



Farmer's Market – Lewis & Clark County *Summer 2024*

The Farmer's Market is an avenue for sales of homemade foods. This includes food prepared under the Montana Local Food Choice Act (MLFCA), farmer's market exemption, and cottage food. Local farmer's markets can specify additional requirements for their venue. Refer to the farmer's market rules adopted by the one in which you wish to participate.

A temporary or retail food permit is required for:

- **All food prepared on site at the farmer's market**
- **All food containing meat—these products must be prepared on site or in a commercial kitchen**

Montana Code Annotated (MCA) 50-49-2 allows the sale of homemade food and homemade food products by producers at any traditional community event if the requirements of the act are met. If a person seeking to sell homemade food or products at a farmer's market does so in conformance with the requirements of MLFCA, they are exempt from any state requirement to obtain a retail food license, even if the homemade food constitutes as potentially hazardous.

However, nothing under the MLFCA prevents privately operated Farmer's Markets (not operated by the county) from electing to impose more stringent requirements. Therefore, privately operated Farmer's Markets can require producers and vendors to obtain a license, registration, or permit from the local health authority as a condition of selling potentially hazardous food at the market. Persons who do not meet the definition of a producer or otherwise fail to conform with the requirements of MLFCA are not exempt from licensure and must follow the requirements of section 50-50-121, MCA.

MCA 50-50-121 allows for the sale of raw and unprocessed farm products, baked goods that do not require refrigeration for safety, and fruit and berry preserves with an exemption from licensing. Upon request, the county reviews the recipes and labels for compliance with the exemption and issues a certificate of exemption for all that qualify.

MCA 50-50-116 provides cottage food registration as another avenue for producers to obtain reviews for products. A cottage food operator may sell any of the foods registered and approved by Lewis & Clark Public Health in any venue that is a face-to-face sale throughout the state. This would include the Farmer's Market.

Additional prepared food sales may be allowed with a license. This can be in the form of a temporary license, mobile food license, or food cart.

Additional information is available below and at the DPHHS Environmental Health and Food Safety website, <https://dphhs.mt.gov/publichealth/FCSS/cottagefoodfarmersmarkets>.

What items are included under the Farmer's Market Exemption?

- I. Raw agricultural commodities (raw, unaltered)
 - a. Fruits
 - b. Vegetables
 - c. Raw honey
 - d. Grains
2. Whole shell eggs if the whole shell eggs are clean, free of cracks, and stored in clean cartons at 45° F or less.
3. Hot coffee or hot tea if the person selling the hot coffee or hot tea does not provide or include fresh milk or cream.
4. Baked goods: breads, candies, cookies, pastries, and pies that are non-potentially hazardous because they do not require refrigeration for safety.
 - a. All frostings or glazes must have a cook step or be made with ingredients (such as a large amount of sugar) that when combined are stable at room temperature.
5. Standardized jams, jellies, preserves, and fruit butters as identified under 21 CFR, Part 150, subject to the following:
 - a. all recipes must have a cook step included such as a hot fill or hot water bath, and freezer or refrigerator-style products are not approved;
 - b. all jams, jellies, preserves and fruit butters must be sealed in containers that are sterilized prior to filling
6. Dry herb combining and packaging, and seasoning and mixture combining; examples of which are dry bean soup mixes, dry teas and coffees, and spice seasonings;
7. Popcorn, popcorn balls, cotton candy;
8. Fudge, candies, and confections that require a cook step;
9. Molded chocolate using commercial chocolate melts;
10. Honey; and
11. Additional items as allowed by law.

How do I sell food items under the exemption?

1. Fill out the Farmer's Market Food Exemption Review Form.
2. The baked goods and preserves requested will be evaluated according to the above allowed exemptions and the current definition of potentially hazardous (temperature controlled for safety).
3. A copy of the proposed label must be provided that meets the standards found in ARM 37.110.504 and MCA 50-50-116 (3) including the following:
 - a. the name, address, city, state, and zip code of the cottage food operation;
 - b. the name of the cottage food product;

MADE IN A HOME KITCHEN THAT IS NOT SUBJECT
TO RETAIL FOOD ESTABLISHMENT REGULATIONS
OR INSPECTIONS

Chocolate Chip Cookies

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.

Contains: **Wheat, eggs, milk, soy, walnuts.**

Ashley Bryant
2550 Helena Lane
Helena, MT 59620

Net Wt. 8oz (227g)

- c. the ingredients of the cottage food product, in descending order of predominance by weight;
 - d. the net quantity, weight, count, or volume of the cottage food product
 - e. allergen labeling as specified by federal and state labeling requirements;
 - f. if a nutritional claim is made, an appropriate label if required by federal law; and
 - g. the following statement, printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background and is conspicuously placed on the principal label.
 - “Made in a home kitchen that is not subject to Retail Food Establishment Regulations or inspections.”
4. Lewis & Clark Public Health will issue a Farmer's Market exemption certificate that lists all the food items that have been reviewed and comply with the exemptions.
 5. Review and approval must be provided for additions to your exemption certificate.
 6. If required by the Farmer’s Market, the certificate must be publicly displayed at your food sales location. Any food items not listed on the certificate are not certified by the health department for sale at the Farmer's Market.

Cottage Food Registration

All cottage food operators may sell at the Farmer’s Market with the display of their registration certificate. No further review will be required.

Safe food handling requirements for all permitted items:

1. Handling ready-to-eat foods with bare hands is not permitted. Use gloves, tongs, or other tools.
2. Package and label all baked goods prior to bringing them to the market.
3. No processing or handling of open foods will be allowed at the Farmer's Market without a Temporary permit or Retail Food License.
4. Store food off the ground to prevent contamination.

Items not included in the Farmer’s Market Exemption or Cottage Food Registration:

1. Vegetables cannot be cooked; canned; preserved, combined with other food products; or peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.
2. Baked goods cannot contain egg custards (i.e. cheesecakes, pumpkin pies), creams, cream fillings, cream cheese icings, or other product capable of supporting the rapid growth of bacteria.
3. Preserves do not include tomatoes, salsa, or food products containing tomatoes, sauerkraut, pickles, herbal vinegars or oils, canned vegetables, or any other food product.

How do I sell other food items at the Farmer's Market?

1. Obtain a food permit or license from Lewis & Clark Public Health.
 - a. Temporary Food License or Mobile Food License: Submit plan review application that includes plan review fees, and an approved facility to prepare, cook and sell any food item not listed above.

To submit Farmer's Market Food Exemption Review

1. Mail: Lewis & Clark Public Health
1930 9th Avenue
Helena, MT 59601
2. E-mail to: PHLicEst@lccountymt.gov
3. Drop off at 1930 9th Avenue. Application can be left at the front desk.
4. FAX to (406) 457-8990.

Further Questions: Call 406-457-8919 and leave a message. A sanitarian will return your call.