



Department of
Agriculture

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Food Sales at Farmers' Markets: Frequently Asked Questions

Information for Market Managers and Vendors From the Michigan Department of Agriculture

Farmers' markets are a traditional link between local food producers and consumers. Farmers' markets enhance the sense of community. Across Michigan, farmers' markets vary in the types and varieties of foods offered for sale from agricultural producers directly to the consumer.

It is generally the Market Manager's responsibility to enforce the vendor requirements set by the city or town in which any given market operates. Market Managers must also be aware of the requirements of Michigan's Food Law as they apply to farmers' markets, although responsibility for the enforcement of those requirements falls to the local Michigan Department of Agriculture (MDA) food inspector.

Food vendors and Market Managers may contact the nearest MDA regional office directly if they have questions about the standards for vending foods at any given farmers' market in Michigan. A roster of those offices appears at the end of this document.

Here are answers to some frequently asked questions regarding certain types of food sales in a farmers' market setting:

- 1. A vendor sells wild mushrooms at a farmers' market. The mushrooms were harvested in a forest. What concerns are associated with the practice and what requirements apply ?**

If the collector is not an expert at identifying edible wild plants and mushrooms, there is a danger that poisonous varieties were harvested. Consumption of certain varieties can lead to illness or death.

In some states, farmers' markets require mushroom vendors to sign agreements releasing the municipality and Market Manager from damage claims in the event of the illness or death of a consumer. Insurance underwriters associated with municipal sponsors of farmers markets may require the municipality to carry additional liability insurance. Other restrictions may include limiting mushroom varieties to certain of the more common ones like morel, oyster, sulfur shelf, and chanterelles.

To be approved to sell wild mushrooms, wild herbs, or other wild plants in Michigan the vendor must satisfy all of the following provisions:



A. The seller must be recognized as appropriately trained and competent in the identification of safe botanical and mycological varieties. Alternatively, the seller may employ a recognized expert.

- B. The seller shall submit a written statement to the Michigan Department of Agriculture Food & Dairy Division Office identifying the person who will verify the species and the procedure for safeguarding against the sale of potentially injurious mushrooms. The statement shall include a description of that person's education, experience and expertise.
- C. Each individual wild mushroom shall be inspected and identified by the recognized expert. Only those identified as safe may be sold.
- D. Each storage container of mushrooms shall be labeled with the scientific and common name of the mycological variety. Packaged mushrooms may be identified by the common name only and shall bear additional labeling in full accordance with current state and federal requirements.
- E. Written records that indicate the quantity, variety, expert identifier, and buyer of the mushrooms shall be retained by the packer for a period of not less than two years. These records shall be made available for MDA examination upon request.
- F. Wild mushrooms shall be handled and protected from contamination in accordance with all current state and federal regulations associated with the handling and processing of foods intended for human consumption.
- G. The vendor is not presently required to hold a license from MDA for any given farmers' market, but slicing, other processing or warehousing of wild mushrooms must take place in an approved food establishment licensed by MDA or a local health department.

2. A farmer uses cabbage and carrots of his own production to prepare a coleslaw base. What are the requirements?

Whole, uncut produce is considered raw and unprocessed and can be sold without restriction by a vendor. However, coleslaw base involves cutting or shredding the vegetables.

Once cut, vegetables fall into the category of processed food. Such a process is permitted only at an approved, licensed location. Therefore coleslaw base cannot typically be prepared at a farmers' market, at a temporary event, or at an unlicensed location such as a person's residence.

If produced at a licensed location, packaged coleslaw base must be labeled in full accordance with current state and federal requirements and held under refrigeration.

If the farmer owns a licensed processing facility, a separate license is not required to sell the product at a farmers' market. If the vendor is not the grower of the raw produce used to make the coleslaw base, a food establishment license is required for sales at a farmers' market.

3. A farmer sells a salad mixture of assorted lettuce leaves and other greens from an open box (in bulk). Since the lettuce leaves are intact and not cut, is a license required and are there any food safety concerns?



So long as the lettuce leaves remain intact and undamaged when de-stemmed, a license would not be required at the farmer's own packing facility or the farmers' market. However, the lettuce or other greens must be handled safely and protected from contamination. Although the consumer is responsible for washing the salad mixture prior to use, MDA recommends that a sign be placed at the point-of-sale to remind customers that this produce should be washed before eaten since it is in a ready-to-eat form.

4. May a food vendor offer samples for immediate consumption at farmers' markets?

This depends on a number of factors such as the type of food, method of preparation, and sanitary controls. Most food sampling is generally not feasible at farmers' markets if the food is to be handled and cut or sliced on site or at the vendor's home. In most cases, markets lack hand-washing sinks, utensil washing sinks to clean and sanitize knives and trays, and an approved water supply for washing fruits and vegetables. Therefore the offering of foods for sampling that have to be sliced or cut at farmers' markets without sanitary controls is prohibited.

The food inspector responsible for the area must be consulted in advance to discuss plans for any on-site sampling. Adequate controls will include clean, single-use plates or trays, a method to clean and sanitize knives frequently, hand washing, use of disposable gloves, and other precautions.

All vendors offering food samples must realize that they are responsible for the safety of the food samples being offered. The vendors offering samples must take precautions to make certain that food samples are handled and displayed properly to prevent contamination, especially from hands.

MDA recommends that samples be prepared at an approved, licensed facility prior to arriving at the market. For example, if a vendor who owns a licensed bakery cuts doughnuts into pieces at that bakery, places them on a tray, inserts a toothpick in each piece, and keeps the tray covered with plastic wrap, sampling at the farmers market may be allowed. The same may be true for hard cheeses, confections, bread, and produce.

5. A vendor from Ohio sells home-canned pickles and jams at farmers' markets in Ohio under that state's new Home Cottage Production rules. May those products be sold legally at Michigan farmers markets?

The Cottage Food Production Operation rule is specific to Ohio, although some other states have similar laws. In Ohio, residents are permitted to produce jams and jellies, baked goods, and other non-potentially hazardous foods in their homes. These foods may be sold only in Ohio, and are not subject to licensing and inspection requirements. They must bear a statement on the label that reads:

THIS PRODUCT IS HOME PRODUCED

All processed foods sold in Michigan, however, are subject to regulation under the Michigan Food Law of 2000, Act 92 of 2000, as amended. This law requires food offered for sale to derive from an approved source. Sales of foods that have been processed at an unlicensed location are prohibited.

Michigan does not have any legal exception to the Food Law that allows foods manufactured in a private home to be offered for sale to the public. Therefore, foods produced legally in a private residence in Ohio may not be sold in Michigan.



6. Is there a problem if a vendor wants to sell garlic or herbs in oil?

Flavored and infused oils have gained popularity, but the risks associated with products of this nature must be well understood. The United States Food and Drug Administration (FDA) requires all commercial processors to acidify the garlic or herbs in oil mixtures, and to test these foods for safety.

In Michigan, flavored oils and vinegars offered for sale must be manufactured in approved, licensed establishments. If this requirement is met, and the vendor owns the licensed plant, no additional license is required at the farmers' market to sell those products. If the vendor buys the products on the open market for resale at the farmers' market, a food establishment license is required.

7. May a vendor sell unpasteurized apple cider? Must the product be refrigerated?

There have been recent changes in requirements for apple cider operators. A cider maker who sells the product only directly to consumers is considered a retailer. Retailers may produce and sell unpasteurized cider, but the container must be prominently labeled with the FDA-approved warning statement:

Warning: This product has not been pasteurized and therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems.

Thus, owners of a licensed retail cider mill may sell unpasteurized cider of their own production at a farmers' market. No additional license is required.

On occasion, the owner of an orchard will take apples to a cider mill and have cider manufactured from that fruit. The owner of the mill presses, bottles, and labels the cider as a paid service. This is called custom pressing. Effective January 3, 2004, cider produced under these circumstances must be pasteurized or otherwise treated by an approved system.

Thus the grower in this situation may sell only pasteurized cider. Any person who purchases cider from a manufacturer and sells it at a farmers' market may sell only pasteurized cider. In both of these cases the vendor must hold a food establishment license to sell cider at a farmers' market.

While apple cider does not necessarily have to be sold from a refrigerated display at a farmers' market, MDA recommends that the vendor provide some method of temperature control during the transport, storage, and sale of the product.

8. Are there requirements for those selling honey or maple syrup?

To be sold legally at a farmers' market, maple syrup and honey must have been processed, packaged, and labeled at an approved, licensed establishment. An additional license is not required at the farmers' market for people selling honey or maple syrup of their own production which product originates at an approved source. Persons who buy honey or maple syrup on the open market for resale at the farmers' market must hold a food establishment license under their own name.



9. Must an egg producer selling shell eggs at the farmers' market keep those eggs refrigerated? Is the producer permitted to re-use labeled egg cartons bearing another distributor's name and address on the carton?

Eggs sold by the producer must be held at refrigeration temperatures at the farmers' market. This is because eggs are capable of supporting the growth of Salmonella.

The labeling information on a carton identifies the type of egg, size of the egg, grade of the egg, and the name of the responsible party and address. Law does not permit re-using egg cartons or other packaging materials bearing the identity of another producer.

Farmers selling eggs of their own production are not required to hold a separate license at a farmers' market if they are already licensed at their packing location. Vendors selling eggs not of their own production are required to hold a food establishment license at a farmers' market.

10. What are the requirements for a farmer selling meat and poultry at a farmers' market?

The United State Department of Agriculture (USDA) requires that persons slaughtering and selling beef, pork, lamb, or more than 10,000 poultry per year operate under continuous, federal inspection. A USDA seal of inspection must appear on all packages of meat originating at such a plant.

Farmers may sell the meat from their animals at a farmers' market if it was processed at a USDA inspected facility. Small poultry producers may have their birds processed either at a USDA inspected plant or an MDA inspected plant. If the product originates at an MDA-inspected facility, it is necessary to have a copy of the MDA license on hand at the farmers' market for the reference of the Market Manager or local food inspector. If the vendor isn't the producer of the animals from which the meat is derived, the vendor is required to hold a food establishment license at the farmers' market.

Selling packaged meat at the farmers' market requires sanitary handling and temperature control. Packaged meats may be sold frozen, or refrigerated at 41°F or below. Handling of exposed, i.e., unpackaged meat or poultry is not permitted at a typical farmers' market.

11. May a vendor also offer grilled samples of bratwurst, for example, while selling raw meats at the market?

Preparing or cooking raw meats at a farmers' market is not permitted unless the stand at the market meets all of the requirements for a temporary food establishment. Some of those minimum requirements include:

- A sheltered facility with a cleanable floor;
- A hand washing facility with hot running water, sanitary soap and disposable towels;
- A ware washing sink to clean and sanitize food equipment and utensils, supplied with hot water;
- A supply of an approved detergent and chemical sanitizing compound;
- An approved method to dispose of waste and wastewater;
- A method for displaying foods that protects them from contamination by unauthorized persons and environmental conditions such as insects, birds, dust, and dirt;
- Properly stored food equipment, utensils, paper goods, etc.;
- Accurate thermometers to monitor cooking and hot holding temperatures;
- Employees with clean clothes and hair restraints;

- Access to an approved toilet facility;
- Requirements may move to a more stringent level based upon the food inspector's evaluation of potential health risk associated with the products handled, environmental conditions, etc.

12. What about a vendor who operates a hot dog cart, makes snow cones, hand dips ice cream, prepares sandwiches, or engages in any similar food service activity?

Local health departments regulate the on-site preparation and sale of food for immediate consumption. A food service establishment license must be obtained from the local health department whenever food is prepared for direct consumption. Some vendors may operate a special transitory food unit (STFU) that is licensed on an annual basis. Those vendors are not required to obtain a separate license for each temporary event. Contact your local health department for further information.

13. What about sales of bulk baked goods like bagels?

Vendors are discouraged from simply purchasing bulk, baked goods and selling them out of covered containers each week at a farmers' market. In order to sell bagels or other bread products, cookies, doughnuts or other sweet goods at a farmers' market, the vendor must have an approved, licensed base location to handle the food, clean and sanitize containers and utensils, etc. As discussed in number 5 above, these activities may not be conducted in a private residence.

If the vendor owns a bagel shop, bakery, or similar establishment, the bulk goods sold at a farmers' market must be:

- Sold from an enclosed sanitary container;
- Handled with tongs or gloves as no bare hand contact with finished product is permitted;

The vendor must also:

- Have access to a conveniently located hand washing facility at the farmers' market;
- Return to a licensed base of operations to clean and sanitize food equipment such as tongs and containers.

Otherwise, a vendor may offer packaged baked goods that have been produced and packaged at an approved, licensed facility. If the vendor is not the owner of such a facility, the vendor must hold a food establishment license at the farmers' market.

Further preparation or assembly by the vendor—such as the spreading of cream cheese or fruit preserves on bagels—triggers the requirements listed at Number 11 above. This can be avoided by providing, for example, individual packets of cream cheese and wrapped plastic knives for customers to use after the transaction has been completed.



Additional questions or requests for clarification from Market Managers, vendors or consumers may be directed to the nearest MDA regional office. A roster of those locations appears below. Some Market Managers have a close working relationship with the local MDA food inspector and may make direct inquiries in the manner upon which both have agreed.

MDA Regional Offices

Region 1: Escanaba 906-786-5462

Region 2: Traverse City 231-922-5210

Region 3: Grand Rapids 616-356-0600

Region 4: Saginaw 989-757-7501

Region 5: St. Joseph 269-428-2546

Region 6: Lansing 517-373-1060

Region 7: Southfield 248-356-1700