

FARMERS MARKET VENDOR GUIDE

**A guide for Farmers, Sanitarians,
and the Consumer**

*Healthy People through
Healthy Environments in West Virginia*

West Virginia Food Safety and Defense Task Force

**West Virginia Department of Health and Human Resources
West Virginia Bureau for Public Health
Public Health Sanitation Division**

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Table of Contents

Introduction.....	2
Permits and Fees.....	3
Baked Goods.....	4
Applebutter, Sorghum and Molasses.....	6
Dairy Products.....	8
Honey.....	10
Preserved or Canned Foods	11
Eggs.....	12
Jams and Jellies.....	14
Meats.....	16
Poultry.....	19
Fish.....	20
Fruits and Vegetables.....	22
Chef Demonstrations.....	24
Sampling.....	25
Contacts.....	28
Methods of Sale Chart.....	34
Handwashing Station.....	36

Introduction

The Farmers Market Vendor Guide was developed to provide standards, guidelines and consistent information for farmers, food vendors and sanitarians 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. The Farmers Market Vendor Guide represents a collaborative effort of the West Virginia Departments of Health and Human Resources (WVDHHR), Agriculture (WVDA), the Farmers Market Association and other members of the Food Safety and Food Defense Task Force.



Permits and Fees

Depending upon the product sold, a vendor may be required to obtain a permit from the local health department as a Food Establishment. Contact the local health department to determine if a Food Establishment permit is required. Food Establishment is defined by the FDA Model Food Code, which was adopted by the West Virginia Legislature April 2, 2008; “Food establishment’ means an operation that stores, prepares, packages, serves, vends or otherwise provides food for consumption.” Further clarification of the definition is available on the WV Secretary of State’s webpage, Code of State Rule 64-17, Food Establishment Rule.

The local health department can provide information about permit fees. Maximum allowable permit fees for Food Service Establishments may also be found on the Secretary of State’s webpage, Code of State Rule 64-30, Fees for Permit Rule.



Baked Goods

Baked goods and candy prepared in a home kitchen may be sold so long as they are NOT potentially hazardous. Potentially hazardous baked goods include:

- Meringue, custard or cream pies
- Cheesecake
- Cream-filled cupcakes, donuts, pastries
- Cream cheese based frostings or fillings.

Products that are **allowed** for sale are cakes, fruit pies, yeast and fruit breads, and candy.

WVDHHR requires that baked goods be pre-wrapped or protected from contamination during display and properly labeled as required by WVDA. The vendor shall register with the local health department before the date of sale. While these products do not present a hazard from a bacteriological standpoint, the food may be contaminated with filth or other extraneous matter. Therefore, the health department reserves the right to inspect the home kitchens if conditions warrant.

Labels must include the following information:

- Common name of product, e.g. apple pie, wheat bread
- Name and address of processor
- Ingredient list with items in order from most to least
- Net weight or numerical count, e.g. 1lb, 14 oz, 13 cookies. The weight should be in US and Metric equivalency.
- Major allergens listed.

Labels for baked goods may be considered provided if a placard is placed on the sales table and not on the individual package. However, if the product contains one of the eight major food allergens (eggs, wheat, fin fish, shell fish, peanuts, tree nuts, milk products or soy) then a label must be provided with each product item. This could be a sheet of paper that includes the appropriate information.

WVDA is able to assist with labeling and West Virginia Division of Labor, Weights and Measures office can assist with determining net weights.

Applebutter, Sorghum and Mollasses

These products may be sold at farmers markets so long as they are properly labeled as required by the WVDA. Due to the high sugar content and the high temperature of the product when it is jarred, the product is not considered to be potentially hazardous. No other products (e.g. pumpkin butter) shall be considered in this category. These products may be processed outside in copper kettles. The vendor shall register with the local health department before the date of sale. Labels must include the following information:

- Common name of product
- Name and address of processor
- Ingredient list with items in order from most to least
- Net weight in US and Metric equivalency
- Major allergens listed.



WVDA is able to assist with labeling and West Virginia Division of Labor, Weights and Measures office can assist with determining net weights.



Dairy Products

Pasteurized milk, cheese and other dairy products may be sold at farmers markets if the following guidelines are followed:

- Vendor has an approved Dairy Processing Plant
- Product is pre-packaged
- Product is kept at appropriate temperatures in coolers, refrigerated vehicles, or freezers with calibrated thermometers
- The vendor must have a valid Food Establishment Permit from the local health department before the date of sale.

Products may be sold if they are properly labeled and include the following information:

- Fluid milk container must state “Grade A”
- Common name of product and common name of the hooved mammal producing the milk shall precede the name of the milk or milk product when the product is or is made from other than cattle’s milk, e.g. goat cheese
- Net quantity of contents

- Ingredient list with items in order from most to least
- Allergens listed
- Identity of the milk plant-name and address or plant code.

Aged cheese may be made from raw milk (unpasteurized) so long as the cheese is processed in an approved processing facility and aged for at least 60 days at a temperature of 35°F or greater. Aging time and temperature may vary dependent upon the type of cheese processed. Contact regulatory agency for individual cheese aging requirements.

The sale of raw milk (unpasteurized) for humans or pets is prohibited under West Virginia Regulation.

(DHHR Office of General Council interpretation of 64 CSR 34)



Honey

The sale of honey is permitted at farmers markets. The apiarist must be registered with WVDA. The product must be properly labeled according to WVDA with the following information:

- Common name of the product
- Name and address of processor
- Net weight in US and Metric equivalency.

Refer to WVDA for additional information. WVDA is able to assist with labeling and West Virginia Division of Labor, Weights and Measures office can assist with instructions on determining net weights.



Preserved or Canned Foods

The sale of home-canned, preserved, or processed foods, with the exception of non-dietary jams and jellies, is NOT permitted at farmers markets unless the products are from an approved food manufacturer. The vendor shall provide proof from WVDHHR that they are an approved food manufacturer. Persons wishing to offer these products for sale shall register with the local health department before the date of sale. Salsa, pickled vegetables, sauces and dressings are examples of preserved foods. A food manufacturing approval is required to thermally-process or acidify food products that are offered for sale. Contact WVDHHR for more information on being an approved food manufacturer. Some requirements are listed below:

- Separate approved kitchen facility
- Certificate of attendance from a better process control school
- Processing methods must be approved and flow charts provided to WVDHHR
- Registration with FDA
- Approved label from WVDA
- Approval to distribute from WVDHHR.

Eggs

A small producer may market up to one hundred fifty (150) dozen eggs or less per week of their own production. The producer must register with the WVDA. Small producers must label their cartons with:

- The name and address of the person producing and selling the eggs
- The date the eggs are packed
- The words “Ungraded Eggs” in print of at least five-eighths (5/8) inch

Eggs shall be washed. Eggs shall be transported at 45°F, unless the time for transportation is less than three hours. Eggs are to be stored and displayed at the farmers market in cold holding equipment capable of holding 41°F or less. The eggs must reach the 41°F temperature within four hours of receipt at the market.

Small producers are permitted to pack in recycled or used cartons when the distributor's name, address, expiration date, size and grade are marked out and

replaced with the labeling required for small producers. Cartons shall be clean and free of odor or debris. More information may be obtained by contacting WVDA.

Any vendor selling eggs shall have a valid food establishment permit from the local county health department.

Reference: §61CSR19 Egg Marketing Rule, §64CSR30



Jams and Jellies

The sale of home-processed non-dietary jam and jelly is permitted at farmers markets as these products are not considered potentially hazardous. Fruits and berries usually associated with jams and jelly are grape, strawberry, raspberry, peach, orange, etc. Hot pepper jelly must be acidified and therefore falls into the preserved or canned foods category. Persons wishing to offer jam and jelly products for sale shall register with the local health department before the date of sale. While these foods do not present a hazard from a bacteriological standpoint, the food may be contaminated with filth or other extraneous matter. Therefore, the health department reserves the right to inspect the home kitchens if conditions warrant.

These products must be labeled according to WVDA with the following information:

- Common name
- Name and address of processor

- Ingredient list with items in order from most to least
- Net weight in US and Metric equivalency.
- Major allergens listed.

WVDA is able to assist with labeling and West Virginia Division of Labor, Weights and Measures office can assist with determining net weights.



Meats

Fresh or frozen meats may be sold at farmers markets if the following guidelines are followed:

- All products must be commercially slaughtered under USDA or WVDA inspection, passed, and labeled
- Raw products must be kept in cold holding equipment capable of holding the product at 41°F or less
- Meat products must be held, stored, and transported in a clean sanitary environment to keep products wholesome

The vendor shall receive a food establishment permit from the local health department before the date of sale. As part of the routine inspection the local health department may coordinate with WVDA and/or inspect the storage space of the product off premises of the sales area. Off premise storage should be in separate designated cold holding equipment that is stored in a clean, safe, and secure environment. Labels must be provided for the product that include:

- Common name of the product
- Net weight of the product
- Other information as required by WVDA and USDA-safe-handling instructions.

Cured, smoked or dehydrated meats for sale at Farmers Markets shall be USDA or WVDA inspected. See 9 CFR 303.1 The vendor must supply appropriate documentation at the point of sale proving the product has been approved.

WVDA is able to assist with labeling and WV Division of Labor, Weights and Measures office can assist with determining net weights.





Poultry

The vendor shall receive a food establishment permit from the local health department before the date of sale. As part of the routine inspection the local health department may coordinate with WVDA and/or inspect the storage space of the product off premises of the sales area. Off premise storage should be in separate designated cold holding equipment that is stored in a clean, safe, and secure environment. Labels must be provided for the product that include:

- Common name of the product
- Net weight of the product
- Other information as required by WVDA and USDA-safe-handling instructions.

WVDA is able to assist with labeling and West Virginia Division of Labor, Weights and Measures office can assist with determining net weights. Refer to §CSR19 and WVDA for further information.



Fish

Commercially raised and harvested fish may be offered for sale at farmers markets. Wild caught fish are NOT allowed. Fish vendors must provide to market managers a certificate of wholesomeness that states for all species of product that the product was farm raised, at what farm it was raised, and whether or not the product was administered FDA approved medication. These documents must be provided every time fish is brought to the market. The required water tests shall be submitted once per year per water source to insure safe water samples. Markets shall keep a copy of these for two years. Additional requirements are:

- Raw products must be kept in cold holding equipment capable of holding 41°F or less
- Annual scale certification
- Fish must be gutted at an approved facility
- Fish products must be held, stored and transported in a clean sanitary environment to keep products wholesome.

The vendor shall receive a food establishment permit from the local health department before the date of sale. As part of the routine inspection, the local health department may inspect the storage space of the product off premises of the sales area. Off premise storage should be in separate designated cold holding equipment that is stored in a clean, safe, and secure environment.

- Labels must be provided for the product that include:
- Common name of the product
- Net weight of the product
- Other information as required by WVDA.

WVDA is able to assist with labeling and West Virginia Division of Labor, Weights and Measures office can assist with determining net weights. Refer to §61CSR23A West Virginia Fish Processing Rules under WVDA for additional information.



Fruits and Vegetables

Whole, uncut fruits and vegetables may be offered for sale without registering with or receiving a food establishment permit from the local health department. Once cut, many fruits and vegetables are considered potentially hazardous foods. Melons and tomatoes are just two examples. These products, once cut, would have to be held below 41°F. Therefore, if offering cut fruits or vegetables the vendor would have to receive a food establishment permit from the local health department before the date of sale.

Sprouted seeds are NOT allowed for sale at a farmers market without having an HACCP plan and variance from WVDHHR and a valid food establishment permit.

Wild harvested mushrooms are NOT allowed for sale at a farmers market. However, there are several mushroom species that can be commercially grown from spores. The sale of mushrooms cultivated on the farm from spores and are harvested by the grower may be offered for sale at the farmers market. Proof

of identity of the species and proof that the mushroom is edible shall be displayed at the sales area.

Other foods may or may not be allowed for sale. Approval for questionable products is at the discretion of the Commissioner of the Bureau for Public Health or his/her designee.



Chef Demonstrations

Any cooking demonstration will be regulated under the guidelines of the 2005 Food Code and 64CSR17 “WV Food Establishment Rule.” A food establishment permit shall be required for any type of cooking demonstration in which samples are offered to the public. Please contact the local health department for requirements to operate a food establishment.



Sampling

WVDHHR allows the distribution of samples at farmers markets given:

- Hand washing station is present
- Sanitary procedures are followed
- Proper food storage temperatures are maintained
- Appropriate tools for dispensing samples are used
- Adequate trash receptacles are available.

Foods that are potentially hazardous such as cut melons, cooked meats, cut vegetables, cut tomatoes, eggs and dairy products may only be offered as samples when the vendor has obtained a food establishment permit from the local health department. Non-potentially hazardous foods (foods that do not require temperature control due to pH of <4.6 or water activity of $<.85$ fall into this category) may be offered as a sample without obtaining a food establishment permit.

A sample is defined as a food product where only a small portion is offered. A whole meal, sandwich, or an individual hot dish is not recognized as a sample.

Handwashing is the number one way to prevent the spread of illness. Therefore, at a minimum, a handwash station shall be located in close proximity to each vendor that is providing samples.

The handwash station shall be equipped with the following items:

Five gallon cooler modified with a free-flow spigot or other similar unit

- Catch basin for waste water
- Soap
- Paper Towels
- Adequate supply of warm water
- Waste receptacle.

Sampling must occur under a roof. A tent or large umbrella may provide adequate cover if the vendor is not under a structure.

Samples may not be exposed to insects or other environmental contaminants. A fan or fly screen may be necessary. No bare hand contact with ready to eat food is allowed. Food handlers must wash their hands with soap and water before using deli tissue or gloves to touch the food. All utensils used must be cleaned and sanitized before use and as often as necessary throughout the day.

Hot foods shall be maintained at 135°F and cold foods below 41°F unless 'time as a public health control' is implemented. A properly calibrated food thermometer must be provided to check food temperatures.

Samples must be served individually on plates, in cups, toothpicks or similar items. It is vital that vendors control access to samples so that customers cannot touch any sample that is not theirs. Adequate waste receptacles must be provided. Animals shall not be allowed in any food preparation or sampling display area.



Contacts

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Information in this document is current as of July 1, 2009, and may change with LAW. Please refer to your local health department should questions arise.

Please remember that the local county health department is the first place to start if you have questions regarding the sale of food product at any venue.



Method of Retail Sale for Fresh Fruits and Vegetables
Specific Commodity

Commodity	Weight	Count	Head or Bunch	Dry Measure (any size)	Dry Measure (1 dry qt or larger)
Artichokes	X	X			
Asparagus	X		X		
Avocados		X			
Bananas	X	X			
Beans (green, yellow, etc.)	X				X
Brussels Sprouts (loose)	X				
Brussels Sprouts (on stalk)			X		
Cherries	X			X	X
Coconuts	X	X			
Corn on the Cob		X			X
Dates	X				
Eggplant	X	X			
Figs	X				
Grapes	X				
Melons (cut in pieces)	X				
Mushrooms (small)	X			X	X
Mushrooms (portobello, large)	X	X			
Okra	X				
Peas	X				X
Peppers (bell and other varieties)	X	X			X
Pineapples	X	X			
Rhubarb	X		X		
Tomatoes (except cherry/grape)	X	X			X

Method of Retail Sale for Fresh Fruits and Vegetables General Commodity Groups						
Commodity	Weight	Count	Head or Bunch	Dry Measure (any size)	Dry Measure (1 dry qt or larger)	
Berries and Cherry/Grape Tomatoes	X			X		
Citrus Fruits (oranges, grapefruits, lemons, etc.)	X	X			X	
Edible Bulbs (onions [spring or green], garlic, leeks, etc.)	X	X	X		X	
Edible Tubers (Irish potatoes, sweet potatoes, ginger, horseradish, etc.)	X				X	
Flower Vegetables (broccoli, cauliflower, brussels sprouts, etc.)	X		X			
Gourd Vegetables (cucumbers, squash, melons, etc.)	X	X			X	
Leaf Vegetables (lettuce, cabbage, celery, etc.)	X		X			
Leaf Vegetables (parsley, herbs, loose greens)	X		X	X		
Pitted Fruits (peaches, plums, prunes, etc.)	X	X			X	
Pome Fruits (apples, pears, mangoes, etc.)	X	X			X	
Root Vegetables (turnips, carrots, radishes, etc.)	X		X			

Methods of sale for commodity goods as provided by West Virginia
Division of Labor, Weights and Measures.

Handwashing Station

WVDHHR requires the following minimum handwashing station set-up for any farmers market that includes sampling or temporary food service.

- 5 gallon cooler with a free-flow spigot
- Catch basin for waste water
- Soap
- Paper towels
- Adequate supply of warm water
- Trash receptacle



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