



# Requirements at Minnesota Farmers' Markets

## Quick Reference Guide

This guide is for farmers' market managers and market vendors.

March 1, 2022

## Overview

The term "farmers' market" was first defined in Minnesota law in 2014, in the [Safe Food Sampling Law, Minnesota Statute 28A.151](#). It was specific to that section of law, but has since been referenced in other laws (e.g., [Market Bucks](#)). The definition: "Farmers' market" means an association of three or more persons who assemble at a defined location that is open to the public for the purpose of selling directly to the consumer the products of a farm or garden occupied and cultivated by the person selling the product."

## License or Permit

- There is no state law that requires a market to have a **license or permit** in order to be a farmers' market.
- Local governments may require a market to register, or to buy a permit.

## Business and Organizational Structure

- Farmers' markets in Minnesota have varied forms of *business* structures. Some are owned and operated by cities, or neighborhood organizations. Others are state nonprofits (317a) or federal nonprofits [501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6)]; others are corporations or limited liability corporations (LLCs).
- Markets have varied forms of *organizational* structures as well. Some are run by boards of directors, others by all the members, others by the market manager.

## Insurance

- There is no state law that requires a *market* to carry insurance, whether general liability or product liability.
- Local governments, or the owner of the property where the market takes place, may require the market to buy insurance.
- There is no law that requires *vendors* at markets to buy insurance.
- The market itself may require vendors to buy insurance.
- MFMA does offer a [general and product liability group insurance policy for markets and vendors](#) who need it.

MFMA highly recommends markets keep a copy on file of all licenses / permits / registrations required of vendors, to ensure compliance with the law. Insurance policies may not honor potential claims if either the market or its vendors are not in compliance with the law.

## Dogs

There are two issues with dogs (and pets) at farmers' markets: one is food safety; the other is personal safety.

- According to [Minnesota Administrative Rule 4626.1585 PROHIBITING ANIMALS](#), live animals must not be allowed on the premises of a food establishment (e.g., farmers' market), with some exceptions as long as food and food utensils are not contaminated. Legal service animals (as defined by the American Disabilities Act) are allowed. Some markets allow dogs as long as they do not enter a food booth, as they consider the food booth the food establishment.
- Another concern with dogs at market is the chance of people being bitten by a dog.

## Music

- Only original music created by the musician may be performed at a farmers' market without a license. All other music may be performed as long as the musician holds an ASCAP ([American Society of Composers, Authors, & Publishers](#)) or BMI ([Broadcast Music Inc.](#)) license or the organization (farmers' market, city, etc.) hosting the musician holds the license.
  - Buskers (a person who performs music or other entertainment in the street or another public place for monetary donations) would be responsible for their license. Some government units require buskers to obtain a permit from them as well.

## Taxes

- No matter what business structure, farmers' markets need to file an annual tax report. The exact tax form to file is dependent on the market's business structure.
- Every market is required to have on file for every vendor the Minnesota Department of Revenue [Form ST19](#) Operator Certificate of Compliance with sales tax requirements. Markets must collect these forms from vendors every year and must keep these forms for 3.5 years.

## Employment

- Markets can hire employees. Markets with employees must:
  - Verify employment eligibility of the employee by collecting an [I-9 form](#) from the employee
  - Document required tax withholding by collecting a [W-4 form](#) from the employee
  - Do required withholding from employee's pay; at minimum, [Social Security and Medicare withholding](#)
  - File quarterly withholding reports and payments to the IRS: [form 941](#)
  - Issue a [W-2 form](#) to the employee each year by January 31 for the previous year's wages
  - Submit a [W-3 form](#) to the IRS each year
  - File quarterly wage reports to [Minnesota Unemployment Insurance Program](#)
  - Purchase [workers' compensation insurance](#) for employee
- Markets can hire independent contractors. Markets with contractors must:
  - Ensure the person hired meets the [IRS definition of an independent contractor](#)
  - Collect a [W-9 form](#) from the contractor
  - Issue a [1099 form](#) to the contractor each year by January 31 for the previous year's compensation, if compensation exceeded \$600 in the calendar year

## Food Access Programs

Farmers' markets in Minnesota may offer some or all of the following food access programs:

- SNAP EBT (Supplemental Food Assistance Program Electronic Benefit Transfer). Markets operate the card reader machine where SNAP customers can swipe their cards and receive tokens that they can then spend with vendors who sell SNAP-eligible foods. Additionally, markets offer Market Bucks, which is an incentive program that matches SNAP dollars spent, up to \$10 per visit. Markets raise money to offer this program; no cost to the vendors or SNAP participants.
- FMNP (Farmers' Market Nutrition Program) and SFMNP (Senior Farmers' Market Nutrition Program). Paper checks are used by authorized families to spend at farmers' markets with authorized vendors who sell eligible foods. No cost to markets, vendors, or participants.
- PoP (Power of Produce). PoP is an incentive program where children receive a ~\$2 coupon each visit to buy produce from produce vendors. Markets raise the money offer this program.
- PoP+ (Power of Produce Plus). PoP+ is an incentive program where elders receive a ~\$2 coupon each visit to buy produce from produce vendors. Markets raise the money offer this program.
- Veggie Rx. Incentive program to encourage families to purchase more produce. Includes educational materials for the families to teach cooking / nutrition; weekly ~\$20 stipends to buy produce at the market.

## Farmers' Market Rules for Vendors

Farmers' markets **have the authority** to set their own rules, but must follow all applicable Minnesota laws in doing so. Some types of rules typically set by markets:

- Source of products allowed (e.g., grower only vs. resell)
- Require cottage food producers, food vendors to include ingredients bought from farmer vendors
- No pets allowed (except for legal service animals)
- Type of products allowed (e.g., farm products only, or food products only, or craft items allowed)
- Limits on number of vendors selling the same product
- Geographical limits on how far away from the market vendors can be located

## Farmers' Market Rules for Out-of-State Vendors

Vendors from surrounding states (Wisconsin, Iowa, South Dakota, North Dakota) may sell at Minnesota farmers' markets as long as they follow all Minnesota laws, licensing, and food code rules. Conversely, Minnesota vendors may sell in other states as long as they follow those states' laws, licensing, and food code rules.

## Vendor Compliance with Food Laws, Licensing, Food Code Rules

Food laws, licensing, and food code rules in Minnesota are complicated. Both the Minnesota Department of Agriculture (MDA) and the Minnesota Department of Health (MDH) issue food licenses. Both MDA and MDH have some delegated authorities, which are local government entities authorized to administer state food laws. Delegated authorities under MDH may have stricter standards than the state. For some foods, there are additional requirements overseen by the Food and Drug Administration or the United States Department of Agriculture.

Product	Explanation for sale at a Minnesota farmers' market	Document
Produce	<b>Allowed</b> Excluded from licensing as long as it's 100% product of the seller's farm. If the Food Safety Modernization Act Produce Safety Rule applies to the farmer, the farmer must post their name and address at their booth.	No
Produce	<b>Allowed</b> If a vendor buys produce from another source and resells it at the market, the vendor must have an MDA license. (See <i>Selling Minnesota Produce</i> at <a href="https://www.mfma.org/Selling-Minnesota-Guides">https://www.mfma.org/Selling-Minnesota-Guides</a> )	MDA license
Mushrooms	<b>Allowed</b> <ul style="list-style-type: none"><li>Farmers growing their own mushrooms are excluded from licensing as a product of the farm.</li></ul>	None

Product	Explanation for sale at a Minnesota farmers' market	Document
	<ul style="list-style-type: none"> <li>People foraging / harvesting wild mushrooms must complete an MDA-approved mushroom identification course (currently only being offered in Minnesota by the <a href="https://www.mda.state.mn.us/food-feed/certified-wild-mushroom-harvester">Minnesota Mycological Society</a>). Upon successful completion of the course, the class certificate must be kept on file at the MDA. <a href="https://www.mda.state.mn.us/food-feed/certified-wild-mushroom-harvester">https://www.mda.state.mn.us/food-feed/certified-wild-mushroom-harvester</a></li> </ul>	<p><b>MDA registration</b></p>
<p><b>Eggs</b></p>	<p><b>Allowed</b>                      Excluded from licensing if eggs are 100% produce of the seller's farm and the farmer owns FEWER than 3,000 hens. Must follow MN Rules on egg handling, and keep eggs at 45°F or lower at the market. Eggs may be kept cold in a mechanized refrigerator or cooler.                      (See <i>Selling Minnesota Shell Eggs</i> at <a href="https://www.mfma.org/Selling-Minnesota-Guides">https://www.mfma.org/Selling-Minnesota-Guides</a>)</p>	<p><b>MDA registration (voluntary)</b></p>
<p><b>Eggs</b></p>	<p><b>Allowed</b>                      Excluded from MDA licensing if eggs are 100% product of the seller's farm; but if the farmer owns MORE than 3,000 hens, USDA registration is required. Must follow MN Rules on egg handling, and keep eggs at 45°F or lower at the market. Eggs may be kept cold in a mechanized refrigerator or cooler.                      (See <i>Selling Minnesota Shell Eggs</i> at <a href="https://www.mfma.org/Selling-Minnesota-Guides">https://www.mfma.org/Selling-Minnesota-Guides</a>)</p>	<p><b>MDA registration (voluntary)</b>   <b>USDA registration (required)</b></p>
<p><b>Eggs</b></p>	<p><b>Allowed</b>                      If a vendor buys eggs from another source and resells them at the market, the vendor <i>must</i> have an MDA license and <i>may</i> be required to register with USDA. Must follow MN Rules on egg handling, and keep eggs at 45°F or lower at the market. Eggs may be kept cold in a mechanized refrigerator or cooler.                      (See <i>Selling Minnesota Shell Eggs</i> at <a href="http://www.misa.umn.edu/publications/local-food-fact-sheet-series">www.misa.umn.edu/publications/local-food-fact-sheet-series</a>)</p>	<p><b>MDA license</b>   <b>possibly USDA registration</b></p>
<p><b>Meat</b></p>	<p><b>Allowed</b>                      Excluded from licensing if the meat is 100% product of the seller's farm, with no added off-farm ingredients (such as spice blends). Any meat sold at a farmers' market must be processed under</p>	<p><b>No license</b>   <b>All packages must</b></p>

Product	Explanation for sale at a Minnesota farmers' market	Document
	inspection at either a USDA or Minnesota Equal-To plant. (See <i>Selling Minnesota Meat Products</i> at <a href="https://www.mfma.org/Selling-Minnesota-Guides">https://www.mfma.org/Selling-Minnesota-Guides</a> )	<b>have the mark of inspection</b>
<b>Meat</b>	<b>Allowed</b> If a vendor buys meat from another source and resells it at the market; or if any off-farm ingredients are added to the meat (such as spice blends), the vendor must have an MDA license. Any meat sold at a farmers' market must be processed under inspection at either a USDA or Minnesota Equal-To plant. (See <i>Selling Minnesota Meat Products</i> at <a href="https://www.mfma.org/Selling-Minnesota-Guides">https://www.mfma.org/Selling-Minnesota-Guides</a> )	<b>MDA license</b>  <b>All packages must have the mark of inspection</b>
<b>Fish</b>	<b>Allowed</b> Excluded from licensing if the fish is 100% product of the seller's farm or was caught by the seller, with no added off-farm ingredients (such as spice blends). Must be processed and packaged in a facility meeting CGMP (current good manufacturing practices) and labeled.	<b>No license</b>
<b>Fish</b>	<b>Allowed</b> If a vendor buys fish from another source and resells it at the market; or if any off-farm ingredients are added to the fish (such as spice blends), the vendor must have an MDA license.	<b>MDA license</b>
<b>Poultry and Rabbit</b>	<b>Allowed</b> Excluded from licensing if the poultry or rabbit product is 100% product of the seller's farm, with no added off-farm ingredients. Poultry or rabbit for sale at the farmers' market must either be processed under inspection at a USDA or Minnesota Equal-To plant, OR be processed on the seller's farm in an approved facility under the PL 90-492 exemption. (See <i>Selling Minnesota Poultry Products</i> at <a href="https://www.mfma.org/Selling-Minnesota-Guides">https://www.mfma.org/Selling-Minnesota-Guides</a> )	<b>No license</b>  <b>All packages must have the mark of inspection, OR an exempt PL 90-492 label.</b>

Product	Explanation for sale at a Minnesota farmers' market	Document
<b>Poultry and Rabbit</b>	<p><b>Allowed</b>                      If a vendor buys poultry or rabbit product from another source and resells it at the market; or if any off-farm ingredients are added to the poultry or rabbit product (such as spice blends), the vendor must have an MDA license and the poultry or rabbit must be processed under inspection at either a USDA or Minnesota Equal-To plant.  <i>(See Selling Minnesota Poultry Products at <a href="https://www.mfma.org/Selling-Minnesota-Guides">https://www.mfma.org/Selling-Minnesota-Guides</a>)</i></p>	<p><b>MDA license</b>   <b>All packages must have the mark of inspection</b></p>
<b>Dairy Products</b>	<p><b>Allowed</b>                      Excluded from licensing if the dairy products are 100% product of the seller's farm, with no added off-farm ingredients and no component of milk purchased from other farms. Dairy products for sale at a farmers' market <u>must be pasteurized</u> (exception: aged cheese) and processed in a properly licensed (if off-farm) or permitted (if on-farm) dairy plant.                      No dairy products may be sold under the cottage foods exemption.                      Dairy products must be held at 41°F or colder at all times.  <i>(See Dairy in Minnesota, <a href="http://www.mda.state.mn.us/food-feed/dairy-minnesota">www.mda.state.mn.us/food-feed/dairy-minnesota</a>)</i></p>	<p><b>No license</b>   <b>Dairy plant <u>permit</u> if processed in on-farm dairy plant</b></p>
<b>Dairy Products</b>	<p><b>Allowed</b>                      If a vendor buys dairy products from another source and resells it at the market; or if any off-farm ingredients are added to dairy products; the vendor must have an MDA license. Dairy products for sale at a farmers' market <u>must be pasteurized</u> (exception: aged cheese) and processed in a properly licensed dairy plant.                      No dairy products may be sold under the cottage foods exemption.                      Dairy products for sale must be held at 41°F or colder at all times.  <i>(See Dairy in Minnesota, <a href="http://www.mda.state.mn.us/food-feed/dairy-minnesota">www.mda.state.mn.us/food-feed/dairy-minnesota</a>)</i></p>	<p><b>MDA license</b>   <b>Dairy plant <u>license</u> if processed in on-farm dairy plant</b></p>
<b>Pure Maple Syrup or Maple Sugar</b>	<p><b>Allowed</b>                      Excluded from licensing if it's 100% product of the seller's farm. This includes sugarbush rented or leased by the farmer. Maple syrup products must be boiled down and packaged in a facility that meets Current Good Manufacturing Practices (CGMPs).</p>	<p><b>No</b></p>

Product	Explanation for sale at a Minnesota farmers' market	Document
	<p>Labeling requirements: statement of product identity, net quantity of product contents (weight or volume), vendor name and address.  <i>(See FDA's <a href="#">Small Entity Compliance Guide</a> regarding CGMPs)</i></p>	
<b>Pure Honey</b>	<p><b>Allowed</b>                      Excluded from licensing if it's 100% product of the seller's farm. The hives are considered the "farm," so even if hives travel to multiple locations not owned by the farmer, including locations in other states, the honey from the farmer's hives is still product of the farm.                      Honey must be extracted and packaged in a facility that meets Current Good Manufacturing Practices (CGMPs).</p> <p>Labeling requirements: statement of product identity, net quantity of product contents (weight or volume), vendor name and address.                      Suggested but not required on label: "raw honey not safe for young children."  <i>(See FDA's <a href="#">Small Entity Compliance Guide</a> regarding CGMPs)</i></p>	<b>No</b>
<b>Maple Syrup or Honey with added off-farm ingredients</b>	<p><b>Allowed</b>                      If off-farm ingredients are added to maple syrup or honey, vendors have two options:</p> <ul style="list-style-type: none"> <li>• Cottage Food Exemption: can be made in home kitchen, with sales cap</li> <li>• License: must be made in commercial kitchen, no sales cap</li> </ul> <p>Labeling requirements: statement of product identity, net quantity of product contents (weight or volume), vendor name and address, ingredient list and notice of any allergens.</p>	<b>MDA Cottage Food Producer certificate - or - MDA license</b>
<b>Cottage Foods</b>	<p><b>Allowed</b>                      Cottage Food Law requires the vendor to register with MDA.                      Only non-potentially hazardous foods may be sold under the Cottage Food Exemption.                      Find the Non-Potentially Hazardous Food list: <a href="https://www.mfma.org/CFL">https://www.mfma.org/CFL</a>  <i>(See <a href="#">Cottage Food Producer Registration</a> on the MDA website)</i></p>	<b>MDA Cottage Food Producer certificate</b>

Product	Explanation for sale at a Minnesota farmers' market	Document
<b>Beverages, non-alcoholic, packaged</b>	<p><b>Allowed</b> Options for vendors:</p> <ul style="list-style-type: none"> <li>• Cottage Food: water-bath canned beverages that meet non-potentially hazardous food guidelines are allowed. See Non-Potentially Hazardous Food list: <a href="https://www.mfma.org/CFL">https://www.mfma.org/CFL</a></li> <li>• Licensed: A vendor could manufacture and sell a packaged beverage</li> <li>• Licensed: A vendor could buy packaged beverages from another source and resell at the market</li> </ul>	<p><b>MDA Cottage Food Producer Certificate</b></p> <p>-or-</p> <p><b>MDA license</b></p>
<b>Foods and Beverages, served ready to eat</b>	<p><b>Allowed</b> Except for food sampling and demonstration, all other food and beverage service requires a license. Food and beverage service means food is served with eating utensils (or napkin if it's finger-food) and beverages are decanted or dispensed into a cup, glass, etc. Minnesota Department of Health (MDH) has licensing jurisdiction over food and beverage service.</p> <ul style="list-style-type: none"> <li>• If a vendor already has an MDA license, depending on details of their business they <u>may</u> be able to do limited food and beverage service under that license – but this <u>must</u> be verified with their inspector.</li> </ul>	<p><b>MDH license</b></p> <p>-or-</p> <p><b>Permission under existing MDA license</b></p>
<b>Food Trucks</b>	<p>Food trucks selling food and beverages will require a license from MDH. Additionally, they may be required to have a permit from the local government unit.</p>	<p><b>MDH license</b></p>
<b>Food Sampling and Cooking Demonstrations</b>	<p><b>Allowed</b> No license is required to do food sampling or cooking demonstrations at a farmers' market or community event. There is no restriction on <i>types</i> of food cooked or sampled, but food safety requirements specified in Minnesota Rules must be followed. (See <a href="#">Farmers' Market or Community Event; Food Product Sampling and Demonstration Law, Minnesota Statute 28A.151</a>; -and- <a href="#">Special Event Food Stands, Minnesota Rules 4626.1855</a> )</p>	<p><b>No</b></p>



Product	Explanation for sale at a Minnesota farmers' market	Document
	<ul style="list-style-type: none"> <li>Products sold must be from hemp that tested under the THC limit allowed for industrial hemp. (See MDA's <a href="#">Industrial Hemp Pilot Program</a> )</li> </ul>	
<b>Bath &amp; Body Products, Cosmetics</b>	<b>Allowed</b> Bath and body products fall under the jurisdiction of either the FDA or the Consumer Product Safety Commission (CPSC). Some products require approval from FDA. Labeling requirements apply. Some products require the vendor to charge sales tax. (See FDA's <a href="#">Small Businesses &amp; Homemade Cosmetics Fact Sheet</a> )	<b>FDA Approval</b>
<b>Soap</b>	<b>Allowed</b> No license needed. Vendor has label requirements and must charge tax.	<b>No</b>
<b>Crafts</b>	<b>Allowed</b> No license needed. Some crafts will require vendors to charge a sales tax.	<b>No</b>
<b>Non-Food Activities</b>	<b>Allowed</b> Activities are allowed, dependent on the market's management.	<b>None</b>
<b>Raw Milk</b>	<b>Not allowed</b> Sale of raw milk is allowed in Minnesota only on the farm premises and with restrictions. Raw milk must not be sold at farmers' markets. (See MDA fact sheet, <a href="#">What is Raw Milk?</a> )	
<b>Alcoholic Drinks</b>	<b>Limited Options</b> All alcohol sales in Minnesota require a license from the Department of Public Safety (DPS) and are restricted to certain locations. Alcohol sales and samples can be served at a farmers' market by using some other entity's DPS license.	<b>DPS License</b>

Product	Explanation for sale at a Minnesota farmers' market	Document
	The Food Sampling & Demonstration exemption from licensing <i>does not apply</i> to alcoholic beverages.	

## Additional Resources



[Minnesota Institute for Sustainable Agriculture \(MISA\)](#). Series of fact sheets and guidance for food farmers and food makers. Legal requirements and recommended best practices.

**Blazing Trails Through the Jungle of Food Regulations.** Blazing Trails is a 4-hour workshop that provides information and resources on navigating food regulations that pertain to local food, in order to help individual food entrepreneurs and local food systems move forward. To schedule your Blazing Trails, [kzeman@mfma.org](mailto:kzeman@mfma.org).

**Cottage Foods Official List of Non-Potentially Hazardous Foods.** <http://www.mfma.org/CFL>

**Cottage Food Training** and resources provided by the University of Minnesota Extension. [extension.umn.edu/food-entrepreneurs/cottage-foods-resource-hub](http://extension.umn.edu/food-entrepreneurs/cottage-foods-resource-hub)

**Safe Food Sampling at Farmers' Markets Training** provided by the University of Minnesota Extension. [extension.umn.edu/food-safety/food-entrepreneurs](http://extension.umn.edu/food-safety/food-entrepreneurs)

**Minnesota Cottage Foods Producers Association.** <https://www.mncfpa.org/>

**Food Safety Modernization Act Produce Safety Rule Training** provided by the University of Minnesota Extension and the Minnesota Department of Agriculture. [extension.umn.edu/growing-safe-food/fsma-and-produce-safety-rule-does-rule-apply-me](http://extension.umn.edu/growing-safe-food/fsma-and-produce-safety-rule-does-rule-apply-me) AND [www.mda.state.mn.us/food-feed/produce-safety-program](http://www.mda.state.mn.us/food-feed/produce-safety-program)

**Good Agricultural Practice Training** provided by the University of Minnesota Extension. [extension.umn.edu/safety/growing-safe-food](http://extension.umn.edu/safety/growing-safe-food)

**MDA's Food Innovation Team (FIT).** To help resolve food regulatory problems, the Food Innovation Team was developed as a subcommittee of the Governor's Task Force on Food Safety and Defense. Food vendors stuck getting answers for their business can ask FIT to help resolve the issues. FIT meets bimonthly. Contact chair Jane Jewett [jewet006@umn.edu](mailto:jewet006@umn.edu).