FARMERS' MARKET VENDOR GUIDE

A Guide for Farmers and the Consumer

Arkansas Department of Health
and
Arkansas Agriculture Department

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Introduction

The Farmers' Market Vendor Guide was developed to provide standards, guidelines, and consistent information for farmers, food vendors, and environmental specialists to provide fresh, safe and quality food to the consumer.

The Farmers' Market Vendor Guide offers advice on food items that may be sold and conditions that must be met at the point of sale. For any food item that doesn't fall into one of the categories or if you have questions about what category it belongs in, please contact the Environmental Health Specialist at the local health unit.

Depending upon the product sold, a vendor may be required to obtain a permit from the Arkansas Department of Health (ADH) as a Retail Food Establishment or a Food Manufacturing Firm. Contact an Environmental Health Specialist with the county health department to determine if a Permit is required.

A "Retail Food Establishment" is "an operation that stores, prepares packages, serves, vends or otherwise provides food for human consumption." These requirements must be met regardless of whether the food is being sold or given away.

A "Farmer's Market" sells raw produce which is sold by the producer of the raw product, directly to the user of the raw product. The market is comprised of predominantly products produced on the farm such as: fruit, vegetables, meat, eggs, or flowers.

Arkansas Department of Health Requirements

ADH permitted and inspected retail food establishment types:

These definitions are basic definitions only and there may be additional requirements set forth in the Arkansas Department of Health's Rules and Regulations Pertaining to Retail Food Establishments.

1. Coffee Kiosk – not vehicle mounted, has its own fresh water and wastewater holding tanks, can only sell prepackaged food and coffee based beverages.

2. Fixed based establishment such as a restaurant.

3. Mobile food establishment – a vehicle mounted kitchen with its own permanently mounted fresh water and wastewater holding tanks.

4. Seasonal food establishment – an establishment with its own water supply and wastewater holding tanks, limited to water/ice based beverages and operate no more than 150 calendar days out of the year.

5. Push cart - a non-self-propelled vehicle limited to serving food requiring minimal handling or commissary wrapped food maintained at proper temperatures. Minimal handling means that the food has been cooked and prepared at a fully permitted establishment and the food is only dispensed and/or served from the push cart. Food products prepared on and served from a push cart are limited to non-potentially hazardous food items or the preparation and service of frankfurters. A push cart must operate from an

approved, permitted, commissary and must report back to the commissary daily for cleaning and resupply.

6. Temporary Food Establishment – a food establishment that is only set up for a temporary event. Temporary permits can only be issued in conjunction with a **single** event or celebration. The permit is valid for one event; another temporary permit must be issued at the next event. Food preparation is limited. Farmer's Markets **do not** meet this definition.

Foods that do not require a permit from the Arkansas Department of Health to be sold at a Farmers' Market:

1. **Cottage Food production operations:**

   Act 72 of 2010 defines a "Cottage food production operation" as food items produced in a person's home that are non-potentially hazardous foods such as bakery products, candy, fruit butter, jams, and jellies. Only these 5 products are covered in ACT 72 and are the only products allowed to be sold under ACT 72 of 2010.

   > NOTE: Jams, jellies and fruit butter made with splenda and similar sugar substitutes are considered potentially hazardous food and may not be sold.

   If the food item is not a bakery product, candy, fruit butter, jam, or jelly, it is not to be sold as a cottage food item. Food items that must be kept refrigerated or hot to remain safe are potentially hazardous foods and are not allowed to be sold as a Cottage Food Item.

   > Examples of bakery items that would not be allowed to be sold include cheesecakes, Tres Leches cakes, cream or cheese filled items, cream pies, meringue pies, custard pies, pies or bakery items containing meat, and cream cheese based frostings or fillings.

   Cottage food items can only be sold direct from the manufacturer to the consumer either from the site where the food is made, a farmer's market, a county fair, or a special event. The food vendor should verify that the sale of Cottage food is not in violation of local ordinances by contacting the local city and county offices.

   Each cottage food item shall be clearly labeled and make no nutritional claims. The label on each food item shall include the name and address of the manufacturer, the name of the product, the ingredients in the product, and state in 10-point type, "This Product is Home-Produced".

2. **Raw Fresh Fruits and Vegetables:**

   Whole, uncut fresh fruits and vegetables may be offered for sale without a permit or inspection from the ADH.

3. **Commercially Prepackaged Non-Potentially Hazardous Food:**

   Commercially pre-packaged food that is not potentially hazardous refers to food that is bottled, canned, cartoned, securely bagged, or securely wrapped in a permitted retail food establishment or a food processing plant.

Each item sold must be labeled with the identity and weight or volume of the product, the name and address of the food manufacturer, and a complete list of ingredients.

The commercially pre-packaged food, for each seller, at the Farmer's Market must be contained in displays and not exceed 100 cubic feet.

Food items that are not properly labeled, or that are in nondurable containers, such as carry-out boxes are not allowed.

Commercially pre-packaged food that must be kept refrigerated or hot to limit bacterial growth for food safety is not allowed.

4. **Maple Syrup, Sorghum, or Honey**

   Maple syrup, sorghum, or honey that is produced by maple syrup, or sorghum producer, or beekeeper may be sold.

Food Items that must be prepared or manufactured at ADH permitted and inspected facility:

All the items listed below must be prepared and packaged in an ADH permitted and inspected Retail Food Establishment or Food Processing Plant.

1. **Acidified Foods:**

   Acidified foods include pickled vegetables and most salsas. These food products are typically packed in hermetically sealed (air tight) containers that have a finished equilibrium pH of 4.6 or less.

   An acidified food can pose a risk of botulism if pH and other critical factors are not carefully controlled during processing to prevent the germination and growth of viable spores of *C. botulinum.*

   The establishment must also have a variance approved by the ADH for this specific food processing operation that addresses all the critical food safety factors for this product, including the monitoring of the finished pH of the food product.

2. **Canned Food:**

   Canning is the process of preserving food by packing the food into glass jars and heating the jars to kill the organisms that would create spoilage or cause illness. Canning is typically used to preserve fruits, vegetables, and sometimes meat.

   Growth of the bacterium *Clostridium botulinum* in canned food may cause botulism, a deadly form of food poisoning. Botulinum spores are very hard to destroy at boiling-water temperatures; the higher the canner temperature, the more easily they are destroyed.

   The establishment must have a variance approved by the ADH for this specific food processing operation that addresses all the critical food safety factors for this product,

including the monitoring of the cooking temperatures and pressures obtained during the processing of the food product.

3. Smoked, Cured, or Dried Meats:

Smoking, curing, and drying meat is a preservation process that removes the available moisture in the meat. The amount of moisture in these food items is called water activity or a_w. By removing moisture, enzymes cannot efficiently contact or react with the food. There are concerns of various illness-causing organisms that can survive the drying or curing process, even though the organisms will not continue to grow in the dried food there could be enough present to cause illness.

The establishment must also have a variance approved by the ADH for this specific food processing operation that addresses all the critical food safety factors for this product, including the monitoring of the processing temperatures and the measure of the water activity level of the finished food product.

4. Sprouted Seeds or Beans

Sprouts may include alfalfa, clover, sunflower, broccoli, mustard, radish, garlic, dill and pumpkin as well as mung, kidney, pinto, navy, soybeans and wheat berries (wheat grass).

Raw and lightly cooked sprouts, especially alfalfa, clover and mung bean sprouts have been associated with foodborne illness in a number of outbreaks. Microorganisms already on the seeds or introduced during the sprouting process grow quickly during the ideal conditions of germination and sprouting. There is no step in the production of raw sprouts such as cooking or pasteurization to reduce or eliminate pathogens before consumption.

The establishment must also have a variance approved by the ADH for this specific food processing operation that addresses all the critical food safety factors for this product, including the disinfection of the seeds used to grow the spouts and testing of the irrigation water from each batch of sprouts for the presence of pathogenic microorganisms.

5. Processed Fruits or Vegetables:

Fruits or vegetables that are no longer in a whole, raw, uncut form must be processed at an ADH permitted and inspected food service establishment or food processing plant. Examples of processed fruits and vegetables include:

Dried Fruit/vegetables/herbs/spices
Shelled peas and nuts
Sliced fruit and/or vegetables (including those offered as samples)
Milled grain/flour/meal
Juices

The processing or manufacturing of juices may require additional food safety measures and requirements by the ADH.

6. Potentially Hazardous Commercially Pre-Packaged Food

Any potentially hazardous food, even if the food is commercially pre-packaged, can only be sold or served from an ADH permitted and inspected facility. This is to ensure that the proper refrigeration and monitoring is present to maintain food safety. These food items must be kept in refrigeration equipment that can maintain the food at 41°F or above 135°F at all times.

Commercially pre-packaged potentially hazardous foods must be bottled, canned, cartoned, securely bagged, or securely wrapped in an ADH permitted and inspected retail food establishment or a food processing plant. Nondurable containers, such as Styrofoam carry out boxes or plastic grocery sacks, for processed food containers are not allowed. Each item sold must be labeled with the identity and weight or volume of the product, the name and address of the food manufacturer, and a complete list of ingredients.

Examples of food items in this category would include dairy products, cheeses, juices, non-frozen meats, bakery items containing cream fillings or cream cheese based icings.

Commercially pre-packaged meat including Bovine, Aviculture and Swine may be sold at Farmers' Markets with the following requirements:

a. All products must be commercially slaughtered under USDA inspection, passed, and labeled. Each item sold must be commercially packaged and bear the mark of USDA inspection.

b. All products must be kept frozen and kept in freezer units capable of keeping all products frozen until sold.

c. All products must be held, stored, and transported in a clean sanitary environment to keep products wholesome.

d. All products must be labeled in accordance to USDA requirements including common name of product, net weight of the product, and USDA safe handling instructions.

7. Ready-to-eat food prepared on site or commercially prepared food that is not prepackaged

Any ready–to-eat food that is prepared on site or any food that is provided to the consumer in a non-prepackaged form can only be sold or served from an ADH permitted and inspected facility. Any establishment preparing, selling, or serving any of these food items must fully comply with the Arkansas Department of Health's Rules and Regulations Pertaining to Retail Food Establishments.
A Farmer's Market does not meet the "special event or celebration" portion of the definition of a Temporary Food Service Establishment in the Rules and Regulations Pertaining to Retail Food Establishments.

Food Items not allowed to be sold at a Farmers' Market:

1. **Raw Milk or Homemade Cheeses:**

   The sale of raw (unpasteurized) cow's milk for humans is prohibited under Arkansas Dairy Law. Not even milk with color additives and/or labeled as animal food can be sold. Fluid milk and milk products must be obtained from sources that comply with GRADE A STANDARDS.

   The sale of raw goat's milk for human consumption is not allowed at a farmers' market. An Arkansas farmer can sell up to 100 gallons of goat's milk each year directly from their farm only.

   Homemade cheeses are considered to be food processing and the requirements would be the same as the Potentially Hazardous Commercially Pre-Packaged Food portion of this guideline.

2. **Wild Harvested Mushrooms:**

   Wild harvested mushrooms are not allowed for sale at a Farmers' Market.

Arkansas Livestock and Poultry Commission Requirements

Eggs:

The egg producer shall be permitted to sell ungraded eggs to a retailer or at farmer's markets provided the producer owns less than two hundred (200) hens and the following requirements are met:

1. Eggs are washed and clean;

2. Eggs are prepackaged and identified as ungraded with the name and address of the producer;

3. Used cartons are not used unless all brand markings and other identification is obliterated;

4. Retailer must keep invoice for two (2) years indicating who the eggs were purchased from, date, and amount of eggs bought; and

5. Eggs are refrigerated* and maintained at a temperature of forty-five degrees Fahrenheit (45°F) or below.

*Refrigeration is defined as "an operable refrigeration unit which will maintain 45°F or below".

➔<u>Containers for storage of eggs refrigerated by means of ice, dry ice, or other non-powered refrigerated container are not acceptable.</u>

☛This section of the regulation includes such locations as flea markets, farmers markets, fruit stands, etc.

For any additional information regarding the sale of farm fresh eggs, please contact the Arkansas Livestock and Poultry Commission at 501-907-2400 or http://www.arlpc.org/index.asp.

Live Birds:

Sale, Show, Swap, or Giveway of Live Birds at Farmers' Markets:

Live Birds(Aviculture) at flea markets(includes Farmers' Markets) or swap meets or for exhibition will need to be pullorum-typhoid clean as documented by a 90-day certificate or come from a NPIP certified flock. If birds are not tested when entered at flea markets then the owner/manager of the flea market will be requested to offer the service. Swap meets and flea markets, including Farmers' Markets, means those events either so named or a place where there is a gathering of people to exchange goods and/or services whether they be for sale, barter, or loan.

Aviculture includes exotic chickens, upland birds (chuckers, pheasants), peafowls, backyard Chickens, game birds, and gamefowl. Waterfowl are included when they are domesticated

and transported into the state. Game Bird includes quail, pheasant, partridge/grouse, and domesticated wild turkeys. Gamefowl includes chickens (both male and female) genetically bred and specifically selected to preserve the ancesteral purity of the gamecock.

Living baby chicks or ducklings:

1. Shall not be offered for sale, bartered, or given away under two (2) months of age in any quantity less than six (6).

2. Shall not be offered for sale, bartered, given away**,** or displayed if the birds have been dyed, colored, or otherwise treated so as to impart to them an artificial color.

3. This section does not prohibit the sale or display of natural baby chicks or ducklings in a proper brooder facility by a hatchery or store engaged in the business of selling them for commercial purposes.

4. This does not prohibit a grower of living baby chicks, rabbits**,** ducklings, or other fowl from selling or making gifts of them in quantities the grower deems appropriate.

Arkansas State Plant Board Regulations requirements

If selling wood/woody plants, including trees, shrubs, and woody vines at a farmers markets, any person or organization conducting sales must be licensed and inspected and have a Nurseryman's License from the State of Arkansas. Vegetable plants in non soil-less mix, native soils or potting mix containing native soils are included in this rule. Annuals, perennials, herbs, tropicals, bulbs and vegetable plants in a soil-less mix do not require a license. However, one may not get around the requirement of a license by labeling their vegetable plants as Annuals, perennials, herbs, or tropical, as the only way to sell vegetable plants without a license is to have them grown and for sale in a soil-less mix. If you are selling plants that may go out of state, or are from a state other than Arkansas, you will need to be inspected and have inspection tags for your plants.

Any person selling, offering for sale, or transporting for sale any vegetable, garden truck, sweet potato or strawberry plants for planting purposes within the State of Arkansas shall meet the Arkansas Agricultural Department's (AAD) requirements:

1. Plants grown in soil-less media are exempt, only plants grown in media containing native soil are required to be inspected. (This includes onion sets intended for planting)

1. Sales in bulk is prohibited except at production site to a local consumer

3. Sales must be made in containers which have been conspicuously labeled to show the grower's:
    a. Arkansas State Permit Number
    b. name and address of the grower
    c. varietal name
    d. number of plants per bundle
    e. number of bundles in the container

If sold in flats, or as individual plants, the bundles and containers count would not apply.

NOTE: Labeling would not apply if sold from the greenhouse directly to local consumer.

USE of the Term "Organic":

The Organic Foods Production Act of 1990 mandated the creation of the National Organic Program (NOP) and the passage of uniform organic standards. All organic certifiers, producers, processors, and handlers must be in full compliance *with the USDA National Organic Program (NOP).*

NOP labeling requirements apply to raw, fresh products and processed products that contain organic agricultural ingredients. Agricultural products that are sold, labeled, or represented as organic ("100 percent organic," "organic," or "made with organic ingredients" or food group(s)) must be produced and processed in accordance with the NOP standards. Except for operations whose gross income from organic sales totals $5,000 or less, farm and processing operations that grow and process organic agricultural products must be certified by USDA-accredited certifying agents.

A production or handling operation that sells agricultural products as “organic” but whose gross agricultural income from organic sales totals $5,000 or less annually is exempt from certification but must comply with the applicable organic production, handling requirements, and the labeling requirements of the NOP. Thus exempt operations are still required to follow all of the rules laid out in the NOP, including the maintenance of all records documenting production practices.

1. An agricultural product organically produced or handled on an exempt or excluded operation must not:

    a. Display the USDA seal or any certifying agent's seal or other identifying mark which represents the exempt or excluded operation as a certified organic operation, or
    b. Be represented as a certified organic product or certified organic ingredient to any buyer.

2. An agricultural product organically produced or handled on an exempt or excluded operation may be identified as an organic product or organic ingredient in a multi ingredient product produced by the exempt or excluded operation. Such product or ingredient must not be identified or represented as “organic” in a product processed by others.

The $5,000 or less exemption specifically states that the gross agricultural income from the organic sales must total $5,000 or less annually for the whole farm. This pertains to the combined total of sales and not the sale of each individual product category.

“Transitional Organic”, “Organically Grown”, and “Meets Organic Standards, but Not Certified”, are terms that usually refer to produce grown during the three year transition period required for farms going from conventional to certified organic. The term “transitional” does not have legal status in the National Organic Program Standards nor does USDA allow a “transitional organic” label claim, thus crops harvested from transitional land may not be sold, labeled, or represented as “transitional;” neither may livestock that have been fed transitional feeds. The status of such crops and livestock is, for all intents and purposes, conventional. There is no independent verification of “transitional organic” claims, and no guarantee that farms using this claim would ultimately qualify for organic certification.

A producer may not imply that their product is organic unless they meet the above standards.

People who sell or label a product "organic" when they know it does not meet USDA standards can be fined up to $11,000 for each violation.

Farmer's Market Quick Reference

No Permit Required to Sell

Bakery Products
Brownies
Cakes without cream icing
Candy
Cookies
Farm Fresh Eggs*
Frozen Meat (USDA inspected)*
Commercially Processed Non-Potentially Hazardous Food
Fruit Butter
Honey
Jam
Jelly
Maple Syrup
Sorghum
Whole, Uncut Fruits/Vegetables

NOTE: Only legal ingredients are to be used in cottage food products.

Permit Required to Sell

Anything requiring refrigeration
Canned foods
Cheesecake
Cream Cheese based Frosting or Filling
Cream Pies and Cream Filled Items
Cured Meats
Custard Pies
Dried Fruit/Vegetables/Herbs/Spices
Dried Meats
Salsa
Juices
Meringue Pies
Milled Grain/Flour/Meal
Pickled Vegetables
Salad
Shelled Peas or Nuts
Sliced Fruit or Vegetables
Smoked Meats
Sprouted Beans
Sprouted Seeds
Anything requiring handling, bagging, dividing, portioning, weighing, etc.

Prohibited from Sell

Homemade Cheeses
Raw Milk
Wild Harvested Mushrooms

*Conditions apply

For additional clarification contact the Environmental Health Specialists located in the County Health Unit.

Locally Grown Produce

A wide variety of produce is grown in Arkansas, and the Arkansas Grown® trademark will help you spot it in the retail outlets. If you see the trademark, you can be sure the food was grown or produced in Arkansas. For more information on buying Arkansas produce, go to http://www.arkansasgrown.org, http://littlerock.locallygrown.net/growers/list and http://ar.marketmaker.uiuc.edu/search.php.

Below and on the next page you will find listings of fruits and vegetables grown in Arkansas and the months in which they are harvested.

Arkansas Fruit Harvest Calendar

	May	June	July	August	September	October
Apples						
Blackberries						
Blueberries						
Cantaloupe						
Grapes						
Muscadines						
Nectarines						
Peaches						
Plums						
Raspberries						
Strawberries						
Watermelon						

Indicates summer months.

UNIVERSITY OF ARKANSAS
DIVISION OF AGRICULTURE

Arkansas GROWN

ARKANSAS AGRICULTURE DEPARTMENT

Arkansas Vegetable Harvest Calendar

	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Asparagus												
Beans (Green)												
Beets												
Broccoli												
Butter Beans												
Cabbage												
Carrots												
Cauliflower												
Chard												
Collard												
Cucumbers												
Eggplant												
English Peas												
Greens, Leafy												
White Potatoes												
Kale												
Lettuce												
Okra												
Onions												
Peppers												
Pumpkin												
Radish												
Black-Eyed Peas												
Spinach												
Summer Squash												
Sweet Corn												
Sweet Potatoes												
Tomatoes												
Turnip Greens												
Winter Squash												

Indicates summer months.

The Arkansas Cooperative Extension Service offers its programs to all eligible persons regardless of race,color, national origin, religion, gender, disability, marital or veteran status, or any other legally protected status, and is an Affirmative Action/Equal Opportunity Employer.

University of Arkansas, U.S. Department of Agriculture, and County Governments Cooperating

WANT TO SUPPORT ARKANSAS AGRICULTURE?

The "Arkansas Grown" mark is a registered trademark of the Arkansas Agriculture Department (AAD) filed with the Arkansas Secretary of State. It may appear in black and white or black and green versions.

This mark is to be used solely for the purpose of promoting Arkansas agricultural products and may only be used under written agreement with AAD in conjunction with the Arkansas Grown Branding Program.

For the purpose of the Arkansas Grown Branding Program, the term "Arkansas agricultural product" is defined to mean raw or finished goods consisting entirely of or made substantially from farm, forest and nursery products produced in Arkansas. AAD has sole authority to determine if products meet these standards and may establish criteria specific to unique products.

Those wishing to display the Arkansas Grown brand on their product or at their point of sale must make application to the AAD Marketing Division on the appropriate registration forms.

Use of the Arkansas Grown brand does not imply any affiliation or endorsement by the AAD and no such statement can be made by the registrant.

Registration to use the Arkansas Grown brand may be revoked at any time if the brand is used in a manner inconsistent with the requirements of the Arkansas Grown Branding Program.

For More Information Contact:

Zachary Taylor
Director of Marketing
Arkansas Agriculture Department
#1 Natural Resource Drive, Little Rock, Arkansas 72205
Phone: (501) 219-6324, Fax: (501) 312-7052
E-mail: Zachary.Taylor@aad.ar.gov

OR:

WWW.ARKANSASGROWN.ORG

ARKANSAS AGRICULTURE DEPARTMENT