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Environmental Health Division**

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FARMERS MARKET REQUIREMENTS

PERMITS/LICENSES

Operators of stands and concessions who wish to sell products other than fresh, uncut, unprocessed produce must contact the Elgin Environmental Health Division to obtain specific requirements including necessary inspections, food permits or licenses. Fresh, whole, uncut, unprocessed produce, as implied in the Farm Products and Marketing Act, is exempt from inspections and licensing fees.

FOODS ALLOWED FOR SALE OR DISTRIBUTION AT FARMERS' MARKETS WITH NO RESTRICTIONS

As provided by the Farm Products Marketing Act, the following foods are allowed at farmers' markets and other outdoor food sales events with no restriction:

- **Raw Agricultural Products** - Fresh fruits and vegetables, honey in the comb – as harvested and not further processed; only minimally rinsed to remove visible soil, but otherwise unprocessed and not packaged;
- **Popcorn, grains, seeds, beans and nuts** -- whole, unprocessed, unpackaged and unsprouted;
- **Fresh herb sprigs (a little twig or spray); dried herbs in bunches** –only cut for harvesting, minimally rinsed to remove visible soil and unpackaged.

**FOODS ALLOWED FOR SALE OR DISTRIBUTION AT FARMERS' MARKETS
WITH CERTAIN RESTRICTIONS**

Note: *In addition to the guidance below, please refer to the complete applicable statute and regulation listed in the appendix at the end of this document.*

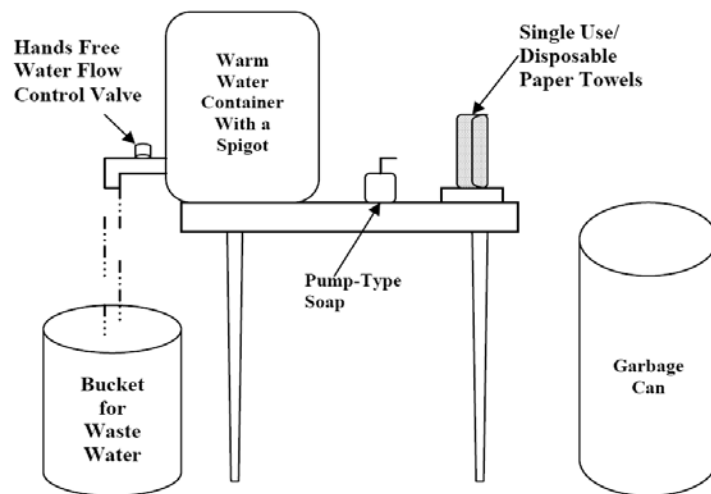
- **Baked Goods shall be prepared in an inspected facility.** If the goods are for direct retail sale or distribution, the facility and processes must be inspected by the local health department. Potentially hazardous baked goods (i.e., cream or custard filled items, egg-based or custard pies, etc.) shall be transported and held at or below 41° F at all times. **If the goods are for wholesale distribution,** the facility and processes must be inspected by the Illinois Department of Public Health (IDPH), Division of Food, Drugs, and Dairies (FDD). Contact information for the IDPH/FDD regional offices can be found at the end of this document. All packaged items must be properly labeled as indicated under the labeling section found on page 7 of this document. A list of local health departments and contact information is available at <http://www.idph.state.il.us/local/home.htm>
- **Cut Fruits and Vegetables** shall be deemed to be ready-to-eat and shall be prepared and handled in accordance with the temporary food service section of the Illinois Food Service Sanitation Code (77 Ill. Adm. Code 750) sections 750.1600 through 750.1700.
- **Milk and Cheese Products** shall be processed in an IDPH licensed facility. Products that have been pasteurized, processed and packaged in a licensed dairy plant may be sold at farmers' markets and other food sales events. All potentially hazardous dairy products shall be stored at 41°F or below. For specific information, contact the regional IDPH office by clicking onto the following site: <http://www.idph.state.il.us/local/map.htm> IDPH/FDD Regional office contact information is also available at the end of this document. All milk products must follow the labeling requirements found in the labeling section of this document on page 7.

Ice cream may be sold if it is manufactured in a licensed dairy plant or in a retail food establishment from commercially pasteurized ice cream mix. **Raw milk cheeses** may be sold if made in a licensed dairy plant and aged over 60 days. Title 21 Code of Federal Regulations (CFR) Part 133 addresses those standardized cheeses that are permitted to be manufactured from raw milk when the cheese is aged over 60 days.

Hand washing is required when produce or any food item is sliced, cut or prepared on-site or off-site, therefore, hand washing facilities must be provided. It is highly recommended that if warm water under pressure is not available, a handwashing station such as the one shown below is utilized.

TEMPORARY HANDWASHING DIAGRAM

A temporary handwashing station is required at all permitted temporary food facilities. This must be set up **prior** to any food preparation. Provide a container with a spigot that allows hands-free flowing water, a waste water bucket, a pump-type soap dispenser, single use/disposable paper towels, and a garbage can for disposable paper towels. All food workers must wash their hands when they return to the concession stand/booth and after using the restroom, after eating, smoking, or handling unclean items.



- Water used for hand washing shall be from a potable source. **Herbs** - Chopped, blended, packaged, or otherwise processed herbs must be prepared in an inspected facility.
- **Honey** - Comb-honey is exempt from regulatory oversight, but extracted honey must originate from an inspected facility and must follow the labeling requirements found in the labeling section on page 7. If any sweetener is added, the product may not be called honey. *Note:* Beehives must be inspected by the Illinois Department of Agriculture (IDOA).
- **Maple Syrup** must originate from an inspected facility and must follow the labeling requirements found in the labeling section on page 7.
- **Wild and Cultivated Mushrooms** - Commercially-raised mushrooms (i.e., common button mushroom, portabellas, shiitake, enoki, bavarian, etc.) must have documentation detailing their source. "Wild-type" mushroom species picked in the wild shall **not** be offered for sale or distribution unless the requirements as described in the IDPH Technical Information Bulletin (TIB) #16 regarding Wild Mushrooms and Cultivated Mushrooms are met.

- **Apple Cider and other fruit and/or vegetable juices** shall be made in an inspected facility. Juice HACCP regulations must be followed if sold wholesale. See the following website for more information (www.cfsan.fda.gov/~comm/haccpjui.html).

Contact the regional IDPH office to arrange to have a facility and process of juicing approved.

- Apple cider, packaged or in a container, must be treated to achieve a 5-log reduction of pathogens or show a warning statement on the label stating:

“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 compromised immune systems.”

- Unpackaged apple cider and other fresh juice produced on site are exempt from the warning statement.
- **Herb Vinegars** shall be made in an inspected facility. All vinegars must follow labeling requirements found in the labeling section on page 7.
- **Garlic-in-oil** shall only be sold if processed in an inspected, commercial processing plant where it has been acidified to certain specifications (usually with citric acid). Garlic-in-oil is frequently contaminated with *Clostridium botulinum* spores and has been implicated in several foodborne outbreaks.
- **Other Flavored Oils** shall be made in an inspected facility. Flavored oils have not been epidemiologically implicated in foodborne illness outbreaks. Therefore, they do not require acidification and are not considered potentially hazardous. Labeling requirements must be followed as detailed in the labeling section on page 7.
- **Pickles, Relishes, Salsas, other “canned” items** - All canning and preserving shall be done in an inspected facility. Home canning is not allowed. The facility shall be inspected by IDPH and the inspector shall verify the sources of ingredients and compliance of Title 21 Code of Federal Regulations Part 113 and 114. In addition, the *canning process* must be inspected and approved by the IDPH or relevant regulatory authority in another state.
- **Shell Eggs** - *Salmonella enteritidis* (SE) is the pathogen of concern with shell eggs. An egg license issued by the IDOA is required for anyone who transports and sells eggs anywhere except on the farm where the eggs were produced. IDOA rules stipulate that all eggs sold at farmers’ markets and other off-farm venues must be candled and graded, and held at 45°F or below during storage, transportation and distribution. Once the eggs are at the farmers’ market or other retail location, the Illinois Retail Food Store Sanitation Code stipulates that the eggs shall be held at 41°F or below. Any form of refrigeration is acceptable, so long as the temperature requirements are met. For more information regarding these requirements and the Illinois Egg and Egg Products Act, contact IDOA, Division of Food Safety and Animal Protection, P. O. Box 19281, State Fairgrounds, Springfield, Illinois 62794-9281, 217-524-1550 or visit www.agr.state.il.us.

- **Meats and Poultry** are regulated by the IDOA, Bureau of Meat and Poultry Inspection. Meat, meat products, poultry and poultry products must be derived from livestock or poultry (including rabbits) which were slaughtered under IDOA or U.S. Department of Agriculture (USDA) inspection. A meat and poultry broker's license issued by IDOA is required for anyone who sells meat, poultry, meat products or poultry products at a farmers' market other than licensed meat and poultry processing establishments. Meat, meat products, poultry and poultry products offered for sale must bear an IDOA or USDA inspection legend and other required labeling (product description, ingredients, etc.) on every container. All required labeling and handling rules apply and vary depending on the product. Vendors at farmers' markets must meet any additional relevant requirements found in the Food Service Sanitation Code (77 Ill. Adm. Code 750) and/or local food ordinances if applicable (contact your local department of public health or IDPH). Always obtain meat and poultry information from IDOA because USDA does not provide information on Illinois laws and regulations which cover many additional species of livestock and poultry. For additional information and meat and poultry broker license applications, contact IDOA, Bureau of Meat and Poultry Inspection, Compliance Section, P.O. Box 19281, State Fairgrounds, Springfield, Illinois 62794-9281, 217-785-4709, or visit www.agr.state.il.us to download a meat and poultry broker application.
- **Fish** shall be processed in an inspected facility using a HACCP plan required in Title 21 Code of Federal Regulations Part 123. A commercial fishing license is required for anyone selling or distributing fish at a farmers' market.
- **Commercially Produced Pre-Packaged Food Products** are allowed for sale at farmers' markets and other outdoor food events if they meet applicable regulations and requirements, including labeling requirements found on page 7 in this TIB.
- **Other Food Products** - Other food products will be assessed on an individual basis by the local or state health department.
- **Live Animals** shall be segregated from the general food sales area, and may be sold if there are no local ordinances that prohibit it. State regulations provide for specific identification and/or testing requirements, as well as sales records for certain species of live animals and poultry. Information regarding testing and identification requirements can be obtained by contacting the Illinois Department of Agriculture, Bureau of Animal Health and Welfare at 217-782-4944 or online at www.agr.state.il.us .
- **Lotions/Creams/Cosmetics** - Contact U.S. FDA Chicago District Office at 312-353-5863.

FOODS PROHIBITED FROM SALE OR DISTRIBUTION

The following products are prohibited from sale or distribution to the public:

- **Raw Milk or any Dairy Products made with Raw Milk** - (see page 3 for exemption regarding cheese aged over 60 days) are prohibited for sale or distribution at farmers' markets by the Grade A Pasteurized Milk and Milk Products Act. Raw dairy ingredients can be contaminated with *Campylobacter jejuni*, *Listeria monocytogenes*, *Salmonella*, and/or other pathogens.
- **Home-Butchered Meat, Poultry, or Wild Game Animals** - Home-butchered meat and poultry is for the owner's own household use and may not be transported to or sold at farmers' markets. Wild game may only be donated to charitable or non-profit organizations if it is processed in an inspected facility.
- **Home-Canned Foods are Prohibited** – All low acid canned foods in hermetically sealed containers have a risk of containing surviving *Clostridium botulinum* and subsequent formation of toxin unless a scheduled process is filed with the U.S. FDA and followed. Some recipes for apple butters, jams and jellies may have been modified to use a substitute, pectin, or fruit juice in place of sugar, which will not give the same protection as a high sugar content. Without process controls and product analysis, it is extremely difficult to distinguish between safe and unsafe products. Therefore, home-canned foods may not be sold to the public. Any canned or preserved goods must be made in an inspected facility, and comply with Section 750.110(f) of the Illinois Food Service Sanitation Code (77 Ill. Adm. Code 750).
- **Home Vacuum-Packaged Products are Prohibited** - The risk of *Clostridium botulinum* and other anaerobic pathogens occurs without strict controls and an approved HACCP plan.
- **Sandwiches Prepared at Home are Prohibited** - All potentially hazardous foods must be prepared in an inspected facility. Sandwiches made at home may not be sold to the public.
- **Ice-cream** made in an uninspected facility is prohibited.

LABELING

All food pre-packaged in advance of retail sale must bear the following label, sign or placard, or as a recipe available to the consumer. The information must be written in English.

- Common name of the product;
- Name, address and zip code of the packer, processor, distributor, or manufacturer;
- Net contents (weight or volume) of the package;
- List of ingredients in descending order of predominance by weight, with ingredients shown with common or usual name;
- List of any artificial color, artificial flavor or preservatives used;
- Safe handling instructions (as needed) for meat and poultry products;
- Other labeling information as required by federal, state or local jurisdictions; and
- Major allergens must be listed.

Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282, Title II)
www.fda.gov/Food/LabelingNutrition/FoodAllergensLabeling/GuidanceComplianceRegulatoryInformation/ucm106187.htm

Guidance for Industry: Questions and Answers Regarding Food Allergens, including the Food Allergen Labeling and Consumer Protection Act of 2004 (Edition 4); Final Guidance
www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabelingNutrition/ucm059116.htm

Small Business Exemption for Nutrition Labeling

No nutrition labeling is required for businesses with less than \$10,000 gross sales per year unless a health claim is made (for example, relieves or cures some disease or condition) or a nutrition claim is made (no fat, low salt, etc).

The following is an additional exemption from Nutrition Facts listing for businesses selling foods for direct retail sale to consumers (not wholesalers) provided that the food bears no nutrition claims or other nutrition information in any context on the label, in labeling or in advertising:

A **retail** firm that has total annual gross sales made or business done in sales of **food** to consumers of not more than \$50,000, **or**, has annual gross sales made or business done in sales to consumers that is not more than \$500,000 is exempt from the Nutrition Facts requirement, 21 CFR 101.9(j)(1)(i). The following chart illustrates the exemption:

SALES IN FOOD	TOTAL SALES (FOOD & NON-FOOD)	STATUS
\$50,000 or less	\$500,000 or less	EXEMPT
\$50,000 or less	\$500,001 or more	EXEMPT
\$50,001 or more	\$500,000 or less	EXEMPT
\$50,001 or more	\$500,001 or more	NOT EXEMPT

For more information about health and nutrient claim requirements, contact IDPH, FDD central office, 525 W. Jefferson St, Springfield, IL, 62761, 217-785-2439.

OTHER REQUIREMENTS

This technical information bulletin is not all inclusive. Other regulations may apply including local, city or county food ordinances. You can obtain contact information for other local health departments at the following website <http://www.idph.state.il.us/local/home.htm>

VEHICLES

During transportation and delivery, food and food equipment must be protected from insects, flies, animals, dust and dirt, unnecessary handling, chemicals and other contamination. Delivery vehicles or other equipment used for such transportation must be constructed so as to be easily cleanable.

PREMISES

The operator of each stand or sales area is responsible for maintaining it in a neat, clean and sanitary condition. An adequate number of tightly covered waste containers must be provided for disposal of garbage and refuse. These containers must be stored to eliminate potential for contamination of any food products. At the close of business, each vendor shall clean their stand and surrounding area. **FOOD PROTECTION DURING STORAGE, DISPLAY AND SALES**

Any prepared, processed, baked or cut food must be packaged or wrapped for protection and have required labeling (see page 7). Food on display in open air markets must be adequately protected from incidental public handling, dirt and other contamination. Food must be stored off the ground or off the floor. Any wrapping or container for prepared, processed, baked, or cut food must be constructed of safe, non-toxic and food-grade materials. Food products must be enclosed and protected from pests overnight.

BAKE SALES AS FUNDRAISERS

Non-potentially hazardous foods such as cookies, cakes and fruit pies, which have not frequently been associated with foodborne illness, may be prepared in non-inspected kitchens provided the products are sold or distributed on an occasional basis (e.g., a fundraiser for a non-profit organization) and not as a routine business. It is strongly recommended, however, that this preparation take place in a controlled environment such as a club or church kitchen or licensed food service establishment.

SCALES

The Illinois Department of Agriculture's Bureau of Weights and Measures regulates the retail sales of fruits, vegetables, and other items at farmers' markets. Commodities not in liquid form must be sold by weight, by measure, or by count. All scales used in commerce must have a National Type Evaluation Program (NTEP) Certificate of Conformance issued by the National Conference on Weights and Measures. Commercial scales are also subject to annual inspections by the Bureau of Weights and Measures. For additional information, please contact the Bureau of Weights & Measures by calling 800-582-0468 or on their website at www.agr.state.il.us.

APPENDIX

Below are some of the Illinois statutes and rules that provide the legal basis for regulating farmers' markets and other outdoor food sales events. Note that this list is not comprehensive. There may be other applicable regulations or local ordinances.

1. [Farm Products Marketing Act](#) (505 ILCS 70/1)
2. [Egg and Egg Products Act](#) (410 ILCS 615/1 et seq.)
3. [Meat and Poultry Inspection Act \(225 ILCS 650/1 et seq.\)](#)
4. [Grade A Pasteurized Milk and Milk Products Act](#) (410 ILCS 635/1 et seq.)
5. [Sanitary Food Preparation Act](#) (410 ILCS 650/1.1 et seq.)
6. [Illinois Retail Food Store Sanitation Code](#) (77 Ill. Adm. Code 760)
7. [Illinois Food Service Sanitation Code](#) (77 Ill. Adm. Code 750)
8. [Illinois Food, Drug and Cosmetic Act](#) (410 ILCS 620/1 et seq.)