



Food Regulations for Minnesota Farmers' Markets With Pre-Ordering and Online Sales Platforms

Minnesota
Institute for
Sustainable
Agriculture

This document is intended as background information for farmers' markets as you develop new methods of connecting vendors and customers. These regulations pertain to food products only.

We've outlined three basic models:

- No license needed by the market
- Food broker license needed by the market
- Wholesale or retail food license needed by the market

ATTENTION: During the COVID-19 pandemic, MDA is using its discretionary authority to waive licensing for these models. After the pandemic is over, and the market wants to continue with a model that requires a license, the market will have to buy a license.

Cottage Foods has its own section due to the restrictions for that exemption from food licensing.

Markets provide services to support pre-ordering by customers.	Food license for the market is NOT required in this scenario because:
<ol style="list-style-type: none"> 1. Customers pre-order. This could be done by phone, email, online, etc. 2. Customer orders can go directly to vendors, or can be routed through a market-run online platform to the vendors. 3. Vendors each make their own payment arrangements with customers who place orders. (Except for market-run SNAP/EBT programs.) 4. Vendors each do their own delivery of food product to customers. This delivery may or may not take place on the market premises. 5. Any food products normally sold by vendors can be sold with this method. 6. See "Cottage Foods" section below. 	<ul style="list-style-type: none"> • The market does not purchase vendor food products for resale to customers. • The market does not offer a delivery service for vendor food products. <ol style="list-style-type: none"> 1. If the market provides an online platform to vendors as a service, the market can charge vendors a rental fee to use the market-run online platform. The key here is that the market does not take ownership of the vendors' food products. 2. The market can establish a pick-up point where customers can come to meet the vendors from whom they ordered. 3. The market cannot accept customer payments on behalf of vendors for food products. 4. However, markets that have scrip programs for food in which customers receive tokens or other scrip in exchange for card swipes can operate those without a license. Scrip programs include SNAP/EBT. 5. Markets can handle money and delivery for non-food products. These do not fall under the market's food handler licensing. However, sales tax may apply.

<p>Market provides services to support pre-ordering of food products by customers. Market accepts payments from customers for food products.</p>	<p>Food License required: Food Broker (\$150/year)</p>
<ol style="list-style-type: none"> 1. Customers can order directly from vendors or can order from a market-run online platform featuring multiple vendors. 2. Market receives payment from customers and pays the farmers. 3. Vendors each do their own delivery of product to customers. 4. Food products for which markets can handle orders and payments under a food broker license: <ul style="list-style-type: none"> • Produce • Meat, dairy products (excluding raw milk), and eggs that are either “product of the farm” or for which the vendor is properly licensed • Bakery-type products from a licensed vendor • Other processed and/or multi-ingredient products from a licensed vendor (or unlicensed if “product of the farm”) • Packaged, ready-to-eat foods prepared by a licensed vendor 5. These food products can be sold to individual end consumers, and to food businesses, and to food facilities. 6. Vendors must keep food products at correct temperature throughout the delivery process. 7. Markets cannot handle orders and payments under a food broker license for cottage foods. See “Cottage Foods” section below. 	<ol style="list-style-type: none"> 1. This license type does not allow the market to take possession of any food product. Physical handling and delivery of food products must be done by the vendors of the products. 2. The market can charge vendors a fee to use the market’s online platform: rental fee, percent of sales, etc. 3. Markets can accept payment and delivery for non-food products. These do not fall under the market’s food handler licensing. However, sales tax may apply. 4. The market cannot accept payment for cottage foods; see “Cottage Foods” section below.

<p>Market provides services to support pre-ordering by customers. Market handles payments from customers. Market assembles customers' orders and/or makes deliveries to customers.</p>	<p>License required:</p> <ul style="list-style-type: none"> • Wholesale Food Handler (starting at \$57/year) OR • Retail Food Vehicle/Portable Structure or Cart (starting at \$77/year)
<ol style="list-style-type: none"> 1. Customers can order directly from vendors, or can order from a market-run online platform featuring multiple vendors 2. Market can receive payments from customers and pay the farmers. 3. Market can collect vendors' food products, assemble food products from multiple vendors into one order and deliver to customers, as long as the market can maintain the correct temperature required for all food products. 4. Delivery to customers can take place on the market premises or delivered to customer locations. 5. Food products for which markets can handle payments, assembly of orders, and deliveries under a wholesale or retail license: <ul style="list-style-type: none"> • Produce • Meat, dairy products (excluding raw milk), and eggs that are either "product of the farm" or for which the vendor is properly licensed. • Bakery-type products from a licensed vendor • Other processed and/or multi-ingredient products from a licensed vendor (or unlicensed if "product of the farm") • Packaged, ready-to-eat foods prepared by a licensed vendor 6. These food products can be sold to individual end consumers, and to food businesses, and to food facilities. 	<ol style="list-style-type: none"> 1. Sales to grocery stores, restaurants, institutions, or other food businesses or food facilities are <i>wholesale</i> sales. 2. Sales to individual end consumers are <i>retail</i> sales. 3. License type depends on annual percentage of wholesale vs. retail sales. 4. Changes to wholesale vs. retail sales percentage mid-season is resolved at the end of the year. A look-back at sales percentages at the end of license year determines the type of license for the next year. 5. Markets with a wholesale or a retail license can also do food brokering activities. That is, if there is a sale made through the market, the vendor can make the delivery directly to the customer. 6. Delivery of meat, dairy products, eggs, and ready-to-eat hot or cold foods must maintain required temperatures for these products. See Guidance from the State of Minnesota regarding staging of food products for delivery. 7. The market must not handle payments, do order assembly, or do deliveries for Cottage Food. See "Cottage Foods" section below. 8. Markets can handle money and delivery for non-food products. These do not fall under the market's food handler licensing. However, sales tax may apply.

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<p>7. Food products for which markets cannot handle orders and payments under a food broker license: cottage foods.</p> <p>8. See "Cottage Foods" section below.</p>	

Cottage Foods

The ability to make and sell cottage foods in Minnesota is through an exemption from licensing under certain restrictions, so cottage food producers have unique requirements if selling via markets offering online platforms for vendors and customers.

- Cottage Food producers are still required to handle the exchange of products in the same way: in-person, delivered to the ultimate consumer.
- Markets can list Cottage Foods in a market-run online platform, and can charge a rental fee for the use of the platform.
- Cottage food must be clearly marked on the platform with the accompanying statement "These foods are homemade and not subject to inspection."
- Cottage food cannot be purchased by food businesses or food facilities.
- Markets cannot add Cottage Foods to any orders assembled and delivered by the market.
- Markets cannot accept payments for, nor deliver Cottage Foods.