



Overview: Allowed Foods, Label Requirements

Farmers markets are growing in popularity across the United States and across Kansas. These markets provide a valuable market outlet for local farmers and allow consumers to purchase healthy local produce and other foods. To protect this key market outlet, it is essential that the food sold at farmers markets is produced and processed according to the relevant governmental rules, regulations, and guidelines. Not only will this ensure products that are as safe as possible, it will also assure your customers that your business, as well as the entire farmers market, has product quality and safety in mind.

*****Retail food sales (including at farmers markets) in Kansas are regulated for food safety by the Kansas Department of Agriculture (KDA) Food Safety and Lodging program. Therefore, if you are a vendor from Kansas and selling products in Kansas, the state requirements listed in this document are what you need to follow. More information on how to obtain the various KDA licenses mentioned in this document is included after the tables and in subsequent sections of the document. Vendors should contact KDA with any questions regarding licensing, as KDA is happy to guide people through the licensing process.***

****Vendors should also check with the market where they are selling, as its requirements may be more stringent than state governmental regulations.***

****More detailed requirements for most products listed in the tables below are included in subsequent sections of this document.***

Foods NOT allowed to be sold at Kansas farmers markets (WITHOUT proper licensing)

- Home-canned products (other than fruit jams and jellies). These excluded products include home-canned pickles, meats, vegetables, fruits, tomato products.
- Home-canned pepper jellies: peppers are naturally low in acid, so require exact amounts of an acid (such as vinegar) to be added to enable them to be safe to process in a boiling water bath.
- Home-baked potentially hazardous foods (includes cream or meringue pies, custards, cheesecakes, cream-filled cupcakes or donuts, cream cheese-based frostings or fillings, etc.).
NOTE: potentially hazardous foods are foods that require temperature control for safety.
- Homemade dairy products (cheese, yogurt, ice cream, etc.).
- Uninspected meat or poultry (must be processed at an inspected facility).

Overview: Allowed Foods, Label Requirements	1
General Food Safety Practices, Selling Fresh Produce, Samples, and Demos	4
Selling Prepared Foods and Baked Goods	9
Selling Meat, Eggs, and Dairy Products	11
Key Contacts	14

Foods ALLOWED at Kansas Farmers Markets WITHOUT licensing¹

Food Product Type	Examples	Regulatory requirements
Baked goods (home kitchen)	Cookies, breads, cakes, cinnamon rolls, fruit pies	Follow labeling requirements (listed below).
Fresh uncut fruits and vegetables	Tomatoes, melons, okra, apples	May be homegrown; any pesticide use must comply with label directions.
Intact ² salad greens	Mixed greens with only intact leaves	Follow weights and measures requirements.
Culinary herbs (dried or fresh, whole or chopped)	Basil, dill	Follow weights and measures requirements
Nuts	Walnuts, pecans	May be sold shelled or in-shell.
Honey		Can sell direct to consumer without licensing ³ .
Eggs	Chicken, duck, goose	Must be sold at ≤45°F. Cartons must be clean and labeled properly ⁴ .
Home-canned jams and jellies	Fruit jams and jellies — includes conserves, preserves, marmalades	Must follow labeling requirements (see below).
Cultivated whole mushrooms (culinary and medicinal)	Fresh or dried	Note the regulations listed on page 3 for <i>wild</i> mushrooms and cut mushrooms.
Foods prepared off-site, sold ready-to-eat at market by community groups — <i>six or fewer times per calendar year</i> .	Sandwiches, pizza, etc. prepared and sold by 4-H groups, church groups, schools, etc. (with no staff paid by the proceeds of the food sales).	No licensing required. However, must follow "Sanitation and hygiene requirements for exempt food establishments." ⁵

NOTE: It is a regulatory requirement that ALL foods on sale or display (even if no licensing is required) must be effectively protected from contamination.

Foods ALLOWED WITH proper licensing (potentially hazardous foods)

Food Product Type	Examples	Regulatory requirements
Dairy products	Milk, cheese, yogurt, etc.	Process at KDA licensed dairy manufacturing plant ⁶ . Food establishment license required at point of sale.
Milk	Cow, goat, other mammals	Must be pasteurized in a KDA licensed dairy manufacturing plant to sell at market ⁶ . Food establishment license required at point of sale.
Baked products with potentially hazardous dairy and egg products	Cheesecake, cream-filled cupcakes or donuts, cream cheese-based frostings or fillings, cream or meringue pies, custards	Food establishment license required at production facility and point of sale ⁷ .
Meat, poultry, raw fish	Steaks, ground beef, fresh sausages, turkey, chicken, tilapia	Product must be inspected and properly labeled ⁸ . May be sold refrigerated or frozen.

¹ According to state regulations. Check with your local farmers market as their requirements may be even stricter. Note that all of the products listed in the table need to follow the "Sanitation and hygiene requirements for exempt food establishments" listed in Kansas State Regulation 4-28-33

² Not cut beyond normal harvesting practices

³ Contact KDA Division of Food Safety and Lodging (fsl@kda.ks.gov or 785-296-5600) to sell honey through retail outlets.

⁴ More information in Selling Meat, Eggs and Dairy Products section

⁵ Refer to Kansas State Regulations 4-28-33 (Sanitation and hygiene requirements for exempt food establishments) and 4-28-34 (Exemption from licensure; definitions) for more specific details.

⁶ More information available from <http://agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-industry> and in Selling Meat, Eggs and Dairy Products section

⁷ More information on costs and requirements for a KDA Food Establishment License, Food Processors License, and other various licenses is available from: <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-egg-lodging-app-forms> or by contacting KDA Division of Food Safety and Lodging (fsl@kda.ks.gov or 785-296-5600)

⁸ More information in Selling Meat, Eggs and Dairy Products section

Meat and poultry, ready-to-eat	Jerky, summer sausage, and similar products	Product must be inspected by KDA or USDA and sold at the appropriate temperature ⁸ .
Sprouts	Alfalfa sprouts	KDA food establishment license required at production facility and point of sale ⁹ .
Cut leafy greens	Cut or torn lettuce (cut beyond normal harvesting)	KDA food establishment license required at production facility and point of sale ⁹ .
Cut produce	Cut melons, cut mushrooms ¹⁰ , fresh salsa, fresh pesto	KDA food establishment license required at production facility and point of sale ⁹ .
Wild mushrooms	Morel mushrooms	Mushrooms picked in the wild must be individually inspected for safety by a KDA-approved mushroom ID expert ¹¹ .
High-acid canned foods	Canned fruits, tomatoes, naturally fermented foods (i.e. sauerkraut)	KDA Food Processors license ⁹ and licensed facility required.
Acidified canned foods Low-acid canned foods	Pickles, salsa, hot sauces; Canned vegetables, meats	KDA Food Processors license ⁹ and licensed facility required. Requires recipe approval; Better Process Control School (BPCS) required ¹² .
Ready-to-eat (prepared) potentially hazardous foods	Burritos, egg rolls, pizza, grilled hamburgers, or other meats	If selling more than six times/year, vendor must have a license. ALL operators must comply with all applicable regulations ¹³ .

How do I get the license(s) I need to meet the requirements listed above?

More detailed information on each of the licenses and the forms to be completed to apply for the license are available from the Kansas Department of Agriculture website: agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-egg-lodging-app-forms or by contacting KDA Division of Food Safety and Lodging (fsl@kda.ks.gov or 785-296-5600). KDA staff members are happy to guide people through the process and answer questions. After the appropriate application form is completed, send in the form with your payment and KDA staff will contact you to conduct an initial inspection.

What if I produce (and/or process) my food in Kansas and want to sell in a neighboring state?

- If you are selling your product across state lines, you need to **meet federal requirements**, as well as the retail regulations of the state in which you are selling (as well as Kansas requirements).
- If you are selling a **processed (non-meat) product**, you will need to initially register online (at no cost) your processing facility with the FDA, and then reregister it every 2 years (October–December of the even numbered years (2014, 2016, etc.)), at: www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/default.htm. FDA may then come to inspect your facility, and will check to see that you are meeting their current Good Manufacturing Practices

(GMPs¹⁴– Code of Federal Regulations (CFR) Title 21 Part 110: www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=110. In the future, such products may need to follow the requirements of the Federal Food Safety Modernization Act (FSMA), www.fda.gov/fsma (depending on the volume of product sold). At the time of publication of this document (February 2014), the FSMA final rules have not yet been released, so the specific requirements are not yet known.

- If you are selling a **meat product**, your product will need to be USDA, rather than state, inspected
- If you are selling **fresh whole produce**, there are currently no federal requirements, but you may be affected by the Food Safety Modernization Act (FSMA) in the future: www.fda.gov/fsma

In addition to food safety, what other regulatory requirements do I need to follow to sell at a farmers market?

- Sales tax:** Every vendor must obtain a Retail Sales Tax certificate; vendors should file their tax liability individually. More information is available from the Kansas Department of Revenue (www.ksrevenue.org/) or by calling 785-368-8222.

⁹ More information on costs and requirements for a KDA Food Establishment License, Food Processors License, and other various licenses is available from: <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-egg-lodging-app-forms> or by contacting KDA Division of Food Safety and Lodging (fsl@kda.ks.gov or 785-296-5600).

¹⁰ Note that a license is required for any produce that has been cut beyond normal harvesting, whether it is sold fresh or dried.

¹¹ More information in the Selling Fresh Produce Section.

¹² Contact Kansas State University Value-Added/ Product Development Lab for more information on recipe approval and BPCS: www.ksre.ksu.edu/kvafl/p.aspx?tabid=1

¹³ More information on applicable regulations available in Selling Prepared Foods and Baked Goods section

¹⁴ A fact sheet on GMPs is available from: www.uvm.edu/extension/food/pdfs/gmp_factsheet_2013aug.pdf

- **Filing as a business entity:** The Office of the Secretary of State (SOS) has the appropriate forms available online¹⁵ or by contacting 785-296-4564. Note that sole proprietorships do not file with the SOS. General partnerships may file if desired, but it is not required¹⁶.
- **Registration of farmers market or roadside stand:** Farmers markets (as a whole, rather than individual vendors) and roadside stands are encouraged to register in the Central Registration of Kansas Farmers Markets¹⁷. Registration is voluntary, but will provide advertising and limited liability coverage for farmers markets and roadside stands.
- **Licensing of particular products:** More information on the licensing requirements for growing, producing, and selling specific types of food products is available in KDA's Licensing Guides¹⁸. Topics covered by the guides that may be of particular interest to farmers market vendors include: dairy processing facility, food processor, food wholesaler and distributor, home kitchen for retail food sales, meat or poultry processing facility, mobile food unit, and poultry farm and egg sales.
- **Senior Farmers Market Nutrition Program (SFMNP):** Farmers, farmers markets, and roadside stands are eligible to accept SFMNP coupons from customers. More information on how to accept and redeem SFMNP coupons is available from www.kdheks.gov/sfmnp or by calling 785-296-8060.
- **Supplemental Nutrition Assistance Program (SNAP):** Farmers markets are eligible to accept SNAP benefits from customers. Visit the USDA website¹⁹ for more information on accepting and redeeming SNAP benefits from customers.
- **Scale testing:** Farmers market vendors using a scale to sell products by weight must have a licensed service company²⁰ test their scales²¹ once annually. More information is available from the KDA Weights and Measures website²² or by calling 785-862-2415.

What are the labeling requirements for packaged food products?²³

1. Common name of the product (e.g., apple pie).
2. Name and physical address of the person that made or is selling the product.
3. Product ingredients in descending order of predominance. This is particularly important for customers who have food allergies.

¹⁵ Forms available from: www.kssos.org/forms/forms_results.asp?division=BS

¹⁶ More information available from: www.kssos.org/resources/resources_faqs_business.html

¹⁷ Application and more information available from: <http://www.fromthelandofkansas.com/discover-resources/farmers-market-resources/central-registration-kansas-farmers-markets>

¹⁸ Licensing guides are available from: <http://agriculture.ks.gov/ksda-services/licensing-guides>

¹⁹ USDA SNAP website: www.fns.usda.gov/ebt/learn-about-snap-benefits-farmers-markets

²⁰ List of licensed scale service companies available from: <http://agriculture.ks.gov/docs/w-m/service-co-scales.pdf?sfvrsn=2>

²¹ Reporting form for KDA Weights and Measures available from: <http://agriculture.ks.gov/docs/w-m/scale-di701.pdf?sfvrsn=2>

²² KDA Weights and Measures website: <http://agriculture.ks.gov/divisions-programs/weight-measures>

²³ More information on food labeling is available from a KSU Extension Food Safety publication, What's on a Food Label? : www.ksre.ksu.edu/bookstore/pubs/L883.pdf; a publication from the University of Vermont: www.uvm.edu/extension/food/pdfs/food_labeling_vt_producers_2013aug.pdf; or by contacting KDA Weights and Measures (785-862-2415).

4. Quantity (net weight, volume, or count, depending on product).

Note that meat products have additional labeling requirements, which are included in the *Selling Meat, Eggs, and Dairy Products* section.

How are all these regulations enforced?

The Kansas Department of Agriculture Food Safety and Lodging Program local inspectors conduct random inspections of vendors at farmers markets to check for food safety.

Farmers market managers, extension personnel, and other related individuals should only provide information on regulations and could make suggestions on how vendors can comply with regulations. However, they are not regulators or enforcers of government regulations. Farmers market managers should enforce any requirements specific to their market.

General Food Safety Practices, Selling Fresh Produce, Samples, and Demos

*** Note that all practices listed in the sections below that are **REQUIRED** by state regulations are listed in **bold and italics**. All other practices listed are strongly recommended for food safety.*

*** Retail food sales (including at farmers markets) in Kansas are regulated by the Kansas Department of Agriculture (KDA). However, vendors should always check with the market where they are selling, as its requirements may be more stringent than state governmental regulations.*



General steps to food safety for all farmers market vendors

- Transport and store foods at proper temperatures to prevent rapid bacterial growth
 - ***Vendors selling perishable foods must have a suitable thermometer with them at the market.***
 - ***Hot prepared foods must be held at 135°F or higher.***
 - Foods to be sold at room temperature (whole produce, canned goods, baked goods) should be kept cooler than 80°F as much as possible.

- **Cold perishable foods (such as potato salad or most dairy products) must be 41°F or less.**
- **Frozen foods (such as frozen meats and ice cream) must be kept frozen (below 0°F is the best practice).**
- Coolers and ice packs or ice surrounding the product can be used to transport and hold cold foods. Check the temperature occasionally (about once per hour) with a stem food thermometer or a refrigerator thermometer²⁴.
- Reduce possible cross-contamination, which can transfer bacteria from one food to another.
 - **Ensure that raw meat or poultry does not contact ready-to-eat food or fresh produce.**
 - If reusing bags for selling products, make sure they are clean and weren't previously used for meat.
 - **Wash, rinse, and sanitize food contact surfaces, equipment, and utensils between uses** (unless using disposable equipment and utensils).
- Practice good personal hygiene (clean clothes, clean hands) to prevent transferring bacteria to your food.
 - Shaking hands, touching money, animals, soiled vegetables, or utensils can transfer bacteria to your hands.
 - **Wash hands as needed and do not touch prepared foods and baked goods with your bare hands** — use gloves, tongs, or another method.
 - Hand sanitizer is not a substitute for hand-washing; however, it can be used after washing your hands.
- **Ensure any ingredients you use to prepare food for market are from safe sources.**
 - For example, use inspected meat, milk from a licensed producer, ingredients from reputable suppliers, ensure produce or other products have not been contaminated with flood waters, etc.
 - More specific information on good food safety practices and requirements for various types of food are included in the relevant section of this document.

Chef demonstrations

- If the resulting food of the chef demonstration is offered as a sample (at no cost, small quantities), there is no limit to the number of times per year such samples can be offered.
- If the resulting food offered does NOT meet the sample definition (offered at a cost or larger portions), that individual can do six or fewer such demonstrations per calendar year without a license.
 - **Even if not licensed, the chef must still follow the “Sanitation and hygiene requirements for exempt food establishments” listed in Kansas State Regulation 4-28-33. This is similar to the provisions for licensing for a Food Service Establishment or a Mobile Unit** (see section on Selling Prepared Foods and Baked Goods).



USDA

- It is recommended that a chef do the majority of prep work at a licensed facility.
- **If a person sells the results of a chef demonstration more than six times per year, a Food Establishment License would be required.**
- Contact KDA's Division of Food Safety and Lodging for more information (fsl@kda.ks.gov or 785-296-5600).

Selling fresh produce

- Unprocessed whole fruits and vegetables, nuts, and other whole agricultural products do not require inspection for sale.
- **Vendors must follow the KDA Weights and Measures Division regulations²⁵ for the method of selling produce (by weight, count, head or bunch, or by dry measure). The list of allowed methods of retail sale by commodity is available in Tables 1 and 2.**
 - **Vendors using a scale to sell products by weight must have a licensed service company²⁶ test their scales²⁷ once annually.** Be sure to check before buying a new scale to ensure that the scale can be certified.
- **Produce must be stored and displayed so it is protected from contamination.**
 - **Store off the ground and protect from rain or other environmental contaminants.**
- **Sprouted seeds are NOT allowed for sale at a farmers market without prior approval from KDA.**
- **Mushrooms picked in the wild must be individually inspected for safety by a KDA-approved mushroom ID expert.**
 - To become an approved mushroom ID expert, statements of qualification in mushroom identification must be submitted to KDA's Division of Food Safety and Lodging via email: fsl@kda.ks.gov; fax: 785-296-6522; or in person.
 - Once the expert is approved by KDA, the expert must individually identify each mushroom sold. Mushrooms may not be harvested for sale without prior approval from the landowner, either public or private.

²⁴ Stem food thermometers and refrigerator thermometers can be purchased for less than \$10 at most grocery stores and hardware stores. Be sure that the stem food thermometer can be calibrated and check its calibration occasionally.

²⁵ More information is available from <http://agriculture.ks.gov/divisions-programs/weight-measures>

²⁶ List of companies available from: <http://agriculture.ks.gov/docs/w-m/service-co-scales.pdf?sfvrsn=2>

²⁷ Reporting form for KDA Weights and Measures available from: <http://agriculture.ks.gov/docs/w-m/scale-di701.pdf?sfvrsn=2>

Table 1. 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

Table 2. 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		

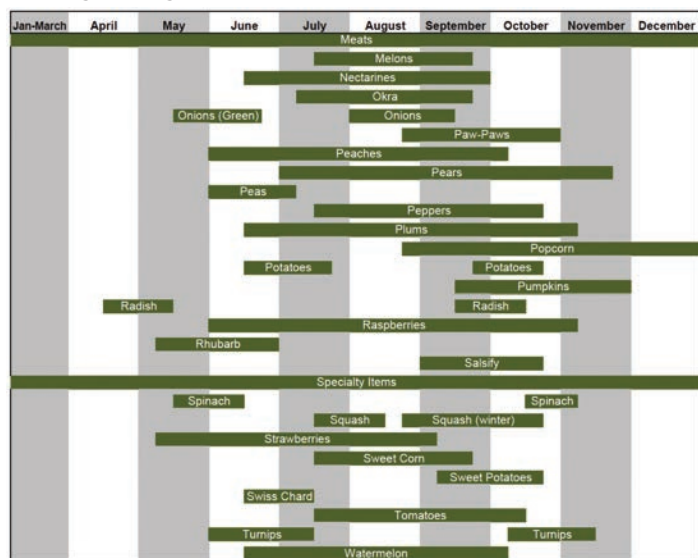


Contact KDA for more information or for a list of experts (fsl@kda.ks.gov, phone: 785-296-5600; or fax: 785-296-6522).

- Produce growers selling at markets are encouraged to know, understand, and apply Good Agricultural Practices (GAPs)²⁸.
- Offer clean produce. If appropriate, wash produce with potable water before selling. Remove visible dirt from potatoes, onions, and other products where washing would reduce quality or increase spoilage.
- Ensure that water used to “freshen” produce at market is potable.
- Transport produce to market in clean boxes or containers.

Harvest calendar for Kansas produce

This chart provides approximate harvest dates for produce in Kansas. Note that dates are approximate and actual harvest seasons depend on weather, use of season extension tools, farm practices, and variety selection. This calendar should be thought of as a general guide.



²⁸ More information on GAPs and fresh produce safety is available from: <http://www.gaps.cornell.edu/>

Calendar source: Vegetable Garden Planting Guide –
– <http://www.ksre.ksu.edu/bookstore/pubs/mf315.pdf>

Planning Your Fruit Garden –
– <http://www.ksre.ksu.edu/bookstore/pubs/mf352.pdf>

Selling live plants at a farmers market

- *If someone selling live plants collects MORE than \$10,000 annually in gross receipts from the live plant sales, they are required to have a live plant dealer license.*
- Live plants include any living plant, cultivated or wild, or any part thereof, that can be propagated, EXCEPT for the following:
 1. Field and forage crops;
 2. seeds of any kind;
 3. cut flowers and cut greenery not used for propagation; and
 4. fruits and vegetables used for food or feed
- More information and an application is available from the KDA Plant Protection and Weed Control Program: <http://agriculture.ks.gov/divisions-programs/plant-protect-weed-control/live-plant-dealer> or by calling 785-862-2180

Selling unique agricultural products (live birds, manure, worms, compost, etc.)

There are currently no official state requirements for selling agricultural products such as live chickens, manure, worms, compost, etc. at farmers markets. Vendors should check with the market where they are selling, as well as to see if there are any local policies restricting the sale of these products. Call the KDA Food Safety and Lodging program with any additional questions: fsl@kda.ks.gov or 785-296-5600.

Offering product samples

Providing samples at a farmers market is allowed if the following conditions are met:

(NOTE: there is NO limit to the number of times per year that samples can be offered.)

1. *Sample is provided at no cost and is offered to demonstrate its characteristics.*
 - An entire meal, individual hot dish, or whole sandwich is not recognized as a sample.
2. *Hand-washing station meeting the following minimum requirements must be present for sampling:*
 - a. 5-gallon cooler modified with a hands-free spigot²⁹
 - b. Catch basin for waste-water
 - c. Liquid soap
 - d. Paper towels
 - e. Adequate supply of warm water
 - f. Trash receptacle

²⁹ Standard 5-gallon coolers can be easily modified to have a free-flow spigot through the following steps: 1) Unscrew the original push button spigot; 2) Install a hands-free replacement spigot available for bottled water coolers. These are commonly available at hardware and home-brewing stores for less than \$8. See http://pubstorage.sdstate.edu/AgBio_Publications/articles/ExEx14083.pdf (South Dakota State Cooperative Extension) for examples of some low-cost hand-washing setups.

3. **Three-compartment sanitizing station is present for washing and sanitizing all utensils** (if needed; can also use disposable or bring enough clean utensils). **The following equipment must be available if needed³⁰:**

- a. Three tubs/basins
- b. Adequate supply of potable hot water
- c. Liquid soap
- d. Approved sanitizer (sanitizing tablets or unscented bleach)
- e. Paper towels



4. **Sanitary procedures are followed.**

- a. **Sampling must occur under cover. If the market itself is not under a structure, a tent or umbrella is adequate.**
- b. **Samples must not be exposed to insects or other environmental contaminants. A fan or fly screen may be necessary.**
- c. **No bare-hand contact with ready-to-eat food is allowed.**
- d. **Food handlers must wash their hands with soap and water and then dry with paper towels before working with food.**
- e. **Cutting boards and knives must be washed and sanitized before use and frequently throughout the sampling process using the three-compartment sanitizing station.**

5. **Proper food storage temperatures are maintained.**

- a. **Hot foods must be maintained at or above 135°F.**
- b. **Cold perishable foods must be maintained at or below 41°F.**
- c. **Dispose of any perishable foods left in the temperature danger zone of 41–135°F for two hours or more.**
- d. **Product temperatures should be checked hourly with a properly calibrated thermometer³¹.**

6. **Appropriate tools for dispensing samples are used and adequate trash receptacles are available.**

- a. **Samples must be pre-cut.**
- b. **Samples must be served individually. This can be on plates, in cups, on toothpicks, or other appropriate method.**
- c. **Access to samples must be controlled so customers cannot touch any sample they will not be consuming.**
- d. **Adequate trash receptacles must be provided at the sampling site.**

7. **Fresh produce must be washed before being offered as a sample.**

- KDA recommends that vendors and market staff/volunteers interested in offering samples participate in a food safety-

course, such as “Focus on Food Safety” (two-hour class) or “ServSafe” (a 16-hour course with a written test). Both courses are offered several times a year in different regions of Kansas by KDA, the Kansas Restaurant and Hospitality Association, and/or K-State Research and Extension³².

- For more information on sampling requirements, contact KDA Division of Food Safety and Lodging (fsl@kda.ks.gov or 785-296-5600).
- Individual farmers markets may have additional regulations pertaining to sampling.

Other recommended best practices for offering samples:

- Put out small amounts of a sample, so they will be used quickly.
- For the safety of consumers with food allergens, it is a good practice to post a list of all ingredients and clearly identify any of the common allergens in your products, including milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, and soy.
- Food for sampling should be displayed separately from food that will be sold.



Calibrating a thermometer

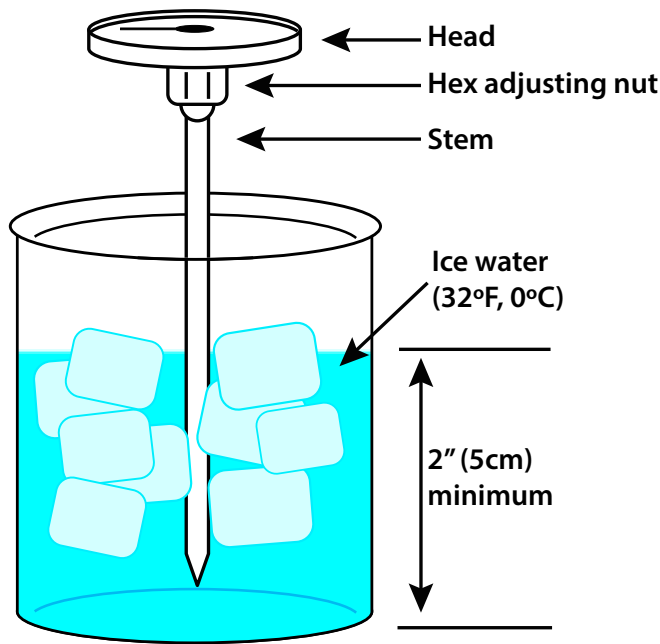
Thermometers must be used to measure the temperature of food sold or provided as samples. The thermometer must be properly calibrated before each day's use to ensure the temperature reading is accurate, following the procedure below:

1. Fill a cup with ice.
2. Add enough water so there is at least 2 inches of liquid in the bottom of the cup.
3. Leave the thermometer in the cup for at least 2 minutes to equilibrate.
4. Read the thermometer. If it does not read 32°F, adjust the reading according to the thermometer instructions — often by turning (with a pliers) the hex adjusting nut immediately below the thermometer head.
5. If adjustments were made, recheck the temperature reading in ice water.

³² Kansas ServSafe course information: www.krha.org/displaycommon.cfm?an=1&subarticlenbr=16; Announcements of future Focus on Food Safety courses are available from: <https://agriculture.ks.gov/divisions-programs/food-safety-lodging>

³⁰ More information on sanitizing station set-up available below.

³¹ See below for thermometer calibration information.



- Be sure your thermometer is designed for the temperature range in which it will be used.
 - Hot foods: 135°F to at least 165°F
 - Cold foods: at least 0°F to 41°F
- Temperatures should be taken once per hour to ensure the foods are the proper temperature.

Sanitizing station setup

- ***If a sanitizing station is required, the following equipment must be available:***
 - Three tubs/basins
 - Adequate supply of potable warm water
 - Liquid soap
 - Approved sanitizer (sanitizing tablets or unscented bleach)
 - Paper towels
- The first basin holds warm (at least 110°F) soapy water for washing. The second basin contains clean rinse water. The third holds sanitizing solution (1 teaspoon unscented bleach per gallon water).
- ***Soak utensils in sanitizing solution for a minimum of 30 seconds, remove and place on clean paper towels or racks. Items must be allowed to air dry.***

Selling Prepared Foods and Baked Goods

***** Note that all practices below REQUIRED by state regulations are listed in bold and italics. All other practices listed are strongly recommended for food safety.***

Selling Prepared Foods (ready-to-eat potentially hazardous foods)

These foods include ready-to-eat foods prepared on- or off-site such as the following:

- Restaurant-type foods that can be consumed at market:
 - Examples: tamales, sandwiches, pizza, grilled meats, etc.

Note that products containing more than 2% meat that are sold frozen or refrigerated (rather than hot) would also require a KDA Food Establishment license³³.

- Foods prepared on site:
 - Examples: kettle corn, end products of chef demonstrations.

Is a license required?

Frequency of food sales	License required?
Food prepared off-site, sold ready-to-eat at market by a community group ³⁴ or individual business <i>six or fewer times per calendar year</i>	No licensing required; however, must follow "Sanitation and hygiene requirements for exempt food establishments" ³⁵
Hot, ready to eat foods (<i>sold more than six times per year</i>)	KDA Food Establishment License — see below

How do I get a Food Establishment License?

Vendors must complete and submit a license application³⁶ along with the appropriate fees, which includes an application and an annual license fee that varies depending on the type and size of operation. The facility must also pass a KDA licensing inspection. Most farmers market vendors will also need to complete the Mobile Unit Log³⁶, providing information to KDA on the city or cities where you will be operating. The equipment required depends on the menu items served. In general, the following ***is required to be in your farmers market stand when selling ready-to-eat prepared foods³⁷:***

- Hand-washing facilities
- Means to control temperature of perishable foods
- Sewage storage tank

Regulations and best practices for everyone selling prepared, ready-to-eat foods

- ***Wash hands as needed and do not touch prepared foods with your bare hands*** (use gloves, tongs, or other method).
 - ***In particular, vendors must wash hands after handling any raw product, before serving any product, after using the toilet, and before beginning food preparation.***
 - ***Use gloves, deli tissue, spatulas, or other dispensing equipment to handle food, rather than bare hands.***

³³ Such products sold refrigerated or frozen may potentially be subject to the requirements listed in the Meat and Poultry section below. Contact KDA Food Safety and Lodging at fsl@kda.ks.gov or 785-296-5600 for more information.

³⁴ Community groups must not have any staff paid by the proceeds of the food sales.

³⁵ Refer to Kansas State Regulations 4-28-33 (Sanitation and hygiene requirements for exempt food establishments) and 4-28-34 (Exemption from licensure; definitions) for more specific details.

³⁶ Available from: <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-licenses> or by contacting the KDA Division of Food Safety and Lodging at fsl@kda.ks.gov or 785-296-5600

³⁷ More detailed requirements are listed in the Kansas Food Code (2012): <http://agriculture.ks.gov/docs/default-source/fsl--handouts/kansas-food-code.pdf?sfvrsn=2>

- *Cook foods to the proper temperature during preparation*³⁸.
- *Serve hot prepared foods immediately or hold hot foods at the proper temperature (135°F or higher).*
 - *Vendors selling perishable foods must have a suitable thermometer with them at the market.*
 - *If foods intended to be served hot have been cooled, they must be reheated to 165°F within 2 hours of removing from refrigeration before hot holding at 135°F or warmer.*
 - *Cold foods that are potentially hazardous, such as potato salads or dairy products, must be held at 41°F or colder.*
- *Flies, insects, pets, and other consumers must not be allowed to contact food. Therefore, vendors must keep food covered or otherwise protected.*
- For the safety of consumers with food allergens, it is a good practice to post a list of all ingredients and clearly identify any of the common allergens in your products, including milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, and soy.

What are the regulations for selling prepared (or shelf stable) foods through a Community Supported Agriculture (CSA)?

The regulations for each type of product would be similar to those for selling at a farmers market. The regulations would also vary depending on the type of business relationship. Contact the KDA Food Safety and Lodging program for more information.

Selling baked goods (breads, cakes, cookies, pies, etc.)

- *Potentially hazardous baked goods for sale may NOT be baked in a home kitchen.*
 - These potentially hazardous baked goods include: cheesecake, cream-filled cupcakes or donuts, cream cheese-based frostings or fillings, cream or meringue pies, and custards.
 - *A KDA food establishment license is required to sell these goods*³⁹.
 - Other non potentially hazardous baked goods can be prepared at home and sold without a license, such as fruit pies, cookies, cinnamon rolls, bread, etc.
- *Label all packaged goods according to the requirements for food labeling. These include*⁴⁰:
 1. the common name of the product (e.g., apple pie);
 2. name and physical address of the person who made and is selling the product;
 3. quantity (net weight or numerical count) of the product; and

4. the product ingredients in descending order of predominance. This is particularly important for customers who have food allergies.

- Products should be proportioned and prepackaged in clean, new wrappings, jars, or bags. Packages should be sealed and not be opened to sell part of the contents.



Selling jams, jellies, and shelf-stable canned foods

- *The only home-canned (shelf-stable) products allowed to be sold at a farmers market are fruit jams and jellies.*
- *To sell any other canned shelf-stable product, such as salsa, pickled vegetables, and chutneys, a KDA Food License*⁴¹ *is required.*
 - Requirements for selling preserved foods with a KDA Food Processors License include the following:
 - The producer of that food product must be licensed.
 - The facility must be suitable for the process in order to obtain a license.
- Note that the license is for the PRODUCER, rather than the facility. You CANNOT operate under someone else's license.
 - Recipe used must be from an approved source⁴².
 - Attendance at a Better Process Control School (BPCS) is required for selling acidified and low-acid food products.
- *All shelf-stable products must be labeled according to the food labeling requirements listed in the baked goods section.*

Selling refrigerated/frozen processed foods

- Examples include fresh salsas, pickles, pestos, garlic in oil mixtures, and other products containing ingredients that require temperature control for safety.
- *Requirements for selling include:*
 - *Producer must have the appropriate KDA Food License (likely a Food Establishment License)*⁴¹.
 - The facility must be suitable for the process in order to obtain a license.

³⁸ Required cooking temperatures depend on the product type and are listed in the Kansas Food Code (2012): <http://agriculture.ks.gov/docs/default-source/fsl--handouts/kansas-food-code.pdf?sfvrsn=2>.

³⁹ More information on costs and requirements for a KDA Food Establishment License and other types of KDA licenses is available from: <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-egg-lodging-app-forms> or by contacting KDA Division of Food Safety and Lodging (fsl@kda.ks.gov or 785-296-5600).

⁴⁰ More information on food labeling is available from a KSU Extension Food Safety publication, *What's on a Food Label?*: www.ksre.ksu.edu/bookstore/pubs/L883.pdf; a publication from the University of Vermont: www.uvm.edu/extension/food/pdfs/food_labeling_vt_producers_2013aug.pdf; or by contacting KDA Weights and Measures (785-862-2415).

⁴¹ Likely a Food Establishment License. More information on this and other types of KDA licenses is available as indicated in previous footnotes.

⁴² Contact Kansas State University Value-Added/ Product Development Lab for more information on recipe approval and BPCS: www.ksre.ksu.edu/kvafl/p.aspx?tabid=1

- Note that the license is for the PRODUCER, rather than the facility. You CANNOT operate under someone else's license.
- Product must be labeled according to the food labeling requirements listed in the baked goods section.
- **Proper temperature (<41°F for refrigerated, <0°F for frozen) must be maintained at the market.**
- Note that processed food containing more than 2% meat by weight (raw foods) or more than 3% meat by weight (cooked foods) that is sold refrigerated or frozen must be processed at a USDA or KDA meat inspected facility⁴³.

Selling Meat, Eggs, and Dairy Products

Selling meat and poultry products

***Note that all practices below which are REQUIRED by KDA regulations are listed in bold and italics. All other practices listed are strongly recommended for food safety.*

Meat and poultry products (raw or processed) must meet the following requirements:

1. **All meat and poultry products must be processed in a USDA or KDA inspected facility and labeled as such.**
 - Meat labeled as “Custom – Not for Sale” cannot be used for retail sales.
 - Note that to sell at a farmers market in Kansas, **ALL poultry products, regardless of the size of the operation, must be slaughtered and processed at an inspected facility.**
2. **Meat packaging labels must be approved by the KDA Meat and Poultry program or USDA.**
 - Label claims such as grain- or grass- fed and raised without antibiotics must be registered (at no cost) with KDA⁴⁴, including provision of appropriate documentation for approval.



3. **Meat products must be held, stored, and transported in a clean and sanitary environment to keep products wholesome.** This includes having a proper rodent and insect control program.

If a vendor has at least one wholesale sales account (not sold directly to the consumer), they must have a KDA Meat Wholesaler License for the point of sale.

- **License must be renewed annually, at a cost of \$25 per year⁴⁵.**
- **Raw product must be transported and sold solidly frozen (0°F or colder) or fresh (36°F or colder) in freezers or coolers equipped with properly calibrated thermometers.**
- Processed meat products (jerky, summer sausage, etc.) must follow all of the above requirements, as well as the following:
 - **The product must use a KDA-approved recipe.**
 - **The product must be maintained at the appropriate temperature** (frozen, refrigerated, or shelf stable).

If a vendor does NOT have any wholesale accounts and the product is only handled by that vendor from the time after the product is processed until it is sold to the consumer, the vendor would only be required to have a KDA Food Establishment License for the point of sale, as outlined in previous sections.

- **Under a Food Establishment License, raw products can be sold either fresh (41°F or colder) or frozen.**

Note that uninspected, farm-raised poultry CANNOT be sold at a farmers market. Uninspected poultry can only be sold from the producer's home direct to a household consumer if the producer slaughters fewer than 1,000 head of poultry they have raised themselves per year⁴⁶.

- The same is true for rabbits, but the exemption limit is 250 head per year.
- **If producers want to sell poultry or rabbits at a farmers market, it must be inspected product.**

Other regulations and recommended best practices for selling meat and poultry

- Coolers and ice packs or ice can be used to safely transport and hold meats. Vendors must have a thermometer. Check the temperature occasionally (about once an hour) with a stem food thermometer or a refrigerator thermometer⁴⁷.
- **In storage and display, ensure that the juices of one species (i.e. poultry, beef, etc.) do not drip onto and contaminate another species, or any other type of product, with bacteria.**
 - Bag meat separately from any other products (particularly fresh produce, ready-to-eat foods, baked goods) to prevent cross-contamination.
- **Label the product with “Safe Handling Instructions”⁴⁸ and understand these safe practices so you can explain them to customers to increase the likelihood that the customer will handle the product safely.**

⁴⁵ License application available from: <http://agriculture.ks.gov/divisions-programs/meat-and-poultry-inspection/registration>

⁴⁶ More information available from: <http://agriculture.ks.gov/divisions-programs/meat-and-poultry-inspection/general-information>

⁴⁷ Stem food thermometers and refrigerator thermometers can be purchased for less than \$10 at most grocery stores and hardware stores. Be sure that the stem food thermometer can be calibrated and check its calibration occasionally.

⁴⁸ These instructions are available from: http://www.fsis.usda.gov/OA/pubs/Safe_Handling2.gif

⁴³ More information in the Selling Meat, Eggs and Dairy Products section.

⁴⁴ Contact the KDA Meat and Poultry program at 785-296-3511 for more information on registering label claims and label requirements. Information on meat labeling requirements (which would also be applicable in Kansas) is available on page 1 of the following: www.uvm.edu/extension/food/pdfs/meat_labeling_factsheet_march2012.pdf

Selling eggs

If you have 50 or fewer hens and all sales are direct to consumers, you are exempt from all requirements for selling eggs. You can choose to sell ungraded or graded eggs.



Selling graded eggs⁴⁹ requires obtaining a Kansas Egg License and paying inspection fees.

Regardless of flock size, the items listed below, which are requirements for vendors with 51 or more hens, are good best practices for all to follow.

If you have 51 to 249 hens, the following requirements must be met to sell eggs at a farmers market:

- ***Eggs must be kept at or below 45°F when transporting, storing, and displaying.***
 - ***This requires that eggs be kept in a cooler or similar temperature-controlled container.***
 - If you want to display an open egg carton on your table, you should hard boil those eggs and mark the display with a sign stating "For display only. Not for sale."
- ***If reusing egg cartons, make sure they are clean and free of any foreign materials,*** to prevent the transfer of bacteria to the eggs.
 - ***Mark out all incorrect information, such as the previous producer's name and address, grade, and previous pack and expiration dates.***
- ***Eggs must be washed and cleaned before sale.***
- ***All egg cartons must be labeled with the following:***
 - Name and address of the producer
 - Quantity of eggs

- Identity if other than chicken eggs (e.g. duck, goose, etc.)
- Note that eggs sold graded have additional labeling requirements.
- If all sales are direct to consumers, you can choose to sell graded or ungraded eggs. If you are selling ungraded eggs, you must label the carton as being ungraded.

If you have more than 249 hens, you are required to obtain a Kansas Egg License and sell only graded eggs.

NOTE: Eggs other than chicken eggs can be sold and must meet the same requirements as listed above for each flock size, but can only be sold ungraded.

- Baluts (fertilized eggs incubated for a period of time shorter than required for hatching) can be sold, but must follow certain requirements⁴⁹.

Selling dairy products

The following requirements must be met:

- ***All dairy products sold at a farmers market must be produced in a KDA-inspected dairy processing plant.***
 - KDA dairy inspectors are available to help in planning stages of facility.
 - Dairy processing plants are inspected about six times per year, with frequent testing of pasteurization equipment and sample testing.
- ***Labeling and label claims for dairy products must be approved by KDA Dairy Inspection program⁵⁰.***
- ***Vendors selling directly to the consumer must have a KDA Food Establishment license for the point of sale (at the farmers market).***
- ***Milk, cheese, and other non frozen dairy products must be maintained at <45°F at all times for safety*** and should be <40°F for product quality.
- ***Frozen dairy products, such as ice cream, must be solidly frozen and < 0°F at all times.***
- Coolers, refrigerated vehicles, or freezers may be used.
 - ***All of the above must be equipped with properly calibrated thermometers.***
- ***All fluid milk sold at a farmers market in Kansas must be pasteurized.***
 - Raw milk can only be sold on the farm.

⁴⁹ More information on egg sales requirements, including for selling graded eggs, is available: <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-egg-lodging-app-forms>

⁵⁰ Contact information for the KDA Dairy Inspection program: <http://agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-consumers>

References and other resources:

- Kansas Food Code 2012: <http://agriculture.ks.gov/docs/default-source/fsl--handouts/kansas-food-code.pdf?sfvrsn=2>
- Kansas Department of Agriculture Food Safety and Lodging Program website: <https://agriculture.ks.gov/divisions-programs/food-safety-lodging>
- Central Registration of Kansas Farmers' Markets and resources for consumers, producers and organizers of farmers' markets are available at: <http://www.fromthelandofkansas.com/discover-resources/farmers-market-resources>
- Kansas Small Business Development Center – a network of service centers located throughout Kansas offering business consulting to small businesses. More information is available from: http://ksbdc.kansas.gov/Documents/KSBDC_MapFlierWebOct%202011.pdf or by contacting the state office at 1 877 625 7232.
- Kansas Business Center: A resource for information, filings, and personal assistance to start or maintain a Kansas business. Call 877-521-8600 or go to www.kansas.gov/businesscenter/ for more details.
- “Starting a Seasonal Open-Air Market in Kansas. Kansas State Research and Extension and the Kansas Rural Center.” 2008. www.ksre.ksu.edu/bookstore/pubs/S140.pdf
- “Buying Guide for Kansas-Grown Fresh Fruits and Vegetables.” Kansas State Research and Extension. July 2010 www.ksre.ksu.edu/bookstore/pubs/mf2647.pdf
- “Vegetable Garden Planting Guide.” Kansas State Research and Extension. 1992. www.ksre.ksu.edu/bookstore/pubs/mf315.pdf
- “Kansas Garden Guide.” Kansas State Research and Extension. 2010. www.ksre.ksu.edu/bookstore/pubs/S51.pdf
- Kansas State University Extension Food Safety website, including numerous publications and resources: www.ksre.ksu.edu/FoodSafety/p.aspx?tabid=1

Key Contacts

Questions on?	Who to contact	Website	Email	Phone
Food Safety licensing and inspection	KDA Division of Food Safety and Lodging	http://agriculture.ks.gov/divisions-programs/food-safety-lodging	fsl@kda.ks.gov	785-296-5600
Value added product recipe approval, product development, Better Process Control School, HACCP, etc.	Kansas State University Value-Added/ Product Development Lab	www.ksre.ksu.edu/kvafl/p.aspx?tabid=1	kvafl@ksu.edu	785-532-1668
Sales tax information	Kansas Department of Revenue	www.ksrevenue.org/	tac@kdor.ks.gov	785-368-8222
Filing as a business entity	Kansas Secretary of State	www.kssos.org/main.html		785-296-4564
General information on Kansas Farmers Markets	Kansas Farmers Markets website	www.ksfarmersmarkets.org	annarose.hart@kda.ks.gov	785-296-0362
Registering a Farmers Market or Roadside Stand	From the Land of Kansas program	www.agriculture.ks.gov/docs/default-source/ag-marketing/central-registration-of-kansas-farmers%27-markets.pdf?sfvrsn=0		
Accepting Senior Farmers Market Nutrition Program (SFMNP) coupons	Kansas Department of Health and Environment	www.kdheks.gov/sfmnp/		785-296-8060
Accepting SNAP (Vision Cards) from customers	USDA Supplemental Nutrition Assistance Program (SNAP)	www.fns.usda.gov/ebt/learn-about-snap-benefits-farmers-markets		
Scale testing, method of selling produce, food labels	KDA Weights and Measures	http://agriculture.ks.gov/divisions-programs/weight-measures		785-862-2415
Selling live plants	KDA Plant Protection and Weed Control Program	http://agriculture.ks.gov/divisions-programs/plant-protect-weed-control/live-plant-dealer_		785-862-2180
Meat and poultry inspection and registering of label claims	KDA Meat and Poultry program	http://agriculture.ks.gov/divisions-programs/meat-and-poultry-inspection/general-information		785-296-3511
Questions on dairy processing licensing and product labeling	KDA Dairy Inspection program	http://agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-consumers	ksag@kda.ks.gov	785-296-3511
Business consulting for small businesses	Kansas Small Business Development Center	http://ksbdc.kansas.gov/Documents/KSBDC_MapFlierWebOct%202011.pdf		1-877-625 7232
Information and personal assistance to start or maintain a Kansas business	Kansas Business Center	www.kansas.gov/businesscenter/		877-521-8600
Resources and information on Sustainable Agriculture	Kansas Center for Sustainable Agriculture and Alternative Crops	http://kansassustainableag.org/	kebert@k-state.edu	785-532-2976
General Farmers Market Food Safety Best Practices questions	Kansas State University Extension Consumer Food Safety Program	www.ksre.ksu.edu/FoodSafety/p.aspx?tabid=1	Inwadike@ksu.edu	913-307 -7391
Information on production of fruits, vegetables, and live plants	Kansas State University Extension Horticulture Program	www.hfrr.k-state.edu/p.aspx?tabid=49		785-532-6173

Contents

Overview: Allowed Foods, Label Requirements 1

Foods NOT allowed to be sold at Kansas farmers markets (WITHOUT proper licensing)	1
Foods ALLOWED at Kansas Farmers Markets WITHOUT licensing.....	2
Foods ALLOWED WITH proper licensing (potentially hazardous foods)	2
How do I get the license(s) I need to meet the requirements listed above?	3
What if I produce (and/or process) my food in Kansas and want to sell in a neighboring state?	3
In addition to food safety, what other regulatory requirements do I need to follow to sell at a farmers market?	3
What are the labeling requirements for packaged food products?	4
How are all these regulations enforced?	4

General Food Safety Practices, Selling Fresh Produce, Samples, and Demos 4

General steps to food safety for all farmers market vendors	4
Chef demonstrations	5
Selling fresh produce	5
Table 1. Method of Retail Sale for Fresh Fruits and Vegetables Specific Commodity	6
Table 2. Method of Retail Sale for Fresh Fruits and Vegetables General Commodity Groups	6
Harvest calendar for Kansas produce.....	7
Selling live plants at a farmers market	7

Selling unique agricultural products (live birds, manure, worms, compost, etc.).....	7
Offering product samples	7
Calibrating a thermometer	8
Sanitizing station setup	9

Selling Prepared Foods and Baked Goods 9

Selling Prepared Foods (ready-to-eat potentially hazardous foods).....	9
Is a license required?	9
How do I get a Food Establishment License?	9
Regulations and best practices for everyone selling prepared, ready-to-eat foods	9
What are the regulations for selling prepared (or shelf stable) foods through a Community Supported Agriculture (CSA)?	10
Selling baked goods (breads, cakes, cookies, pies, etc.)	10
Selling jams, jellies, and shelf-stable canned foods	10
Selling refrigerated/frozen processed foods	10

Selling Meat, Eggs, and Dairy Products 11

Selling meat and poultry products	11
Other regulations and recommended best practices for selling meat and poultry	11
Selling eggs.....	12
Selling dairy products	12

References and other resources 13

Key Contacts 14

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