

FARMER'S MARKET - REGULATIONS OF OPERATION

December 2016

FARM MARKETS (as defined in Sec. 9-815 of the Municipal Code) shall have on file with the Clerk's Office, a license permitting operation. Application for said license shall be made to the Clerk's office no later than 14 working days prior to the first day of operation. Farm markets shall also comply with the following regulations of operation:

I. Definitions

- A. **Licensed Establishment** means an operation that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term "food establishment" includes a "restaurant" "retail food establishment" and a "temporary restaurant" licensed by the Wisconsin Department of Agriculture, Trade and Consumer Protection or an Agent municipality.
- B. **Potentially hazardous food** means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or in raw shell eggs, the growth of *Salmonella enteritidis*. Potentially hazardous food includes food of animal origin that is raw or heat treated; a plant food that is heat-treated or consists of raw seeds or sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation.
- C. **Processing** means the manufacture or preparation of food for sale or service through the process of canning, extracting, fermenting, distilling, pickling, freezing, baking, assembling, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling or packaging or through any other treatment or preservation process.

- D. **Safe temperatures** as applied to potentially hazardous foods means temperatures at 41° F or below or 135° F or above.

II. License Requirements

A. Food Licensing

1. All processed foods must originate from a properly licensed facility. You are required to hold a license on site if you are selling potentially hazardous food, or processing any food items on site. Vendors which only participate in an Appleton farmers market may obtain the license from the Appleton Health Department. If a vendor participates in Appleton farm markets and other farm markets or events outside the City of Appleton, the vendor must hold a Mobile Retail Food license from the Department of Agriculture, Trade and Consumer Protection. Booth operator is responsible for contacting DATCP, Division of Food and Recreational Safety to receive proper licensing. For an application or license information contact DATCP Licensing at (608) 224-4923.
A MOBILE RETAIL FOOD LICENSE ISSUED BY ANOTHER LOCAL HEALTH DEPARTMENT CAN NO LONGER BE HONORED BY THE CITY OF APPLETON.
2. Sellers of fresh, uncut fruits and vegetables and sellers of prepackaged, non-potentially hazardous foods are not required to be licensed as a retail food establishment.
3. Sellers of eggs, dressed poultry and rabbits are required to be licensed as indicated in number one. (See specialty Products section)
4. Health license applications will be processed only during regular business hours. No licenses will be processed on the day of the event.
5. Licenses shall be posted in a conspicuous location at a farm market.

III. Facilities and Equipment

Wisconsin Food Law, Chapter 97, requires food be produced, processed and held under sanitary conditions. Facilities and equipment used for the sale of food at farmer's markets does not need to be elaborate but must be suitable for the type of product sold. Contact the Health Department with questions.

- A. All food, including fresh fruits and produce, shall be stored in a way that protects it from contamination, such as in clean baskets, the cleaned bed of a truck, or on an impervious material placed on the ground or pavement.
- B. Potentially hazardous food, including food samples, must be kept at safe

temperatures at all times during transportation and while being stored, displayed or offered for sale.

- C. Clean, chest-type coolers, free of cracks or open seams, and constructed of materials impervious to moisture, may be used with ice or dry ice as a means of on-site cooling. *Styrofoam coolers, wood or cardboard boxes are not acceptable materials.* Mechanical refrigeration may also be used.
- D. A metal stem thermometer, accurate to plus or minus 2° F is required if potentially hazardous foods are offered for sale.
- E. Utensils, scales and any other equipment used shall be in good condition and kept clean.
- F. Scales required for sale of items by weight (see attached method of sale rules) shall be of a commercial type meeting NIST Handbook 44 requirements. Those newer than 1986 shall be marked NIST Class III; those newer than 1/1/97 also must be NTEP approved. **Any scale used must be pre-approved by the City Sealer of the Appleton Health Department prior to the vendor's first sale of each year.**

IV. General Requirements

- A. The organizer shall provide signs listing the name and address of the vendor for each booth and ensure the signs are posted during a market event.
- B. Vendors shall wear clean clothing.
- C. Effective measures shall be employed to control the presence of insects. No pesticides shall be used as a means of control.
- D. The premises shall be kept clean. Wastebaskets shall be provided by the seller to prevent debris from becoming scattered.
- E. Sampling of food products is only permitted if sampling is limited to a raw agricultural commodity not requiring further processing in order to be tasted such as a whole bean, cherry, pea pod, etc. Or, any processing required is conducted under sanitary conditions following item 'G' below and the product is individually served by the booth operator. Food sampling, other than a raw agricultural commodity, must be pre-approved by the Appleton Health Department.
- F. All garbage and refuse must be properly disposed of at the end of each day of operation.
- G. If food processing is to be conducted on-site, the operations must be conducted

in an enclosed food booth and must follow the Appleton Health Department Temporary Restaurant Guidelines (available upon request).

- H. No live animals are permitted to be sold at a farmer's market and no pets are allowed on the premises.
- I. An individual may process in a home kitchen, under the "Pickle Bill" without a food processing plant license. A person is not required to obtain a license to sell at retail, food products that the person prepares and cans if all of the following apply:
 1. The food products are pickles or other processed vegetables or fruits with an equilibrium pH value of 4.6 or lower.
 2. The person sells the food products at a community or social event or a farmers' market in this state.
 3. The person receives less than \$5,000 per year from the sale of the food products.
 4. The person displays a sign at the *place of sale* stating: "These canned goods are homemade and not subject to state inspection."
 5. Each container of food product that is sold is labeled with the name and address of the person who prepared and canned the food product, the date on which the food product was canned, the statement "This product was made in a private home not subject to state licensing or inspection.", and a list of ingredients in descending order of prominence. If any ingredient originates from milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list of ingredients shall include the common name of the ingredient.

In addition to items 1 through 5, you must provide the Health Department with a statement from a "competent process authority" that your process recipe is safe. A process authority would either provide you with a written statement that your process is safe, or may recommend you do further testing before the process can be approved. For more information on obtaining an approved written process, call the Division of Food and Recreational Safety at 608-224-4923 or email datcpdfslicensing@wisconsin.gov.

- J. If potentially hazardous foods do not meet safe temperature requirements the product will be ordered off sale.
- K. Prepackaged foods must be properly labeled as required by Chapter 97, Wisconsin Statutes. Submit a draft of each label before batch printing to the Appleton Health Department, 100 North Appleton Street, Appleton, WI 54911-4799. Labels require at least the following information to be shown on each package label:

1. The statement of product identity.
2. An accurate statement of the quantity of contents in terms of weight, measure or numerical count. The proper unit of measurement shall be consistent with method of sale rules (attached), and be placed in the lower 30% of the label. The minimum height of any number or letter in the quantity declaration shall be not less than 1/8 inch. There shall also be an area surrounding the quantity declaration that is free of printed information by a space equal to or larger than 1/8 inch.
3. Name, address of the manufacturer, packer or distributor, with ZIP.
4. The list of ingredients in order of descending predominance, if the item is a food and made of two (2) or more ingredients.

The following is a sample of a label, the format of which should be followed exactly:

<p>Robinson's Farms W2478 Hwy JJ Appleton, WI 54915</p> <p>POTATO SALAD</p> <p>Ing.: White Potatoes, Eggs, Mayonnaise (eggs, salad oil, salt), Celery, Onion, Dill and Salt.</p> <p>NET WT 16 OZS (454 g)</p>
<p>SAMPLE LABEL</p>

- L. Hand washing facilities shall be required where foods of a potentially hazardous nature are prepared, sold, or served unless the items are all prepackaged. A minimum of a two-gallon insulated container with a non-self closing spigot or valve shall be provided for handwashing purposes. A container for holding wastewater shall also be provided under the spigot or valve. Wastewater shall be properly disposed of in a sanitary sewer (drains at street curbs are not to be used for disposal of wastewater as these discharge directly to the Fox River).
- M. Products shall be sold by weight, measure or count in accordance with State Weights and measures laws. (SEE CURRENT PRODUCE METHOD OF SALE LIST ATTACHED).

V. Specialty Products

A. Eggs

1. A food processing Plant license is not required for egg collection and packing activities for small-scale egg producers (those with 150 birds or fewer) who sell eggs directly from the farm to consumers, at farmers' markets, and on egg sales routes.
2. A retail food establishment license is required to sell eggs at farmers' markets and on egg sales routes. Basic food safety requirements have to be met as well as adhering to the following conditions:
 - Eggs must be sold directly to the consumer, not to a wholesaler or distributor.
 - The number of egg-laying birds in the egg producer's flock must not exceed 150.
 - Eggs can be sold from the farm where the eggs were laid, at a Wisconsin farmers' market, or on an egg sales route.
 - Eggs must be packaged in a carton that is labeled with the producer's name and address, the date the eggs were packed into the carton, a sell-by date within 30 days, and a statement indicating that the eggs in the package are ungraded and uninspected.
 - Packaged eggs must be kept at an ambient temperature no higher than 41°F at all times. If packed in used cartons, all inaccurate label information shall be removed (name & address of another processor or distributor, grade and/or size, USDA shield, etc.). Cartons must be clean and relabeled with correct information.
 - Registration with DATCP is required for small-scale egg producers who are exempt from food processing requirements because they collect, package, and store nest-run eggs from a flock of laying birds owned by the producer. There is no charge for registering. Registration is a useful tool to the department in the event of an animal disease outbreak that requires food safety personnel to contact egg producers. Use the "Nest-Run Egg Producer and Seller Registration form" to complete the registration process (find it at: https://datcp.wi.gov/Pages/Programs_Services/FSEggs.aspx).

B. Melons

1. Melons may only be sold in a whole, unsliced condition.

C. Honey

1. No license is required if sale of raw honey or raw bee products is from the producer's own apiary, whether those sales are retail or wholesale. Raw honey may be comb honey or may be heated and filtered to facilitate bottling.
2. A food processor license is required if the processor is packaging bee

products (honey, pollen, propolis or royal jelly) from a source other than that produced from his/her own apiaries or if air or flavorings are added.

3. Grade standards found in ATCP 87 and food labeling requirements apply. Although a processor may be exempt from licensing, the processor must produce honey under sanitary conditions.
4. Glass containers manufactured for multiple use (i.e. Kerr, Ball, etc.) may be re-used if in good condition and properly washed and sanitized. Must use new lids. Baby food jars and others intended for single use may not be used as food containers.

D. Maple Syrup

1. No license is required if sale of maple syrup is from the producer's own production for sale directly to the consumer at the place of production, farmers markets, fairs, flea markets. Grade standards found in ATCP 87 and food labeling requirements apply.
2. A license is required for maple syrup and related products such as: maple candy or table syrup blends, produced for sale to retail stores and/or restaurants for resale, and to other producers who package for resale.

E. Cider

1. A retail processor of cider does not need a license to sell cider at the point of production and may also sell cider at farmers' markets if no other food processing takes place at the production facility or point of sale. Retail sales must be directly to the end consumer (at the license-exempt facility, at farmers' markets, or via internet or phone sales).
2. If cider has not been processed to produce a 5 log reduction in pathogenic microorganisms, the product must have the 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".
3. If an operator makes cider for wholesale distribution, a food processing plant license is needed. A retail establishment can wholesale up to 25% of their gross annual food sales. In addition, if licensed as a retail processor or a food processor, and any cider is sold via wholesale distribution, then all cider sold—either via retail sales or wholesale distribution—falls under the juice HACCP requirements, including the 5 log pathogen reduction requirements.
4. If cider has not received a process resulting in a 5 log pathogen reduction and has a pH of 4.2 or less, the cider is considered non-

potentially hazardous (non-TCS) and does not require refrigeration. The processor must have documentation showing cider pH is 4.2 or less, if not stored under refrigeration.

F. Meats (cattle, swine, calves, sheep, goats, ratites)

1. Meats must be from a licensed and inspected establishment.
2. Meat slaughtered by the farmer or a mobile slaughterer on the farmers premises cannot be sold.
3. All meat from captive game animals sold to consumers in any place other than from the owner's premises, including farmers markets, must be inspected and passed at a state or federally inspected facility. All other requirements for livestock apply to exotic species.
4. Products must be properly labeled and include the following:
 - Name of the product, e.g. Beef T-bone, ground ostrich, pork spareribs
 - List of ingredients if more than one ingredient, such as sausage
 - Name and address of the packer, distributor or processor
 - Inspection legend (USDA or WI symbol)
 - For perishable products, a handling statement, such as "Keep Refrigerated" or "Keep Frozen"
 - Raw and uncooked products must have a safe handling label for consumers
5. A retail food license is required.

G. Rabbits

1. Rabbit meat sold at a Farm Market must be slaughtered, processed, Packaged and labeled at a licensed facility.
2. A retail food license is required.

H. Poultry (farm-raised chickens, ducks, geese, guinea hens, squab, turkeys)

1. Less than 1000 birds per year:
May be sold by the producer directly to the consumer at a farmer's market. They must be slaughtered and processed at a licensed processing plant. The birds are required to be individually labeled to identify the name and address of the producer, net weight, and the label must state "NOT INSPECTED" if they were not inspected.
2. More than 1000 birds per year:
Bird-by-bird inspection required at a state or USDA licensed facility
Birds are fully labeled. Must have a retail food establishment license

I. Nut Meats and Spices

1. The shelling and sale of nuts is a food processing operation that requires a license: Food Processor - Non-potentially Hazardous.
2. The grinding and packaging of spices is a food processing operation that requires a license: Food Processor - Non-potentially Hazardous.

J. Cheese

1. Cheese shall be refrigerated or stored in ice at all times. The product shall be held at or below 41° F at all times.
2. Cheese must be packaged and labeled in a licensed establishment. Cutting and wrapping of cheese is not allowed at farmer's markets.

VI. Demonstrations involving Food Items or Live Animals

Any demonstration put on by the organizer or vendor **MUST** have pre-approval from the Appleton Health Department.

CONTACT THE APPLETON HEALTH DEPARTMENT WITH QUESTIONS
920-832-6429

**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE, AND CONSUMER PROTECTION
P.O. BOX 8911 MADISON, WI 53708**

**REQUIRED METHODS OF SALE FOR RETAIL SALES OF PRODUCE
SECTION ATCP 91.03 WI ADMINISTRATIVE CODE 01/01/10**

COMMODITY	METHOD OF SALE
Apples	Count, Dry Measures of Bushel, ½ Bushel, Peck or Net Weight
Apples Coated with Taffy or Caramel	Count or Net Weight
Artichokes	Count or Net Weight
Asparagus	Net Weight or Bunch
Avocados	Count or Net Weight
Bananas	Count or Net Weight
Beans, Green and Wax	Net Weight Only
Beets (with tops)	Bunch or Net Weight
Beets (without tops)	Net Weight Only
Berries, Strawberries and Blueberries	Dry Measures of Quart, Pint, ½ Pint, or Net Weight
Broccoli	Bunch or Net Weight
Brussel Sprouts	Net Weight Only
Cabbage	Net Weight or Head
Carrots (with tops)	Bunch or Net Weight
Carrots (without tops)	Net Weight Only
Cauliflower	Count or Net Weight
Celery	Count or Net Weight
Chard	Bunch or Net Weight
Cherries	Dry Measures of Quart, Pint, ½ Pint or Net Weight
Choke Cherries	Dry Measures of Quart, Pint, ½ Pint, or Net Weight
Corn on the Cob	Count or Net Weight
Coconut	Count or Net Weight
Cucumbers	Count or Dry Measures of Bushel, ½ Bushel, Peck or Net Weight
Currants	Dry Measures of Quart, Pint, ½ Pint or Net Weight
Dill	Bunch or Net Weight
Eggplant	Count or Net Weight
Endive	Bunch or Net Weight
Escarole	Bunch or Net Weight
Fruit, Citrus, Kiwi, Star, Ugli	Count or Net Weight
Garlic	Count or Net Weight
Grapes (Concord)	Dry Measures of Quart, Pint, ½ Pint or Net Weight
Grapes (all others)	Net Weight Only
Grapefruit	Count or Net Weight
Green Top Root Vegetables	Bunch or Net Weight
Greens	Bunch or Net Weight
Kale	Bunch or Net Weight
Kiwanos	Count or Net Weight
Kohlrabi	Bunch or Net Weight
Leeks	Bunch or Net Weight
Lemons	Count or Net Weight
Lettuce Head	Count or Net Weight
Lettuce Leaves	Bunch or Net Weight
Limes	Count or Net Weight

Loquats	Count or Net Weight
Mangoes	Count or Net Weight
Melons (whole): Cantaloupes, Honeydews, Catawba's, Watermelons	Count or Net Weight
Mixed Whole Fresh Fruits or Vegetables in Baskets or Reusable Containers	Count or Net Weight
Nectarines	Count or Net Weight, Dry Measures of Bushel, ½ Bushel, or Peck
Onions (green top)	Bunch or Net Weight
Onions (All others)	Net Weight Only
Oranges	Count or Net Weight
Papayas	Count or Net Weight
Parsley	Bunch or Net Weight
Peaches or Pears	Count or Net Weight, Dry Measures of Bushel, ½ Bushel, or Peck
Peas	Net Weight Only
Peppers (all)	Count or Net Weight
Persian Limes	Count or Net Weight
Persimmons	Count or Net Weight
Pineapples	Count or Net Weight
Plums	Dry Measures of Bushel, ½ Bushel, Peck or Net Weight
Potatoes	Net Weight Only
Pomegranates	Count or Net Weight
Prickly Pear	Count or Net Weight
Pumpkins	Count or Net Weight
Quince	Count or Net Weight
Radishes (with tops)	Bunch or Net Weight
Radishes (without tops)	Net Weight Only
Rutabagas	Net Weight Only
Spinach	Bunch or Net Weight
Squash	Count or Net Weight
Tangerines	Count or Net Weight
Tomatoes	Count, Dry Measures of Bushel, ½ Bushel, Peck or Net Weight
Tomatoes (cherry or plum)	Dry Measures of Quart, Pint, ½ Pint or Net Weight
Thyme	Bunch or Net Weight
Watercress	Bunch or Net Weight
Zucchini	Count or Net Weight

*Items not listed above should be sold by net weight. Packages of cut up pieces of produce should be sold by weight.

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