

Farmers' Markets



Lake County
Environmental Health
106 4th Avenue East
Polson, MT 59860
406-883-7236

The Montana state codes governing farmers' markets are covered in MCA 50-50-102 and MCA 50-50-202.

State Laws
Montana Codes Annotated (MCA)

50-50-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods.

(5) "Farmer's market" means a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority.

(6) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

(14) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form capable of supporting:

(i) the rapid and progressive growth of infectious or toxigenic microorganisms;
or

(ii) the growth and toxin production of *Clostridium botulinum*.

(b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.

(c) The term does not include:

(i) an air-cooled, hard-boiled egg with intact shell;

(ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees C (75 degrees F);

(iii) a food with a water activity (aw) value of 0.85 or less;

(iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

(v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium botulinum* cannot occur.

(15) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed.

(b) The term does not include:

(i) tomatoes or food products containing tomatoes; or

(ii) any other food substrate or product preserved by any method other than that described in subsection (15)(a).

(16) "Raw and unprocessed farm products" means fruits, vegetables, and grains sold at a farmer's market in their natural state that are not packaged and labeled and are not:

(a) cooked;

(b) canned;

(c) preserved, except for drying;

(d) combined with other food products; or

(e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

50-50-103. Department authorized to adopt rules -- advisory council. (1) To protect public health, the department may adopt rules relating to the operation of establishments defined in [50-50-102](#), including coverage of food, personnel, food equipment and utensils, sanitary facilities and controls, construction and fixtures, and housekeeping.

(2) (a) The department and local health authorities may not adopt rules prohibiting the sale of baked goods and preserves by nonprofit organizations or by persons at farmer's markets.

(b) The department and local health authorities may not require that foods sold pursuant to this subsection be prepared in certified or commercial kitchens.

50-50-202. Establishments exempt from license requirement -- farmer's market records.

(3) (a) A license is not required of a gardener, farm owner, or farm operator who sells raw and unprocessed farm products at a farmer's market.

(b) A license is not required of a person selling baked goods or preserves at a farmer's market.

(4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall keep registration records of all individuals and organizations that sell baked goods or preserves at the market.

(b) The registration records must include but are not limited to the name of the seller, the seller's address and telephone number, the products sold by the seller, and the date the products were sold.

(c) The registration records must be made available to the local health officer or the officer's agent.

SEE ALSO 7-21-33 & 42 MCA Regarding Public Markets

Steps to setting up and operating a farmers' market:

1. Complete the “Request for Authorization of a Farmers’ Market Form” Return this form to the Environmental Health Department. A copy of this form will be returned to you upon approval by the Chair of the Lake County Board of Health. Retain this form for your records.
2. Complete the “Farmers’ Market Vendor Registration Form” for each vendor at the market. **DO NOT** return this form to our office, but retain it for your records. Upon request by this office, the form must be available.

Allowable Items:

The following is a list of what is allowed and what is restricted from sale according to current law. If there is a specific item you would like to sell that is not listed, please contact this department.

Fruits, vegetables, herbs and grains: allowed if they are in their natural state, raw and unprocessed.

They **can not** be: cooked; canned; preserved, except for drying; combined with other food products; peeled, diced, cut, or blanched.

Preserves: allowed. This includes fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, and fruit syrups that have been processed using a water bath or pressure method and are sealed.

This **does not** include freezer jams, sugar free preserves, pepper jellies, pickled items, salsas, tomatoes or tomato based products such as BBQ sauce. These items are not allowed unless they are from a licensed facility.

Baked Goods: allowed. This includes breads, cakes, cookies, candy, pastries and fruit pies.

NO cream or whipped cream, custard or meringue fillings or toppings.

NO pumpkin pies.

NO frostings made with uncooked eggs.

Honey: allowed. This should have a label with the producers address.

Eggs: allowed. They need to have a label stating “Ungraded Farm Eggs” and where they are from, such as “Penny’s Brown Eggs, 1254 Speckled Hen Lane, Polson, MT”. Eggs are required to be kept at 45°F or less.

Milk, Poultry, Meat, Seafood or other perishable foods: NOT ALLOWED, unless licensed for retail sale.

Frequently Asked Questions:

- **Question:** Are Salsas, Pickled items, Salad Dressings, Herb-in-Oil/Vinegar Mixtures, Sauerkraut, Pepper Jelly, etc, considered “Preserves” and exempt from licensure for sales at farmers’ markets?
- **Answer:** None of the products listed above qualify as “Preserves” as defined in state statute. Such items are required to be processed in an approved facility and must be appropriately licensed.
- **Question:** Are Cream Puffs, Cream Pies, Pumpkin Pies, Cream Filled Pastries, Cheesecakes, considered “Baked goods” and exempt from licensure for sales at farmers’ markets?
- **Answer:** All of the products would be considered to be “Potentially hazardous foods” as defined in state statute, and would require licensing in order to distribute these products at farmers’ markets.
- **Question:** I want to sell my processed Poultry/ Meats at the farmers’ market. What do I need to do?
- **Answer:** A retail license is needed to distribute these types of products at the farmer’s market. It is recommended that you contact the state Department of Livestock Meat Inspection Bureau (406-444-5202) in order to find out their requirements for slaughter and processing. Then contact your local county sanitarian to receive information on their requirements to become a licensed retail meat market.
- **Question:** I manage a licensed restaurant/grocery store/school food service/institutional food service/food manufacturing plant, etc., and want to use as many locally produced foods as possible. What can I get at the farmer’s market that would be considered an “approved source” ?
- **Answer:** Only products distributed at farmers’ markets that fit the definition of “Raw and unprocessed farm products” and products from licensed/approved sources are considered suitable for use in licensed public establishments.



**LAKE COUNTY ENVIRONMENTAL
HEALTH**

106 FOURTH AVENUE EAST
POLSON, MT 59860-2175
PH: 406-883-7236 FAX: 406-883-7205
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**REQUEST FOR AUTHORIZATION AS A FARMERS'
MARKET**

Organization Name: _____
Market Master: _____
Mailing Address: _____
Phone: _____ Cell Phone: _____
E-Mail: _____
Market Location: _____
Operating Days/Times: _____

By submitting this application, I/we acknowledge that I/we are aware of the regulations of the State of Montana for farmer's markets and that I/we will keep the required records for inspection by the Lake County Environmental Health Department.

Market Master Signature: _____
Date: _____

Approved by: _____
Lake County Board of Health, Chair
Date: _____



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Farmers' Market Vendor Registration Form

Organization Name: _____
Market Master _____
Mailing Address: _____
Phone: _____ Cell Phone: _____
E-mail: _____
Market Location: _____
Operating Days/Times: _____

Vendor Name _____
Vendor Address: _____
Vendor Phone _____
Products Sold: _____
Date(s) Sold: _____

Vendor Name: _____
Vendor Address: _____
Vendor Phone: _____
Products Sold: _____
Date(s) Sold: _____

Vendor Name _____
Vendor Address: _____
Vendor Phone _____
Products Sold: _____
Date(s) Sold: _____

Vendor records must be kept for the duration of the market season and must be made available to Lake County Environmental Health Department upon request. Any questions regarding vendor records or food items may be directed to the Environmental Health Department.