

OPERATIONAL GUIDELINES FOR FARMERS' MARKET VENDORS



MINNESOTA DEPARTMENT
OF AGRICULTURE

Dairy and Food Inspection, 651-201-6027

www.mda.state.mn.us

*The purpose of these guidelines is to highlight essential information for vendors and market managers. When in doubt, please call the Minnesota Department of Agriculture (MDA), Dairy and Food Inspection Division (DFID) at **651-201-6027** to help you determine licensing requirements. If a market's inspection is delegated to a local city or county, please contact the appropriate regulatory agency. MDA can assist you with locating the appropriate agency.*

Who Needs a License?

Most vendors who sell any food products (except those who are exempted under Minnesota Statute 28A.15 sub-divisions 2, 9, or 10) or a reseller of any food, including produce, need to be licensed either through MDA, the Minnesota Department of Health (MDH), or a Local Authority. A food establishment or food manufacturer already licensed by MDA or MDH might need to get a different type of food license to sell foods at a farmers' market. You can contact DFID for clarification.

What Foods are Exempt from Licensing Under Minnesota Statute 28A.15?

“Persons selling the products of the farm or garden occupied and cultivated by them” are exempt from licensing (see M.S. 28A.15 Sub-division 2). For example, if you grow all of the produce that you have for sale (e.g. fruits, vegetables, herbs), you are exempt from licensing. However, if you BUY any produce or food to sell, you are not exempt and need a license.

This exemption may apply to some home-raised meats. However, all meat product ingredients must be grown on the farm to qualify for the exemption.

For example, even though the pork in bacon may be grown by a farmer, the other ingredients (salt, cure, spices) are not grown by the farmer, so a license for the sale of that bacon would be required. Additionally, even if a product doesn't need a license, all regulations regarding food safety and meat sales apply. Contact DFID for details.

Individuals who prepare and sell food, that is NOT considered potentially hazardous, at a community event or farmers' market are exempt as long as they meet all of the following requirements (see M.S. 28A.15 sub-division 9):

- Gross receipts from the prepared food items cannot exceed \$5,000.00 in a calendar year; AND
- Seller must post a visible sign stating: “THESE PRODUCTS ARE HOMEMADE AND NOT SUBJECT TO STATE INSPECTION”; AND
- Foods must be labeled to include the name and address of the person preparing and selling the foods.

Examples of foods that are not considered potentially hazardous and could be sold under this exemption would be maple syrup, fruit pies, cakes, cookies, breads, and lefse.

Individuals who prepare and sell home-processed and home-canned food products, at a community or social event, or a farmers' market, are also exempt (see M.S. 28A.15 subdivision 10, also known as "The Pickle Bill"). The products need to meet all of the following requirements:

- Be limited to pickles, vegetables, or fruits that have an equilibrium pH value of 4.6 or lower; AND
- Products are home-processed and home-canned in Minnesota; AND
- Products are sold or offered for sale only at community or social events or farmers' markets in Minnesota; AND
- Seller must display a sign stating: "THESE CANNED GOODS ARE HOMEMADE AND NOT SUBJECT TO STATE INSPECTION"; AND
- Each container sold or offered for sale must be labeled with the name and address of the person who processed and canned the goods and the date of processing and canning.

Foods sold under this exemption include ONLY Minnesota home-processed and home-canned foods with a pH below 4.6 which MAY include traditional jams and jellies, some canned pickles, tomatoes, salsa, apples, pickled beets, horseradish, sauerkraut, and most fruits. The key is the final pH, which is dependent on the product and the formulation.

The following types of foods CANNOT be sold under the exemptions listed above: apple or other fruit juice, pumpkin pies, custard pies, cream puffs, low-acid canned foods such as green beans, corn, peas, mushrooms, soups, meat, fish, eggs, any other products containing meat, eggs, dairy, or any product that requires refrigeration.

Contact DFID at 651-201-6027 if there are questions regarding approved sources, farmer exemptions, and licensing requirements. Regardless of license status, all producers, processors, handlers, and vendors of food, must comply with all applicable rules mandated by the regulation.

What are the Requirements for Selling Eggs at a Farmers' Market?

Licensing requirements:

- Persons reselling eggs need a license.
- Persons selling eggs produced only on their farm are exempt from licensing.

Other requirements (whether licensed or exempt):

- Eggs offered for sale need to be candled and graded.
- Each carton needs to have the following label information:
 - correct size and grade;
 - statement: "Perishable – Keep Refrigerated";
 - statement: "Safe Handling Instructions: To prevent illness from bacteria, keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.";
 - pack date which may be coded by utilizing the Julian date;
 - freshness date and an explanation of that date; and
 - name, address and zip code of the packer or distributor.
- Eggs need to be kept under mechanical refrigeration at 45°F or lower.

Can Poultry be Sold at a Farmers' Market?

It is best to discuss this matter with someone in the DFID Meat Program as federal and state laws have varied requirements for poultry sales at farmers' markets. In most cases, the poultry for sale at farmers' markets must have been processed under continuous state or USDA inspection.

What Inspection is Required for Meat Products Sold at a Farmers' Market?

Federal and state laws require that meat products (beef, pork, cervidae, lamb, etc.) be processed under continuous inspection of the USDA or the MDA Meat Program. Therefore, all meats sold at a farmers' market must be inspected by a federal or

state Inspector. Custom-processed meat cannot be sold at a farmers' market.

What Labeling is Required on Packaged Foods Sold by Licensed Vendors?

Label requirements for packaged foods sold by licensed vendors at a farmers' market are the same as any food establishment. Basic labels must include:

- name of product;
- net quantity of contents;
- complete list of ingredients in descending order of predominance; and
- name, address, and zip code of producer or distributor.

What are the Ingredient Labeling Requirements?

It is highly recommended that products produced under the exemptions in M.S. 28A.15 subdivisions 9 and 10 are labeled with an accurate ingredient statement or sold under a placard with an accurate ingredient statement.

What are the Requirements Regarding Food Allergen Ingredients?

All vendors, both licensed and those that are exempt under 28A.15 Subdivision 9 and 10, need to be aware and capable of providing accurate ingredient information to their customers with food sensitivities or food allergies. Allergenic ingredients of concern are those products that contain wheat, eggs, peanuts, tree nuts, soy, milk, fish, or shellfish.

Are Pets Allowed in Food Stands?

The only animals allowed in the area of operation are police dogs and service animals, such as patrol or disability assistance dogs.

Can I Sell Wild Mushrooms at the Farmers' Market?

Wild mushrooms kill consumers every year. Successful completion of a wild mushroom identification course from a provider approved by MDA, and applicable licensing, is required to sell wild mushrooms, including morels, at a farmers' market. Other requirements would also apply.

Can I Cook and/or Prepare Food On-site to Sell at a Farmers' Market?

You must contact the regulatory agency for the market site to determine the license and facility requirements. Specific rules can be found in Minnesota Rules 4626, the Uniform Minnesota Food Code available at:

www.health.state.mn.us/divs/eh/food/code/index.html

What are the Minimum Requirements if I Want to Provide Free Food Samples?

Sampling at a farmers' market is not the same as sampling in a licensed food establishment that has an approved water supply, handwashing, equipment-washing, produce-washing, and restroom facilities available. Vendors wishing to offer samples must first receive approval from their market board AND from the appropriate regulatory agency. Food sampling promotions are not to be set up as self-service displays for consumers to help themselves. Dispensing of product must be done in a safe and sanitary manner under the control of the vendor. MINIMUM requirements are as follows:

- **License:** Contact your regulatory agency BEFORE offering samples.
- **Water supply:** Water must be provided and come from an approved source. A private residential well is not an approved source.
- **Waste water:** All waste water must be disposed of in an approved sanitary sewer system. Disposal on the ground or in a storm sewer is not acceptable.

- **Handwashing:** An approved handwashing device in your stand is required. The use of a large coffee pot or other container filled with warm water that drains into a container with hand soap and single-use hand towels may be acceptable for a stand that offers samples ONLY. It is probably not acceptable for a vendor who wants to prepare and sell food.
- **Manual equipment and utensil-washing facilities:** Three food-grade containers (with lids) which are large enough to allow the proper cleaning and sanitizing of the food equipment in use must be provided and used as follows:
 - Wash equipment/utensils in warm, soapy water;
 - Rinse off all soap residue from utensils in clean water;
 - Dip rinsed utensils into sanitizing solution so that they are completely covered. Follow instructions on sanitizer container for proper sanitizer concentration. Provide and use a compatible sanitizer test kit to check sanitizer concentrations; and
 - Remove the utensils from the sanitizing solution and allow air-drying on a clean surface.

If a licensed food establishment or food manufacturer has ware-washing equipment at its permanent location, they MAY be allowed to wash all of their equipment at their permanent location if enough cleaned and sanitized equipment is provided so that no cleaning and sanitizing is needed at the farmers' market. Handwashing facilities would still be required at the stand. Contact your regulatory agency for additional information.

Only single-service disposable eating and drinking utensils may be used, such as single-use food papers, napkins, toothpicks, spoons, etc.

What is Required to Conduct Chef Demonstrations?

Contact your regulatory agency BEFORE THE EVENT. A chef demonstration with NO sampling or food sale would not require a license. A chef demonstration with sampling or food sale would probably require a license and would be required to meet all of the above minimum requirements. A potential option for a demonstration with sampling MAY be to prepare the items at a licensed food establishment or food manufacturing facility and transport the samples to the market for distribution. A license, hand-washing facilities, etc. may still be required.

Other Food Sampling Issues

All produce such as berries, melons, apples, grapes, etc. must be washed thoroughly before sale or sampling. If a separate produce-washing sink for these items is not provided on site, then these items should not be offered for sampling. Cut melons are considered a potentially hazardous food and require being stored and offered refrigerated at 41°F or lower.

For additional information:

www.mda.state.mn.us/en/food/safety/food-safety-resources.aspx

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