	—	MEDIUM	2026-05-05

IMPORTANT — NOT LEGAL ADVICE

This report compiles publicly-available statutes, regulations, and county zoning rules into a research reference. It is **not legal advice** and is provided **without warranty** as to accuracy, completeness, or current applicability.

Cottage food law changes frequently. Counties may amend zoning, health departments may issue new permits, and state legislatures may update statutes after the publication date shown above.

Always verify rules directly with your state department of health/agriculture and your county health and planning offices before relying on them for any business or regulatory decision. Consult a licensed attorney for advice specific to your situation.

WEST VIRGINIA: BERKELEY COUNTY

CROSODO INDEX #2668* · FIPS 54003 · Martinsburg

Berkeley County

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QUICK VIEW FOR BAKERS IN THIS COUNTY

HOME KITCHEN ALLOWED?

Yes (West Virginia SB 44 (2026) created §19-40-1 et seq. Nonpotentially hazardous cottage foods fully exempt from licensing/permitting/inspection. PHF cottage foods require WVDA permit but no food establishment permit for home sales. All sales within WV only.)

SEPARATE KITCHEN REQUIRED?

No

PETS ALLOWED?

No specific state prohibition; standard food safety sanitation practices apply.

HOME OCCUPATION PERMIT?

Yes (Berkeley County requires a home occupation permit for residential home-based businesses. Requirements per CityRuleLookup: home occupation permit required; business must be secondary to residential use; maximum 25% of home floor area for business; household members only as employees; no external signage beyond small nameplate; no excessive traffic, noise, or odors. Authority: WV Code §8A-7 (zoning authority). Martinsburg and Hedgesville have their own separate rules; this applies to unincorporated Berkeley County.)

ON-SITE / PORCH PICKUP?

Conditional

INSPECTION REQUIRED?

Upon-complaint (Nonpotentially hazardous foods: no inspection required. PHF cottage foods: WVDA may inspect under permit authority. Complaint-driven investigation possible for either category.)

Home kitchen rules

HOME KITCHEN ALLOWED	Yes — West Virginia SB 44 (2026) created §19-40-1 et seq. Nonpotentially hazardous cottage foods fully exempt from licensing/permitting/inspection. PHF cottage foods require WVDA permit but no food establishment permit for home sales. All sales within WV only.
SEPARATE DEDICATED KITCHEN	No
PET RESTRICTIONS	No specific state prohibition; standard food safety sanitation practices apply.
WATER SUPPLY	Potable water required per state food safety standards.
HANDWASHING	Standard food safety handwashing practices; no mandatory certification under WV cottage food law.
FOOD STORAGE	Non-TCS products stored per food safety standards. PHF products may require additional handling per WVDA permit conditions.

Inspection & permitting

INSPECTION REQUIRED	Upon-complaint — Nonpotentially hazardous foods: no inspection required. PHF cottage foods: WVDA may inspect under permit authority. Complaint-driven investigation possible for either category.
HOME OCCUPATION PERMIT	Yes — Berkeley County requires a home occupation permit for residential home-based businesses. Requirements per CityRuleLookup: home occupation permit required; business must be secondary to residential use; maximum 25% of home floor area for business; household members only as employees; no external signage beyond small nameplate; no excessive traffic, noise, or odors. Authority: WV Code §8A-7 (zoning authority). Martinsburg and Hedgesville have their own separate rules; this applies to unincorporated Berkeley County.
LOCAL BUSINESS LICENSE	Varies

Customer-facing rules

ON-SITE CUSTOMER PICKUP	Conditional
ON-SITE SIGNAGE	No
DELIVERY / PICKUP RULES	WV state law: direct sales only within West Virginia. No wholesale or retail store sales. Berkeley County home occupation permit may restrict customer traffic volumes.
MAX EMPLOYEES IN HOME	Household members only per Berkeley County home occupation regulations.

Relevant county code

Berkeley County Zoning Ordinance (home occupation provisions); W. Va. Code §8A-7; W. Va. Code §19-40-1 et seq.

RESEARCH NOTES

WV enacted a major new cottage food law (SB 44, 2026, eff. June 12, 2026) creating §19-40-1 et seq. Berkeley County home occupation requirements confirmed via CityRuleLookup (2026 data). Household-members-only employee rule and 25% floor area limit are specific Berkeley County provisions. Martinsburg (county seat) and Hedgesville have separate city-level rules. Note that WV state law was just updated in 2026; the oeh.dhhr.wv.gov URL referenced in input may reflect pre-2026 rules. Confidence medium.

SOURCES VERIFIED AT RESEARCH TIME

<https://www.berkeleywv.org>

<https://www.berkeleywv.org>

<https://www.cityrulelookup.com/home-business/cottage-food/berkeley-county-wv>

<https://www.cityrulelookup.com/home-business/zoning/berkeley-county-wv>

<https://oeh.dhhr.wv.gov/foodprotection/Pages/Cottage-Food.aspx>

Questions? Join the Crosodo Forum to discuss your county’s specific zoning rules at <https://crosodo.com/nb/west-virginia/berkeley-county-discuss>

State context — West Virginia cottage food law

Berkeley County’s rules sit on top of West Virginia’s state cottage food framework. The state law sets the floor — counties can add but cannot remove protections.

STATUTE

W. Va. Code §19-40-1 through §19-40-6 (Article 40, Cottage Foods, enacted 2026); §19-35-6 (Nonpotentially hazardous foods at farmers markets)

ANNUAL SALES CAP

—

REGISTRATION REQUIRED

Depends

FOOD HANDLER CERT

No

KITCHEN INSPECTION

Upon-complaint

DIRECT SALES ONLY

Yes

INDIRECT SALES

No — Cottage food must be sold directly to consumers. The new Article 40 (effective June 12, 2026) establishes that potentially hazardous cottage food vendors need a statewide permit but nonpotentially hazardous food sellers are fully exempt from permit and inspection. Local health departments may invoke cessation of production only if an imminent health hazard exists, in consultation with the Department of Agriculture. The input batch cited §16-7-1 (a general adulteration statute), but the operative cottage food framework is now Article 40 (§19-40-1 through §19-40-6), signed March 27, 2026.

For the full state-level analysis including the verbatim statute text, see the [West Virginia cottage food law report](#).

STATE-LEVEL REFERENCES

State statute: <https://code.wvlegislature.gov/16-7/>

State dept cottage food page: <https://oeh.dhhr.wv.gov/foodprotection/Pages/Cottage-Food.aspx>

Forrager.com: <https://forrager.com/law/west-virginia/>

Questions?

Join the Crosodo Forum to discuss Berkeley County's specific zoning rules, permits, and what other home bakers are seeing locally.

<https://crosodo.com/nb/west-virginia/berkeley-county-discuss>
