

Operational Guidelines

FOR VENDORS AT THE FARMERS' MARKET

The Minnesota Department of Agriculture, www.mda.state.mn.us



The purpose of this guideline is to highlight essential information for vendors and market managers. When in doubt, please call the MDA at 651-201-6027 to help you figure out the licensing requirements. If the market inspection is delegated to a local city or county, please contact the appropriate regulatory agency.

WHO NEEDS A LICENSE?

- *Resellers of any food, including produce.*
- *Most vendors who sell any food products (except those that are exempted under Minnesota Statutes 28A.15 Sub-division 2, 9 or 10).*
- *A FOOD ESTABLISHMENT OR FOOD PLANT licensed by the MDH or MDA might need to get a different type of food license to sell foods at a farmers' market. Contact the MDA to clarify.*

WHAT FOODS ARE EXEMPT FROM LICENSING UNDER (MINNESOTA STATUTE 28A.15).

Three categories of foods or food sellers are exempt from licensing.

1. "persons selling the products of the farm or garden occupied and cultivated by them" are exempt (see M.S.15 Sub-division 2). For example, if you grow all of the produce that you have for sale (e.g. fruits, vegetables, herbs etc.) 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 ingredients must be grown on the farm to qualify for the exemption. For

example, even though the pork in bacon is grown by the farmer, because the salt, cure, and spices are not grown by the farmer, a license for the sale of bacon would be required. Additionally, even if a product doesn't need a license, all other regulations regarding food safety and meat sales apply. Contact the MDA at 651-201-6027 for details.

2. Individuals who prepare and sell food that is NOT considered a potentially hazardous food 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 cannot exceed \$5,000.00 in a calendar year from the prepared food items.
 - seller must post a visible sign stating: "THESE PRODUCTS ARE HOMEMADE AND NOT SUBJECT TO STATE INSPECTION"
 - foods must be labeled to include name and address of the person preparing and selling the foods.

Examples of foods that are NOT considered a potentially hazardous food and could be sold under this exemption would be jams, jellies, cakes, cookies, fruit pies, breads, maple syrup, lefse etc.

3. Individuals who prepare and sell home-processed and home-canned food products (see M.S. 28A.15 Sub-division 10, also known as the "The Pickle Bill"). The products need to meet all of the following requirements:

- pickles, vegetables or fruits that have an equilibrium pH value of 4.6 or lower
- products are home-processed and home-canned in Minnesota
- products are sold or offered for sale at community or social event or a farmers' market in Minnesota.
- seller displays sign stating: "THESE CANNED GOODS ARE HOMEMADE AND NOT SUBJECT TO STATE INSPECTIONS."
- each container sold or offered for sale is labeled with: the name and address of the person who processed and canned the goods and date of processing and canning.

Foods sold under this exemption include ONLY Minnesota home-processed and canned foods with a pH below 4.6 which MAY include 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 either of the above exemptions: apple or fruit juice, pumpkin pies, custard pies, cream puffs, low acid canned foods such as green beans, corn, peas, mushrooms, soups, meat, fish, eggs or any other products containing meat, eggs, dairy or any product that requires refrigeration.

WHAT ARE THE REQUIREMENTS FOR SELLING EGGS AT A FARMERS' MARKET?

- A. Licensing requirements
 - Persons selling eggs produced only on their farm are exempt from licensing.
 - Persons reselling eggs need a license.
- B. Other requirements (whether licensed or exempt).
 - Candling and Grading
 - All eggs offered for sale need to be candled and graded.

- Labeling
 - 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".
 - ▶ code dated with the pack date which is the Julian date
 - ▶ dated with the freshness date and explanation of the date
 - ▶ name, address and zip code of packer or distributor.
- Refrigeration
 - Eggs need to be kept under mechanical refrigeration at 45°F or less.

CAN POULTRY BE SOLD A FARMERS' MARKET?

It is best to discuss this matter with someone from MDA (651-201-6027) as Federal and State laws have varied requirements for poultry and 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 BEEF, PORK, CERVIDAE, LAMB ETC. SOLD AT A FARMERS' MARKET?

Federal and State laws require that meat products be processed under continuous inspection of the USDA or the Minnesota Meat Inspection Program. Therefore, virtually all meats sold at a farmers' market must be inspected by a Federal or Minnesota State Inspector. Custom processed meat cannot be sold.

WHAT LABELING IS REQUIRED ON PACKAGED FOODS?

Label requirements for packaged food at a farmers' market are the same as any retail establishment. Basic labels must include:

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

***KEY -- In order to provide needed information to customers with food sensitivities or allergies it is mandatory that ingredient statements accurately identify the allergenic ingredients (eggs, peanuts, tree nuts, soy, milk, fish, shellfish, and wheat).*

***It is highly recommended that products produced under the exemptions in 28A.15 subdivision 9 and 10 also be labeled with an accurate ingredient statement or sold under a placard with an accurate ingredient statement.*

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 handicap assistance dogs.

CAN I SELL WILD MUSHROOMS AT THE FARMERS' MARKET?

Wild mushrooms kill consumers every year. A food license and successful completion of a wild mushroom identification course from a provider approved by the MDA would be required to sell wild mushrooms including morels at a farmers' market. Other requirements would apply.

WHAT IF I WANT TO COOK AND OR PREPARE FOOD FOR SALE ON SITE AT A FARMERS' MARKET?

If you want to cook or prepare food on site for sale 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 on the MDA website.

WHAT ARE THE MINIMUM REQUIREMENTS IF I WANT TO PROVIDE FREE FOOD SAMPLES?

Sampling in a farmers' market setting is not the same as sampling in a licensed food establishment that has an approved water supply, hand washing, equipment washing, produce washing and rest room facilities available. Vendors wishing to sample must first receive approval from their market board AND from the appropriate regulatory agency. MINIMUM requirements are as follows:

License: A license is probably required. Contact your regulatory agency BEFORE offering samples.

Water Supply: Water must come from an approved source. A private residential well in not an approved sourced. Water must be provided and come from 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.

Hand-washing: An approved hand washing device in your stand is required. A suggestion for building an inexpensive hand wash sink can be found on the MDA website at www.mda.state.mn.us. The use of a large coffee pot or 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 would probably not be acceptable for a vendor that wanted 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;

1. Wash in warm soapy water.
2. Rinse off all soap residue from utensils in clean water.
3. Dip rinsed utensils into sanitizing solution so that it is completely covered, then remove and allow to air dry on a clean surface. Follow instructions on sanitizer container for proper sanitizer concentrations and provide and use a compatible sanitizer test kit to check sanitizer concentrations.

IF A LICENSED FOOD ESTABLISHMENT OR FOOD PLANT has ware washing equipment at their 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. Hand washing facilities would still be required at the stand. See your 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. Only single service, disposable eating and drinking utensils may be used such as single use food papers, napkins, toothpicks, spoons etc.

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 be required to meet all of the above minimum requirements. A potential option for a chef demonstration with sampling MAY be to have the chef prepare his items to be sampled at his LICENSED FOOD ESTABLISHMENT OR FOOD PLANT and transport the samples to the market for distribution. A license, hand washing facilities etc still may apply.

FOOD SAMPLING ISSUES

All produce such as berries, melons, apples, grapes etc must be washed thoroughly before sale or sampling. If a separate produce prep washing sink for these items is not provided on site and used or provided and used back at the LICENSED FOOD ESTABLISHMENT OR FOOD PLANT then these items should not be offered for sampling.



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