

Food Safety at Farmers Markets

Information & Guidelines

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A. **Licensure**

1) **Farmers' Market Licensing.**

The entity that administers and manages a group of vendors, "Farmers' Market Management," is not currently required by FSD to be licensed as a "food establishment" under ORS 616.706. For the immediate future, the licensure of the Farmers' Market Management will not be required. (However, depending on the interpretation of "food establishment" in ORS 616.695, and whether the Farmers' Market Management itself participates in activities performed by a "food establishment", that licensing determination might change; however, no licensing changes will be implemented during the 2013 Farmers' Market season.)

2) **Vendor Licensing**

a) All food vendors, except for those that qualify for exemption (*see section A3*), are required to have a food license (from ODA's FSD or from the County Environmental Health Department). Honey must come from a licensed facility unless the honey producer is exempt and is selling their personal honey. See section A(3)(c).

An egg vendor or producer who sells eggs from another egg producer is required to have an Egg Handlers License. **An Egg Handlers License can be obtained by contacting the Food Safety Division at (503) 986-4720.** Egg Handlers may sell only cleaned, graded and properly labeled eggs from other egg producers at the farmers market.

b) Vendors who hold a current, valid ODA license for a "bricks and mortar" food establishment are not required to obtain an additional license to sell at Farmers' Markets as long as all food processing and preparation (including sample preparation) is done at the licensed location, not at the markets, (*See "section D" (page 8) for definitions of processing and preparation and see section A(2)(d) for on-site food preparation licensing information*). This means that **"all foods should be prepackaged and labeled, or within covered or protected bulk containers with labeling information provided in placard or a similar format"**. Bulk food may be dispensed when requested by the customer using appropriate utensils, tissue papers, or single use gloves. (**Note:** Provide a separate utensil for each bulk item and have extra dispensing utensils available for replacement when a utensil becomes contaminated.) *See "section B" (page 5) for information regarding vendor knowledge, required equipment, license display and sampling restrictions.*

(**NOTE:** A certified-scale license may be required (even if you are exempt from FSD licensure) from the Measurement Standards Division of ODA for activities involving **sales by weight measurement**. **Measurement Standards web site address is: http://www.oregon.gov/ODA/MSD/staff_directory.shtml. Phone Number: (503-986-4670)**

c) In addition to selling their own products, ODA licensed vendors may also sell up to \$2,000 of another licensed vendor's (or several other vendors') non-potentially hazardous food products (including whole, unprocessed produce) by consignment without obtaining an additional license. The \$2,000 inventory limit is a cumulative at market total (total value of all other vendors' products). *See "section (A 3) b)ii" on page 3 for details.*



d) Vendors who wish to do on-site food preparation or processing other than sampling (definitions found in section D) **must obtain a Temporary Restaurant license from the Environmental Health Department for the County where the Farmers' Market is located.** A list of all Oregon counties' Environmental Health Department phone numbers can be found on **page 4 of the Temporary Restaurant Operation Guide at: <http://public.health.oregon.gov/HealthyEnvironments/FoodSafety/Documents/tempguide.pdf>** **Note** that a separate temporary restaurant license is necessary for each Farmers' Market that you participate in.

3) Vendor License Exemptions.

The following exemptions to FSD licensing requirements exist during the 2013 market season:

a) Farm-Direct Sales + \$2,000 or Less of Other Producers' Produce.

Farmer-vendors who market and sell their own unprocessed produce are not required to obtain a license from FSD to sell at Farmers Markets (nor must they obtain a produce peddler's license from ODA's Commodities Division). Farmer-vendors who market and sell their own unprocessed produce may also market and sell by consignment a cumulative total of \$2,000 or less of other farmers' unprocessed produce at the same booth without obtaining a license from ODA, with the following limitations:

- i) Exemption only applies to unprocessed produce (whole fruits, vegetables, and nuts in shell)
- ii) The \$2,000 of other farmers' produce limitation is cumulative (includes the value of all other farmers' products added together).
- iii) Produce from other farmers must be no more than once removed:

EXAMPLES:

Farmer-vendor **CAN** sell produce grown directly by another farmer. (farmer è farmer = **YES**)

Farmer-vendor **CANNOT** sell produce from a third party. ([farmerèfarmer] è farmer = **NO**)

b) \$2,000 or Less of Prepackaged, Non-Potentially Hazardous Foods (Non-PHF) from an Approved or Licensed Source.

- i) Vendors who sell only **prepackaged non-PHF, that has been processed and packaged at a license (approved) facility (such as bulk candies... see definition in "section D", page 8)**, and who maintain an "at-market" inventory of \$2,000 or less on each day at the Farmers' Market are not required to obtain an ODA license to sell at Farmers' Markets.
- ii) Vendors who are licensed as an ODA food establishment may sell by consignment another vendor's (or many vendors') products along side their own without obtaining an additional license, provided that the other vendor's products are non-potentially

hazardous foods, and the at-market inventory of the other vendor's products does not exceed the \$2,000 cumulative total.

c) Honey Producers with 20 or Fewer Hives

Honey producers who keep 20 or fewer hives may market and sell their own honey, and honey from other licensed honey producers by consignment at a Farmers' Market, without obtaining a license from ODA, provided the following exist:

- i) They must register for the exemption with the ODA's Food Safety Division. The Honey License Exemption Form is located at: http://www.oregon.gov/ODA/FSD/faq_index.shtml#What_are_the_honey_extractor_license_requirements
- ii) Honey sold under the small hive exemption must be labeled with the following information:
 - (1) Producer's name
 - (2) Physical address
 - (3) Product **net** weight.
- iii) The "at-market" inventory of the other vendor's products from a licensed source does not exceed the \$2,000 cumulative total.

NOTE: Exempt honey producers may sell only the honey they produce and other honey from a licensed source using the \$2,000 exemption. But one exempt honey producer may not sell another exempt producers honey.

d) Egg Producers

Egg producers selling **ONLY their own eggs** to the intended consumer **do not need to obtain a license from ODA** and are not required to label their eggs for sale at the market. Voluntary labeling of eggs by license exempt producers is encouraged. Name, address, and use by dates may be provided.

NOTE: Unlicensed (exempt) egg producers may NOT sell eggs from any other producer regardless of the value (the \$2,000 exemption DOES NOT apply because eggs are considered to be a potentially hazardous food).

e) Processors Operating under the Farm Direct Bill

Farm direct marketers are only exempt from licensure and inspection if they raise their own products, limit their food processing activities to only those identified by the Legislature as permissible without a license, and sell to an end user a limited amount of products produced without a license and regulatory oversight.

The exempt farm products include:

- i) Fresh and dried fruits and vegetables, grains, legumes and seeds.
- ii) Eggs and unadulterated honey.
- iii) Pickles, sauerkraut, preserves, jams, jellies, and syrups under certain conditions.

NOTE: A detailed list of those products that can be sold without licensure and inspection and the conditions on their sale along with other frequently asked questions is located at: http://www.oregon.gov/ODA/FSD/faq_2336.shtml
House Bill 2336 is available at: http://www.oregon.gov/ODA/FSD/docs/pdf/fm_hb_2336.pdf
The Farm Direct Marketing Rules (OAR 603-025-0215): http://www.oregon.gov/ODA/FSD/docs/pdf/reg_farm_direct_6-12.pdf

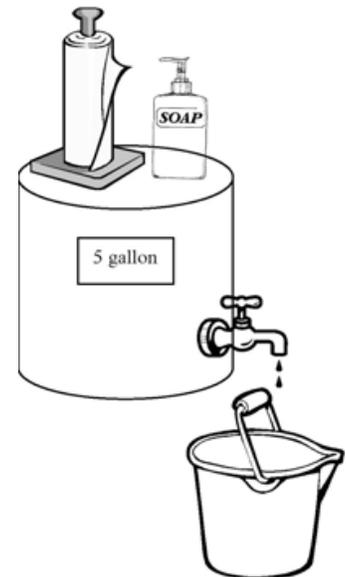
B) Farmers' Market Vendor Responsibilities

- 1) **Food Safety.** Food Vendors are responsible for ensuring that the foods they sell are safe and properly labeled. This means:
 - a) Vendors should have basic food safety and hygiene knowledge as in the Food Handler Manual: (<http://public.health.oregon.gov/healthyenvironments/foodsafety/pages/manual.aspx>).
 - b) Vendors should have specific knowledge regarding their products. For example, vendors selling potentially hazardous foods (**PHFs**) should know safe temperatures for storing, transporting, and displaying the foods they are handling. Vendors selling bulk multi-ingredient foods shall have ingredients available to provide consumers upon request.

If foods contain major allergens such as seafood, wheat, milk, peanuts, tree nuts and soy, they should know how to avoid contaminating non-allergenic products with those that contain allergens (for example, providing separate utensils for different types of bulk baked goods).
 - c) Vendors shall have and use the proper equipment (thermometers, utensils) and supplies (adequate cold storage capacity) to keep foods safe in storage prior to the market, during transport and within their booth. **See sections B(3), page 5 and B(4), page 6 below on Sampling and Selling PHFs for more information.**
- 2) **License Display.** Vendors who have a current ODA license for a “bricks and mortar” food establishment are asked to prominently display the ODA license at their Farmers’ Market location and give a copy to the Farmers’ Market Management for inspection upon request. Vendors who have GAP and/or GHP certificates should also display those certificates.
- 3) **Sampling.** Any vendor (licensed or unlicensed) who engages in the sampling of produce or any food product at a Farmers Market is required to have and use a suitable handwashing station in the booth where sampling is taking place. Food/product demonstrators who give out samples are also required to have a suitable handwashing station at the demonstration site.

A “Suitable Handwashing Station” will:

- a) Provide a minimum water-holding capacity of five gallons in an enclosed container;
- b) Utilize a spigot that can be opened to provide a constant flow of water;
- c) Provide soap; Gel sanitizer may be used in addition to handwashing but not in place of it
- d) Provide paper towels;
- e) Maintain a wastewater collection container with a minimum capacity equal to or greater than the freshwater container’s capacity and
- f) Provide a receptacle for used paper towels.
- g) Maintain handwashing equipment in a clean and sanitary manner (rinsing with 50 ppm chlorine/water is suggested)
- h) Use only potable water for hand washing (free of fecal coliform bacteria)



4) **Selling Potentially Hazardous Foods (PHFs).** Vendors selling PHFs (*see definition, section D on page 8*) should have:

- a) Equipment capable of holding foods at safe temperatures (ex. electric refrigerators/freezers or coolers with ice/dry ice).
- b) Cold storage unit (cooler) shall be equipped with ambient air thermometer for monitoring ambient temperature of the holding unit. Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under —Food Code OAR 603-025-0030 (4-302.12).
- c) Ambient spirit thermometers (the kind filled with red liquid) are useful for quick, “ballpark” monitoring of ambient temperatures inside coolers.
- d) Thermometers used to monitor food temperatures, metal probe food thermometers, (examples of digital and dial-type shown below) are necessary to monitor internal temperatures of foods.



- e) Vendors need to have approved sanitizer available. At the very least, you need to have sanitizer available to sanitize food thermometers between uses; for this purpose, you can use a traditional sanitizer (dilute bleach or other approved sanitizer) or alcohol pads (like in first aid kits). If you are selling raw meat, poultry

or seafood you should also have sanitizer available for wiping up any spills or leaks from packages.

Note Maintain a concentration of 50 ppm for chlorine sanitizer and 12.5 – 25 ppm for iodine sanitizer. Maintain a concentration for quaternary ammonium sanitizer as indicated by the EPA-approved manufacturer's use directions included in the labeling—Food Code OAR 603-025-0030 (4-501.114).

C. Prohibitions at Farmers' Markets

- 1) Food processing (*see definition in section D, page 8*) of any type other than sampling (*see definition in section D, page 9*) is prohibited at the farmers market unless a vendor is processing food for immediate consumption and has obtained a Temporary Restaurant License through the County Environmental Health Department, or is otherwise exempt from Health Department rules. *See section (A)(2)(d), page 3 and contact your local Environmental Health Department for more information.*
- 2) Recreationally caught fish or shellfish **cannot be sold** at Farmers' Markets. Only fish caught by a licensed commercial fisherman may be sold at the markets. **Contact Oregon Department of Fish and Wildlife for general licensing information at 503-947-6101.**
- 3) Live animals (livestock or pets):
 - a) A vendor selling a food product at a Farmers' Market may not bring or keep live animals (livestock or pets) in or around his/her booth.
 - b) A food vendor's booth must be set up at least 20 feet from any animals (domesticated or livestock) being kept at a Farmers' Market. Animal exhibits such as 4-H animals, and live birds or livestock exhibits may not be set up within 20 feet of a food vendor.
 - c) In a Farmers Market that allows pets into the market, a vendor may allow the visitors' pets to pass outside (to the front or side) of the booth.
 - d) The above prohibitions do NOT apply to service animals.

D. Definitions

- 1) **Booth:** A tent, table, or any temporary structure assembled and disassembled each day at a Farmers' Market for the purpose of selling produce, food goods, and sundries. Synonym: stall.
- 2) **Consignment:** Selling without monetary compensation produce or food that has been produced, processed or packaged by someone other than the vendor.
- 3) **Farmer-Vendor:** An individual who grows and sells his/her own unprocessed produce.

- 4) **Farmers' Market:** A temporary location where one or more vendors gather to sell produce, food goods, and sundries from stalls or booths that are put up and taken down each day.
- 5) **Farmers' Market Management:** The person(s) or entity in charge of the administration and governance of a Farmers' Market.
- 6) **Farm Direct Marketer:** An agricultural producer that sells farm direct products or producer processed product directly to the retail consumer.
- 7) **Farm-Direct Sales:** When a farmer engages in selling his/her own unprocessed produce directly from the farm to the public. At times, farm-direct sales may include unprocessed produce grown and provided by other farmers.
- 8) **Food:** *"Food" means any article used, or intended to be used, for food, ice, drink, confection or condiment, whether simple or compound, or any part or ingredient thereof or in the preparation thereof, and for human consumption. ORS 616.695(3)*
- 9) **Food Establishment:** *Any room, building, structure or place, used or intended for use, or operated for storing, preparing, compounding, manufacturing, processing, freezing, packaging, distributing, handling, salvaging or displaying food. ORS 616.695(2) a)*
- 10) **Food Preparation:** *Food processing where the finished food is not packaged and is intended for immediate service or consumption.*
- 11) **Food Processing:** The cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, freezing or otherwise manufacturing a food or changing the physical characteristics of a food, and the packaging, canning, or otherwise enclosing of such food in a container." **OAR 603-025-0010(10)**
- 12) **FSD:** Oregon Department of Agriculture's **Food Safety Division**.
- 13) **FSD Inspector:** A registered Environmental Health Specialist (EHS), with extensive food safety experience that conducts food safety inspections in order to protect public health and prevent food safety illnesses. The Food Safety Division EHS is tasked with enforcing food laws that are designed to ensure Oregonians have a safe, wholesome, properly labeled food supply.
- 14) **Non-Potentially Hazardous Food:** A food that is shelf stable, hermetically sealed and does not require refrigeration at or below 41° F or hot holding at or above 130° F to ensure food safety.
- 15) **Potentially Hazardous Foods (PHFs):** *A food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting: (i) The rapid and progressive growth of infectious or toxigenic microorganisms; (ii) The growth and toxin production of **Clostridium botulinum**; or (iii) In raw shell eggs, the growth of **Salmonella enteritidis**.*

***"Potentially hazardous food"** includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; unpasteurized juices; and garlic-in-oil mixtures that are not modified*



in a way that results in mixtures that do not support growth as specified under Subparagraph (a) of this definition in the Food Code OAR 603-025-0030(1)(B)(61).

- 16) **ODA:** Oregon Department of Agriculture
- 17) **Produce:** An agricultural commodity of plant origin such as fresh fruits and vegetables.
- 18) **Producer:** An individual that produces raw agricultural products or manufactures food products to sell at a Farmers' Market.
- 19) **Sampling:** Distributing small portions to individuals. A sample means no more than a two or three ounce portion of a food or beverage. A "sample" DOES NOT include: a meal, an individual hot dish, a whole sandwich, or a whole portion of any food product.
- 20) **Service Animal:** The ADA definition of a service animal is limited to a dog that is individually trained to do work or perform tasks for an individual with a disability. Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or herself. A service animal is not a pet.
- 21) **Vendor:** An individual or business selling a food product at a Farmers' Market venue. The term "Vendor" includes "Farmer-vendor" and "Licensed Food Producers".
- 22) **Visitor:** Any person at a Farmers' Market who is neither a vendor nor a member of the Farmers' Market management.