

COTTAGE FOOD LAW REPORT

Upshur County

West Virginia · Buckhannon · FIPS 54097 · Population
24,254 · Crosodo Index #603*

STATE BASELINE

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

STATE TIER	ANNUAL SALES CAP (STATE)	CONFIDENCE	LAST VERIFIED
Good	—	MEDIUM	2026-05-06

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: UPSHUR COUNTY

CROSODO INDEX #603* · FIPS 54097 · Buckhannon

Upshur County

Population 24,254 · State baseline: W. Va. Code §19-40-1 through §19-40-6 (Cottage Foods, enacted 2026); §19-35-6 (Nonpotentially hazardous foods at farmers markets) · **MEDIUM**

QUICK VIEW FOR BAKERS IN THIS COUNTY

HOME KITCHEN ALLOWED?

Yes (Upshur County has no county-level zoning ordinance. State law governs: nonpotentially hazardous cottage foods are fully exempt from licensing, permitting, and inspection. Potentially hazardous cottage foods require a WV Department of Agriculture permit. All sales must remain within West Virginia. No sales cap.)

SEPARATE KITCHEN REQUIRED?

No

PETS ALLOWED?

No specific pet restriction in state cottage food law.

HOME OCCUPATION PERMIT?

No (Upshur County has no county-level zoning ordinance and does not require a home occupation permit for cottage food operations. State registration/permit required only for potentially hazardous foods through WV Dept. of Agriculture.)

ON-SITE / PORCH PICKUP?

Yes

INSPECTION REQUIRED?

Upon-complaint (No routine inspection for nonpotentially hazardous foods. Potentially hazardous foods require Dept. of Agriculture permit; complaint-based follow-up.)

Home kitchen rules

HOME KITCHEN ALLOWED	Yes — Upshur County has no county-level zoning ordinance. State law governs: nonpotentially hazardous cottage foods are fully exempt from licensing, permitting, and inspection. Potentially hazardous cottage foods require a WV Department of Agriculture permit. All sales must remain within West Virginia. No sales cap.
SEPARATE DEDICATED KITCHEN	No
PET RESTRICTIONS	No specific pet restriction in state cottage food law.
WATER SUPPLY	No specific state cottage food water testing requirement.
HANDWASHING	No specific state cottage food handwashing mandate beyond general food safety practices.
FOOD STORAGE	Nonpotentially hazardous, shelf-stable foods fully exempt. Potentially hazardous foods require WV Dept. of Agriculture permit.

Inspection & permitting

INSPECTION REQUIRED	Upon-complaint — No routine inspection for nonpotentially hazardous foods. Potentially hazardous foods require Dept. of Agriculture permit; complaint-based follow-up.
HOME OCCUPATION PERMIT	No — Upshur County has no county-level zoning ordinance and does not require a home occupation permit for cottage food operations. State registration/permit required only for potentially hazardous foods through WV Dept. of Agriculture.
LOCAL BUSINESS LICENSE	No

Customer-facing rules

ON-SITE CUSTOMER PICKUP	Yes
ON-SITE SIGNAGE	Yes
DELIVERY / PICKUP RULES	Direct sales only within West Virginia. Home pickup, farmers markets, roadside stands, and events permitted. No interstate sales.
MAX EMPLOYEES IN HOME	Not specified in state statute.

Relevant county code

No county zoning ordinance. State law W. Va. Code §19-40-1 et seq. applies.

RESEARCH NOTES

Upshur County is a rural central WV county with no comprehensive county zoning. The county seat Buckhannon may have municipal regulations but county unincorporated areas follow state law only. WV enacted SB 44 (2026) creating §19-40-1 through §19-40-6 as the operative cottage food law. No county-specific cottage food or home occupation regulations identified. State baseline applies in full.

SOURCES VERIFIED AT RESEARCH TIME

<https://www.upshurcounty.org/>

<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/upshur-county-discuss>

Bordering counties — cottage food law

Regulation	Upshur County	Barbour County	Lewis County
HOME KITCHEN ALLOWED	Yes	Yes	Yes
SEPARATE DEDICATED KITCHEN	No	No	No
PETS ALLOWED	No specific pet restriction in state cottage food law.	No specific WV state rule on pets in home kitchens for cottage food; standard good manufacturing practice recommends exclusion during produ...	No specific WV state rule on pets in home kitchens for cottage food; standard good manufacturing practice recommends exclusion during produ...
INSPECTION REQUIRED	Upon-complaint	Upon-complaint	Upon-complaint
ON-SITE CUSTOMER PICKUP	Yes	Conditional	Conditional
ON-SITE SIGNAGE	Yes	Conditional	Conditional
DELIVERY / PICKUP	Direct sales only within West Virginia. Home pickup, farmers markets, roadside stands, and events permitted. No interstate sales.	Direct to consumer sales permitted under WV law. Customer pickup at home is generally allowed. Delivery also allowed. All sales must remain...	Direct to consumer sales permitted under WV law. Customer pickup at home is generally allowed. Delivery also allowed. All sales must remain...
HOME OCCUPATION PERMIT	No	Conditional	Conditional
LOCAL BUSINESS LICENSE	No	No	No
RESTRICTIONS	Upshur County has no county-level zoning ordinance. State law governs: nonpotentially hazardous cottage foods are fully exempt from licensi...	Nonpotentially hazardous cottage foods fully exempt from licensing, permitting, and inspection under WV Code §19-40-6. Potentially hazardou...	Nonpotentially hazardous cottage foods fully exempt from licensing, permitting, and inspection under WV Code §19-40-6. Potentially hazardou...
FOOD STORAGE	Nonpotentially hazardous, shelf-stable foods fully exempt. Potentially hazardous foods require WV Dept. of Agriculture permit.	Foods must remain nonpotentially hazardous (shelf-stable); proper storage to prevent contamination recommended.	Foods must remain nonpotentially hazardous (shelf-stable); proper storage to prevent contamination recommended.
POPULATION	24,254	16,403	16,372

State context — West Virginia cottage food law

Upshur 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 Upshur County's specific zoning rules, permits, and what other home bakers are seeing locally.

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