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**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 produce 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 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. KDA encourages vendors to contact them 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 their 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.*

**Note:** This applies to all **direct-to-consumer sales** of food, including festivals, bazaars, craft shows, and similar events. The listed

*licensing exemptions would also apply to exempt foods sold online and shipped to the customer's home or delivered by the producer directly to the end consumer.*

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

- Home canned pickles, meats, vegetables, and sauerkraut. More information on home-canned foods regulations is available in subsequent tables.
- 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; note the poultry exemption indicated in the table that begins on page 2).
- Sprouts require proper licensing.

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## Foods **ALLOWED** at Kansas farmers markets **WITHOUT** licensing, according to state regulations

| Food Product Type   | Examples   | Regulatory requirements   |
|---|--|---|
| Baked goods (home kitchen)  | Cookies, breads, cakes, cinnamon rolls, fruit pies, fruit cobbler  | Follow labeling requirements (listed below). Note that breads with cheese baked in/on them require testing to determine their category (see testing table below).   |
| Dry baking mixes  | Cookie mix, brownie mix  | Follow labeling requirements (listed below).  |
| Fresh (or dried) <b>uncut</b> fruits, vegetables, or herbs (not cut beyond normal harvesting)                                       | Tomatoes, melons, okra, apples, basil  | May be home-grown; any pesticide use must comply with label directions.   |
| Intact salad greens (not cut beyond normal harvesting)  | Mixed greens with only intact leaves, includes microgreens and shoots (not cut beyond normal harvesting practices) | Follow weights and measures requirements. Note that all sprouts and any greens cut beyond normal harvesting require a license.  |
| Certain cut produce and cut herbs (other than cut tomatoes, melons, or leafy greens)  | Cut berries, cut herbs, cut carrots, etc. Can be frozen, fresh, or dried.  | If product is blanched before freezing and has a pH above 4.2, licensing is required for frozen foods. If not blanched first, no licensing required.  |
| Nuts  | Walnuts, pecans  | May be sold shelled or in-shell.  |
| Honey   |  | Can sell direct to consumer without licensing. Note that sales of packaged honey to grocery stores (including consignment sales) for resale or sales by an individual that did not package the honey requires a KDA Food Processors License.  |
| Eggs (< 250 hens)   | Chicken, duck, goose, turkey, etc.   | Should be sold at ≤45°F. Cartons should be clean and labeled properly. (Temperature control and labeling strongly suggested for establishments with fewer than 50 hens; temperature control and labeling <b>required</b> for farms with 51 to 249 hens, must be ungraded. Licensing (and grading) <b>required</b> with > 249 hens or if selling graded eggs.)   |
| Poultry < 20,000 birds/year)  | Chicken, duck, goose, turkey, etc.   | Growers raising fewer than 1,000 birds/year can slaughter and sell direct to consumer their own birds at their own facility without registration or inspection. Growers selling 1,001 to 20,000 birds/year must register their exemption from inspection with KDA (at no cost). More details available in <a href="https://agriculture.ks.gov/docs/default-source/rc-meat-and-poultry/mp-19-m-p-registration-application.pdf">https://agriculture.ks.gov/docs/default-source/rc-meat-and-poultry/mp-19-m-p-registration-application.pdf</a> |
| Home-canned fruit jams and jellies; jams and jellies <i>flavored with pepper-flavored vinegar or small amounts of pepper powder</i> | Fruit jams and jellies (note that reduced or no-sugar jams or jellies require a product assessment)                | Must follow labeling requirements (see below).  |
| Canned, shelf stable naturally high acid foods (and “formulated acid” foods)  | Canned applesauce, canned fruits   | Must follow labeling requirements. Requirements for other canned foods listed below. More information on FDA’s classification of canned foods, including “formulated acid” foods is available from: <a href="http://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/acidifiedlac/default.htm">www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/acidifiedlac/default.htm</a>  |
| Juice, cider  | Apple juice, apple cider   | No license required if sold packaged (served by the glass requires license.) If not pasteurized, must include a warning statement on the label (see p. 58, Kansas Food Code, <a href="https://agriculture.ks.gov/docs/default-source/fsl--handouts/2012_kda_food_code_12_14_12.pdf">https://agriculture.ks.gov/docs/default-source/fsl--handouts/2012_kda_food_code_12_14_12.pdf</a> ).   |
| Candies (made in home kitchen)  | Cinnamon hard candy; caramels, toffee  | Note: homemade chocolates must be tested to determine if license is needed (see testing table on page 4).   |
| <i>Cultivated</i> mushrooms (culinary and medicinal)  | Fresh or dried   | Note the regulations listed below for <i>wild</i> mushrooms.  |
| Fish and seafood — sold whole on ice (does NOT include catfish and other Siluriformes)  | Whole tilapia, shrimp  | No HACCP plan or processing license required. Note that wild-caught fish sales are illegal without a commercial fishing permit from Kansas Department of Wildlife, Parks and Tourism. See K.S.A. 115-17-10 and 115-17-13 for more information.  |

**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 and sold in a sanitary manner. Note also that uninspected food products in Kansas do NOT need to be labeled as “homemade” or other indication that they are not inspected. However, homemade food products can be labeled as such.

\*Products requiring specialized processing (which all require licensing regardless of the number of days they are sold, as listed in the table on pages 3-4) include beef jerky, vacuum-packaged temperature control for safety foods, acidifying and/or pickling, curing using nitrites, fermenting, and sprouting.

**Foods ALLOWED WITHOUT licensing, cont.**

| Food Product Type  | Examples  | Regulatory requirements   |
|--|---|---|
| Foods and beverages prepared off site, sold ready for immediate consumption — <i>six or fewer times per calendar year.</i> | Sandwiches, pizza, potato salad, etc. prepared and sold by any entity intended to be eaten at the market — <i>six or fewer times per calendar year.</i> | No licensing required; however, must follow “Sanitation and hygiene requirements for exempt food establishments”. No licensing required; however, must follow Kansas Administrative Regulations (KAR) 4-28-33 “Sanitation and hygiene requirements for exempt food establishments”. More details also in KAR 4-28-34 (Exemption from licensure; definitions). Note that this would also include cooking classes and competitions, such as BBQ competitions. |
| Foods and beverages sold ready for immediate consumption by community groups for fundraising purposes                      | 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”. Fundraising for community or humanitarian purposes and educational or youth activities is exempt from licensing with no restriction on number of times done per year.   |
| Non-specialized processed food that is made and sold six or fewer days in a year.  | Frozen bierocks, pork rinds, refrigerated noodles, etc.   | The food product can be made on day one and each day they are sold adds to the total of up to 6 days without a license. Must follow “Sanitation and hygiene requirements for exempt food establishments” indicated above. <b>Note that any products that require specialized processing* require advance approval even if it is for 6 or fewer days.</b>  |
| Homemade dried pasta   | Dried egg noodles   | No licensing required if dried in a protected environment in a short time period  |
| Vanilla extract  |   | No licensing needed if the product meets the standard of identity in 21 CFR 169.175 to ensure it is vanilla extract and not a flavored alcohol.   |
| Spices — bulk or small quantities  | Cinnamon, cloves, etc.  | Product must be labeled properly, unadulterated, and sold in a sanitary manner.   |
| Lard   |   | No licensing required if sold direct to consumer.   |
| Pepper vinegars  |   | RAW peppers must be used in making pepper vinegar to sell without a license   |
| Herb-flavored/infused vinegars   | Fresh tarragon, fresh garlic, fresh basil poured over with vinegar  | Unless using low-acid vinegar (pH>4.2) or enough herbs included to raise equilibrium pH above 4.2, product does NOT require a license.  |
| Grain products   | Home-ground flour, cornmeal, popcorn, intact grain  | Standard hygiene and sanitation requirements, as with all food sold   |
| Fruit leathers   | Apricot leather, other fruits   | Standard hygiene and sanitation requirements, as with all food sold   |
| Sampling of food products  | Fruit, vegetable, prepared food samples   | Samples must be prepared and served in a sanitary manner. More details available in the KSRE/KDA publication MF3311 on “Sampling Safely at Kansas Farmers Markets. ( <a href="https://www.bookstore.ksre.k-state.edu/pubs/MF3311.pdf">https://www.bookstore.ksre.k-state.edu/pubs/MF3311.pdf</a> )  |

**Foods ALLOWED WITH proper licensing (potentially hazardous foods and beverages)**

**Note:** 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 785-564-6767). Note that a KDA Food Processors License allows for wholesale sales (to grocery stores, restaurants, etc.). A KDA Food Establishment license only allows for direct to consumer sales. \*Regardless of the number of times per year all these items in the table below are sold, they still require a license.

| Food Product Type  | Examples   | Regulatory requirements   |
|--|--|---|
| Dairy products; milk   | Milk, cheese, yogurt, etc. from cows, goats, other mammals   | Pasteurized and processed at KDA licensed Dairy Manufacturing Plant; food establishment license required at point of sale. Note that if a vendor can provide information about a vacuum packaged cheese to show that it does not require refrigeration for safety (typically low water activity and low pH values), a food establishment license would NOT be required for the 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, pumpkin pie | Food establishment license required at production facility and point of sale.   |
| Dough  | Refrigerated or frozen cookie dough, pizza dough   | Product requires temperature control for safety, so a food establishment license is required.   |



| Food Product Type  | Examples   | Regulatory requirements   |
|--|--|---|
| Meat, poultry (>20,000 birds/year), and catfish — raw<br><b>Note:</b> products containing 2% or more cooked meat or poultry or more than 3% raw meat by weight are considered meat products. | Steaks, ground beef, fresh sausages, turkey, chicken, catfish  | Product must be processed at an inspected facility and properly labeled. Food establishment license required at point of sale unless registered as a wholesale dealer. May be sold refrigerated or frozen. Note that these products require KDA Meat and Poultry inspection for wholesale (for further distribution) sales.   |
| Meat, poultry, and catfish ready to eat  | Jerky, summer sausage and similar products   | Product must be inspected by KDA or USDA and sold at the appropriate temperature. Note that any curing of meat using nitrites requires proper licensing.  |
| Fish and seafood — cleaned (other than catfish — see more information on that above)   | Degutted tilapia   | KDA food establishment or food processing license at preparation facility, Hazard Analysis, food establishment license at the point of sale. An HACCP plan is also needed if any hazards are identified as being reasonably likely to occur. Note that wild-caught fish sales are illegal without a commercial fishing permit from KDWPT.   |
| Vacuum-packaged foods requiring temperature control for safety   | Vacuum-packaged cheese or vacuum-packaged meats requiring refrigeration for safety   | Must follow the above-listed requirements of cheese or meat products or whatever category the food is in.   |
| Sprouts  | Alfalfa sprouts, bean sprouts  | KDA food establishment license required at production facility and point of sale.   |
| Cut leafy greens (fresh or dried)  | Cut or torn lettuce (cut beyond normal harvesting)   | KDA food establishment license required at production facility and point of sale. Must be sold at or below 41°F.  |
| Certain cut produce (fresh or dried)   | Cut melons, cut tomatoes, refrigerated salsa, refrigerated pesto   | KDA food establishment license required at production facility and point of sale.   |
| Roasted vegetables   | Roasted garlic, roasted corn   | Temperature control is required for safety; therefore, KDA license is required. Note that even if you are selling raw produce and providing roasting services on-site, you would still need a license. Must wash before roasting.   |
| Wild mushrooms   | Morel mushrooms  | Mushrooms picked in the wild must be individually inspected for safety by a KDA-registered mushroom identifier. More information available in the Selling Fresh Produce section.  |
| Naturally fermented canned foods   | Sauerkraut, kimchi, kombucha   | KDA Food Establishment License required for production facility.  |
| <ul style="list-style-type: none"> <li>• Acidified shelf-stable canned foods</li> <li>• Low-acid shelf-stable canned foods</li> </ul>  | <ul style="list-style-type: none"> <li>• Pickles (includes pickled vegetables and pickled eggs), hot sauces, canned tomatoes<sup>†</sup></li> <li>• Canned vegetables, meats, cake/bread baked in a jar<sup>‡</sup></li> </ul> | KDA Food Establishment License or Food Processors License required for production facility. Requires recipe approval; Better Process Control School (BPCS) required. KDA Meat and Poultry inspection required if canned meat is sold wholesale. Contact Kansas State University Value-Added Foods Lab for more information on recipe approval and BPCS: <a href="http://www.ksre.ksu.edu/kvaf">www.ksre.ksu.edu/kvaf</a>  |
| Foods and beverages prepared on or off site, sold ready for immediate consumption — <i>six or more times per calendar year.</i>  | Burritos, egg rolls, pizza, grilled hamburgers or other meats; lemonade  | <i>If selling more than six times/year</i> , vendor must have a KDA Food Establishment license. Note that a Food Processing License would be required for any WHOLESALE sales.  |
| Alcoholic beverages (>0.5% alcohol by volume)  | Beer, wine, possibly kombucha drinks   | Kansas Dept. of Revenue alcohol licensing requirements. ( <a href="http://www.ksrevenue.org/abcstatutes.html">www.ksrevenue.org/abcstatutes.html</a> )  |
| Infused oils   | Infused cooking olive oils; garlic in oil mixtures   | KDA Food Establishment License or Food Processors License required for production facility. If finished product is not shelf stable, food establishment license also required for point of sale.  |
| Animal feed/treats   | Pet food/treats — regardless of the type of ingredients in the pet treats (meat or grain, etc.)  | Kansas commercial feed license and small pet product application required. Food safety license not required (may be made in a home kitchen). Guaranteed analysis for protein, fat, and fiber, and ingredient statement required on label. (More information available from: <a href="http://agriculture.ks.gov/divisions-programs/dairy-inspection/feed-safety/feed-licenses">http://agriculture.ks.gov/divisions-programs/dairy-inspection/feed-safety/feed-licenses</a> ) |

<sup>†</sup> Canned tomatoes must either have added acid (2 Tablespoons of bottled lemon juice, ½ tsp citric acid, OR 4 Tablespoons of 5% acidity vinegar per quart of tomatoes. For pints, use half the amounts listed above.) OR have the pH tested (by the KS Value Added Foods Lab or other) to ensure it is below 4.6.

<sup>‡</sup> Note that these products could be sold under refrigeration without the requirement for BPCS or a scheduled process, but they would still require a food establishment license for direct to consumer sales.

## Foods that must tested to determine their category

Producers can send their products to the Kansas Value Added Foods Lab ([www.ksre.ksu.edu/kvaffl](http://www.ksre.ksu.edu/kvaffl)) or another accredited lab for testing. In addition to the pricing listed on the website, pricing for individual tests is also available. Contact [kvaffl@ksu.edu](mailto:kvaffl@ksu.edu) for more information. For all products requiring testing, documentation of the product assessment must be kept by the operator and made available upon request.

| Food Product Type  | Nature of test                                | Notes   |
|--|---|---|
| Pepper jams and jellies (canned, shelf-stable, other than those described above as exempt). Includes jellies made with pepper juice. | Product Water Activity                        | If product is determined to have low water activity, product can be sold without a license. Otherwise, KDA license required.  |
| Low-sugar fruit jams and jellies (canned, shelf-stable)  | pH and/or water activity, product formulation | If product is determined to be an acid food, formulated acid, or low water activity food, no license is required. Otherwise, KDA license required.  |
| Salsa, barbecue sauce and similar foods (canned, shelf-stable)   | pH and product formulation                    | Depending on the pH of the final product and the main product ingredients, the product may be exempt from licensing <sup>†</sup> or may be considered an acidified canned food that requires a license (see information on acidified foods in table above). |
| Chocolate candies  | Water Activity and product formulation        | If product is determined to require temperature control for safety in a product assessment, KDA license is required. Otherwise, no license is required.   |
| Pecan pie  | Water activity of the filling                 | If the filling is determined to require temperature control based on its water activity, KDA license is required. Otherwise, no license is required.  |
| Powdered sugar/ milk icing   | Water activity of the icing                   | Often used on cinnamon rolls and similar products. If product is determined to have low water activity, product can be sold without a license. Otherwise, KDA license required.   |
| Bread with cheese baked in/ on top   | Water activity and product formulation        | If product is determined to have low water activity and thus not require refrigeration for safety, product can be sold without a license. Otherwise, KDA license required.  |
| Homemade mustard   | pH and product formulation                    | If the product is determined to have pH below 4.6 and that it can be safely stored at room temperature, product can be sold direct to consumer without a license. Otherwise, KDA license is required.   |
| Herb-infused simple syrups   | water activity, product formulation           | If product is determined to be a low water activity food, no license is required. Otherwise, KDA license is required.   |

<sup>†</sup> Even if considered exempt, the operator should check the pH periodically to make sure the product pH (primarily the tomatoes) does not have large variations. These pH records should also be kept by the operator.

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

More detailed information on each of the food safety licenses and the forms that need to be completed to apply for the license is available from the Kansas Department of Agriculture website: <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-egg-lodging-app-forms> or by contacting KDA Food Safety and Lodging program ([kda.fsl@ks.gov](mailto:kda.fsl@ks.gov) or 785-564-6767). KDA is 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 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 (and 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 re-register it every 2 years (October–December of the even numbered years (2018,

2020, etc.)), at: [www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/default.htm](http://www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/default.htm). FDA may then come to inspect your facility, when they will check to see if you are meeting their current Good Manufacturing Practices (GMPs<sup>1</sup> – Code of Federal Regulations (CFR) Title 21 Part 110: [www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfifr/CFRSearch.cfm?CFRPart=110](http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfifr/CFRSearch.cfm?CFRPart=110)) and any other applicable regulations such as Acidified Foods or Low Acid Canned Foods regulations. Such products may also need to follow the requirements of the Federal Food Safety Modernization Act (FSMA) Preventive Controls Rule, [www.fda.gov/fsma](http://www.fda.gov/fsma) (depending on the volume of product sold).

- If you are selling a **meat product**, your product will need to be USDA FSIS, rather than state Meat and Poultry inspected.
- If you are selling **fresh, whole produce**, you may be impacted by the Food Safety Modernization Act (FSMA), regardless if you are only selling in-state or across state lines. More information available from: [www.ksre.k-state.edu/foodsafety/produce/index.html](http://www.ksre.k-state.edu/foodsafety/produce/index.html)

<sup>1</sup> A fact sheet on GMPs is available from: [www.bookstore.ksre.ksu.edu/pubs/MF3201.pdf](http://www.bookstore.ksre.ksu.edu/pubs/MF3201.pdf)

## 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](http://www.ksrevenue.org)) or by calling 785-368-8222.
- **Filing as a business entity:** The Office of the Secretary of State (SOS) has the appropriate forms available online<sup>2</sup> 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 required<sup>3</sup>.
- **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 Registry of Kansas Farmers Markets<sup>4</sup>. 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 Guides<sup>5</sup>. Topics covered by the guides which may be of particular interest to farmers market vendors include: food processor, food wholesaler and distributor, home kitchen for retail food sales, meat or poultry processing facility, mobile food unit, dairy processing facility, 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](http://www.kdheks.gov/sfmnp).
- **Supplemental Nutrition Assistance Program (SNAP):** Farmers markets are eligible to accept SNAP benefits from customers. Visit the USDA website<sup>6</sup> 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 company<sup>7</sup> test their scales once annually. More information is available from the KDA Weights and Measures website<sup>8</sup> or by calling 785-564-6700.

## What are the labeling requirements for packaged food products?<sup>9</sup>

1. Common name of the product (e.g. apple pie).

<sup>2</sup> Forms available from: [www.kssos.org/forms/forms\\_results.aspx?division=BS](http://www.kssos.org/forms/forms_results.aspx?division=BS)

<sup>3</sup> More information available from: [www.kssos.org/resources/resources\\_faq\\_business.html](http://www.kssos.org/resources/resources_faq_business.html)

<sup>4</sup> Application and more information available from: [www.agriculture.ks.gov/docs/default-source/ag-marketing/central-registration-of-kansas-farmers%27-markets.pdf?sfvrsn=0](http://www.agriculture.ks.gov/docs/default-source/ag-marketing/central-registration-of-kansas-farmers%27-markets.pdf?sfvrsn=0)

<sup>5</sup> Licensing guides are available from: <http://agriculture.ks.gov/kda-services/licensing-guides>

<sup>6</sup> USDA SNAP website: [www.fns.usda.gov/eat/learn-about-snap-benefits-farmers-markets](http://www.fns.usda.gov/eat/learn-about-snap-benefits-farmers-markets)

<sup>7</sup> List of licensed scale service companies available from: <http://agriculture.ks.gov/divisions-programs/weight-measures/scales>

<sup>8</sup> KDA Weights and Measures website: <http://agriculture.ks.gov/divisions-programs/weight-measures>

<sup>9</sup> More information on food labeling is available from a KSU Extension Food Safety publication, *Food Labeling for Kansas Food Producers and Processors*: <https://www.bookstore.ksre.ksu.edu/pubs/MF3385.pdf>; or by contacting KDA Food Safety and Lodging (785-564-6767).

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 that have food allergies.
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. Also note that if producers would like to label their product as “organic,” they must meet the USDA organic certification requirements. More information on obtaining such certification, including an organic cost share program for Kansas farmers is available from: <http://agriculture.ks.gov/kda-services/grants-and-cost-share-programs/organic-cost-share-program>. If products are labeled as certified organic, proof of that certification must be on file with the relevant state office regulating the labeling of that product.

## 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 which 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 their 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 maintained 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/hour) with a stem food thermometer<sup>10</sup>.
- Reduce possible cross-contamination that 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 re-using 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 or tongs or other method).
  - Hand sanitizer is not a substitute for handwashing; however, it can be used after washing your hands.
- **Ensure that 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 that produce or other products have not been contaminated with flood waters, etc.
- Vendors are not allowed to have dogs (or other animals), with the exception of service animals in or near their booths (where food is displayed).
  - The common areas of the farmers market outside of the vendor's booth are governed by the market and local rules related to pets being present (there are no state rules in this regard).
  - Any food that might have been contaminated by a dog (or other pet) must be disposed of.
- 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/year that such samples can be offered.
- If the resulting food that is offered does NOT meet the sample definition (offered at a cost or larger portions), that individual can do six or less such demonstrations per calendar year without a license.
  - **Even if not licensed, the chef must still follow the**



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***“Sanitation and hygiene requirements for exempt food establishments” listed in Kansas Administrative 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).***

- It is recommended that a chef do the majority of preparation 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 Food Safety and Lodging program for more information ([kda.fsl@ks.gov](mailto:kda.fsl@ks.gov) or 785-564-6767).

### Selling fresh produce

- Unprocessed whole fruits and vegetables, nuts and other whole agricultural products do not require inspection for sale, unless they would be covered by the FDA Food Safety Modernization Act (FSMA) Produce Safety Rule<sup>11</sup>.
- Produce growers selling at markets are encouraged to know, understand and apply the principles of the FSMA Produce Safety Rule, even if they are exempt from FSMA coverage.
- ***Vendors must follow the KDA Weights and Measures Division regulations<sup>12</sup> 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 company<sup>13</sup> test their scales<sup>14</sup> 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.***

<sup>11</sup> More information on FSMA is available from [www.ksre.k-state.edu/foodsafety/produce](http://www.ksre.k-state.edu/foodsafety/produce)  
<sup>12</sup> More information is available from <http://agriculture.ks.gov/divisions-programs/weight-measures>  
<sup>13</sup> List of companies available from: <http://agriculture.ks.gov/divisions-programs/weight-measures/scales>  
<sup>14</sup> Reporting form for KDA Weights and Measures available from: <http://agriculture.ks.gov/docs/w-m/scale-di701.pdf?sfvrsn=2>

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

- *Sprouted seeds are NOT allowed for sale at a farmers market without proper licensing from KDA.*
- *Mushrooms picked in the wild must be individually inspected for safety by a KDA-registered mushroom identifier.*
  - To become a registered mushroom identifier, a statement of qualification in mushroom identification must be submitted to KDA's Food Safety and Lodging program via email, [kda.fsl@ks.gov](mailto:kda.fsl@ks.gov); fax, 785-564-6779; or in person. One way for the applicant to be considered a registered mushroom identifier is to complete a certification workshop or course, but attendance at a workshop is not required to be added to the registry. Once the identifier is registered by KDA, the identifier must individually identify each mushroom sold. Mushrooms may not be harvested for sale without prior approval from the landowner, either public or private.
  - Contact KDA for more information or for a list of experts ([kda.fsl@ks.gov](mailto:kda.fsl@ks.gov), 785-564-6767, or fax: 785-564-6779).
- 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 (suitable for drinking).
- Transport produce to market in clean boxes or containers.

### Selling live plants at a farmers market

- *If someone selling live plants (including "living greens," microgreens still growing in their grow trays) 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. Note that even if someone selling live plants is exempt from the requirements of a live plant dealer license, the vendor still needs to request the exemption by filling out an application from <http://www.agriculture.ks.gov/docs/default-source/default-document-library/live-plant-dealer-application.pdf>
- 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 785-564-6700.

### 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. Contact the KDA Food Safety and Lodging program with any additional questions: [kda.fsl@ks.gov](mailto:kda.fsl@ks.gov) or 785-564-6767.

### Offering product samples

Providing samples at a farmers market is allowed if certain conditions are met. The fact sheet *Sampling Safely at Kansas Farmers Markets, Farm Stands, and Related Events* contains detailed information on sampling and is available at [www.bookstore.ksre.ksu.edu/pubs/MF3311.pdf](http://www.bookstore.ksre.ksu.edu/pubs/MF3311.pdf)

**Note:** There is NO limit to the number of times per year that samples can be offered. Any food product legal to sell can be sampled. Wine can also be sampled, but the vendor must obtain a special event permit from the Kansas Division of Alcoholic Beverage Control ([www.ksrevenue.org/abc.html](http://www.ksrevenue.org/abc.html)).

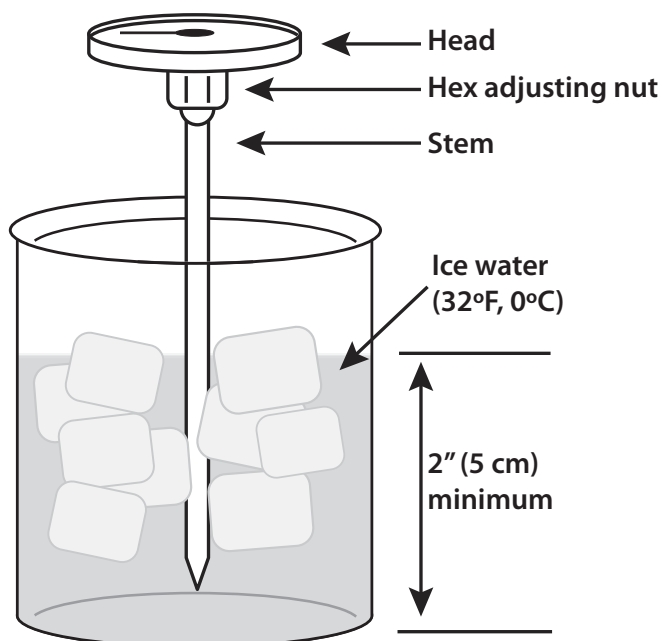
### Calibrating a thermometer

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

1. Fill a cup with ice.
2. Add enough water so that 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. Digital thermometers may not be adjustable and should be replaced if inaccurate.
5. If adjustments were made, recheck the temperature reading in ice water.

Keep in mind the following tips:

- Be sure that your thermometer is designed for the temperature range in which it will be used. Thermometers designed only for hot foods are discouraged because the ice water temperature check is not possible.
  - Hot foods: 135°F to at least 165°F
  - Cold foods: at least 0°F to 41°F





**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             |                        |                                  |

\*Note that gallon bags are NOT considered a dry measure, so leafy greens cannot be sold by the gallon. They would need to be sold by a 4 quart dry measure container (or other dry measure, or by the head/bunch, or by weight.) The product must be measured by an acceptable measurement and then could be transferred to a re-closeable plastic bag for transportation home.

- Temperatures should be taken once per hour to ensure the foods are the proper temperature.

## Selling Prepared Foods and Baked Goods

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

### Selling Prepared Foods (ready for immediate consumption potentially hazardous foods)

These foods include those that are ready for immediate consumption 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.
- Foods prepared onsite:
  - Examples: kettle corn, end products of chef demonstrations

### Is a license required?

| Type of food sales  | License required?   |
|---|---|
| Food, sold ready for immediate consumption by a community group for fundraising purposes. Fundraising for community or humanitarian purposes and educational or youth activities is exempt from licensing with no restriction on number of times done per year. | No licensing required; however, must follow Kansas Administrative Regulations (KAR) 4-28-33 "Sanitation and hygiene requirements for exempt food establishments." More details also in KAR 4-28-34 (Exemption from licensure; definitions). |
| Foods prepared on- or off-site, ready for immediate consumption — six or fewer times per calendar year.   | No licensing required; however, must follow "Sanitation and hygiene requirements for exempt food establishments."   |
| Ready for immediate consumption foods requiring temperature control for safety (sold more than six times per year).   | KDA Food Establishment License — see below.   |

### How do I get a Food Establishment License?

Vendors must complete and submit a license application<sup>15</sup> 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 Log<sup>16</sup>, 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***

<sup>15</sup> Available from: <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-licenses> or by contacting the KDA Food Safety and Lodging program at [kda.fsl@ks.gov](mailto:kda.fsl@ks.gov) or 785-564-6767.

<sup>16</sup> [http://agriculture.ks.gov/docs/default-source/rc-food-safety/mobile\\_unit\\_log.pdf?sfvrsn=2](http://agriculture.ks.gov/docs/default-source/rc-food-safety/mobile_unit_log.pdf?sfvrsn=2)

### ***selling foods ready for immediate consumption***<sup>17</sup>:

- Hand washing facilities.
- Ability to control temperature of perishable foods.
- Sewage storage tank and ability to transport for proper disposal in a sanitary sewer (not a storm sewer).

### Regulations and best practices for everyone selling food ready for immediate consumption

- ***Wash hands as needed and do not touch prepared foods with your bare hands*** (use gloves or 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. ***Bare-hand contact with ready-to-eat foods is prohibited.***
- ***Cook foods to the proper temperature during preparation***<sup>18</sup>.
- ***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 above.***
  - ***Cold foods that are potentially hazardous, such as potato salads or dairy products, must be held at 41°F or below.***
- ***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, 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 as it is generally considered a direct-to-consumer sale. 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, custards.

<sup>17</sup> More detailed requirements are listed in the Kansas Food Code (2012): [https://agriculture.ks.gov/docs/default-source/fsl-handouts/2012\\_kda\\_food\\_code\\_12\\_14\\_12.pdf](https://agriculture.ks.gov/docs/default-source/fsl-handouts/2012_kda_food_code_12_14_12.pdf)

<sup>18</sup> Required cooking temperatures depend on the product type and are listed in the Kansas Food Code (2012): [https://agriculture.ks.gov/docs/default-source/fsl-handouts/2012\\_kda\\_food\\_code\\_12\\_14\\_12.pdf](https://agriculture.ks.gov/docs/default-source/fsl-handouts/2012_kda_food_code_12_14_12.pdf).



- ***A KDA food establishment license is required to sell these goods<sup>19</sup>.***
- 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. Note that such products can be frozen after one market, then thawed and sold at another market without a license.
- Products such as bread with cheese baked in/on top must be evaluated to determine if a license is needed or not.
- ***Label all packaged goods according to the requirements for food labeling. These include<sup>20</sup>:***
  1. The common name of the product (e.g. apple pie).
  2. Name and physical address of the person that made and is selling the product.
  3. Quantity (net weight or numerical count) of the product.
  4. The product ingredients in descending order of predominance. This is particularly important for customers with food allergies.
  5. Adequate declaration of the eight major food allergens<sup>21</sup>

Note that if selling individual servings, the labeling does not need to be on every package, but needs to be available on request. Vendors should have a clearly visible sign that customers can request labeling information.

- Products should be proportioned and pre-packaged in clean, new wrappings, jars, or bags.
  - Packages should be sealed and not be opened to sell part of the contents.
  - If a vendor displays products in bulk and then pulls out individual orders for customers onsite, the vendor must have handwashing facilities in their booth.

### **Selling jams, jellies, and shelf-stable canned foods**

- ***Home-canned pickles, meats, vegetables, and sauerkraut are not allowed to be sold at a farmers market without the appropriate license.***

<sup>19</sup> 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 the KDA Food Safety and Lodging program ([kda.fsl@ks.gov](mailto:kda.fsl@ks.gov) or 785-564-6767).

<sup>20</sup> More information on food labeling is available from *Food Labeling for Kansas Food Producers and Processors*: <https://www.bookstore.ksre.ksu.edu/pubs/MF3385.pdf> or by contacting KDA Food Safety and Lodging (785-564-6767).

<sup>21</sup> More information available at: [www.fda.gov/Food/ResourcesForYou/Consumers/ucm079311.htm](http://www.fda.gov/Food/ResourcesForYou/Consumers/ucm079311.htm)

- ***Home-canned fruit jams and jellies (not reduced sugar products though) are allowed to be sold at a farmers market without licensing.***
- ***To sell canned shelf-stable pickles, meats, and vegetables, a KDA Food License<sup>22</sup> 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 unless they are willing to take on the liability.
    - Recipe must be approved by a process authority<sup>23</sup>.
    - Completion of a Better Process Control School (BPCS) is required for selling acidified and low-acid food products.
- ***Canned shelf stable pepper jellies and salsas and similar products must be sent in for testing<sup>24</sup> to determine which category those foods fall under and if licensing is required or not.***
  - Jellies and jams *flavored with pepper-flavored vinegar or small amounts of pepper powder* are exempt from licensing and testing requirements.
- ***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).***
    - 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 unless they are willing to take on the liability.
  - ***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 2% or more cooked meat or cooked poultry by weight or more than 3%

<sup>22</sup> Likely a Food Establishment License. More information on this and other types of KDA licenses is available as indicated in the footnotes above.

<sup>23</sup> Contact Kansas State University Value-Added/Product Development Lab for more information on recipe approval and BPCS: [www.ksre.ksu.edu/kvaf/p.aspx?tabid=1](http://www.ksre.ksu.edu/kvaf/p.aspx?tabid=1)

<sup>24</sup> Producers can send their products to the Kansas Value Added Foods Lab, [www.ksre.ksu.edu/kvaf/p.aspx?tabid=1](http://www.ksre.ksu.edu/kvaf/p.aspx?tabid=1) or another accredited lab for testing. In addition to the pricing listed on the website, pricing for individual tests is also available. Contact [kvaf@ksu.edu](mailto:kvaf@ksu.edu) for more information.



raw meat by weight that is sold wholesale (not direct to consumer) refrigerated or frozen must be processed at a USDA or KDA meat inspected facility.

- Note that most non-specialized processed food, such as frozen bierocks, can use the 6-day exemption of not requiring a license. So the product can be made on day one and each day they are sold adds to the total up to 6 days without requiring a license. However, the producer must follow Kansas Administrative Regulations (KAR) 4-28-33 “Sanitation and hygiene requirements for exempt food establishments.” More details also in KAR 4-28-34 (Exemption from licensure; definitions).
- Note that if a licensed restaurant is selling products such as salsa at a farmers market, the restaurant would not need an additional license if the salsa formulation has been confirmed as an acid food and it is packaged at the restaurant. If not, then the restaurant would need an additional mobile food establishment license for the point of sale, if done more than 6 times in a year at any location other than the licensed location (the restaurant).

## Selling Meat, Eggs, and Dairy Products

### Selling meat and poultry products

*\*\*Note that all practices below that 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)<sup>25</sup> must meet the following requirements:*

- *Meat labeled as “Custom – Not for Sale” cannot be used for retail sales.*
- *All meat and poultry products must be slaughtered in a USDA or KDA inspected facility and labeled as such.*
  - Poultry growers raising fewer than 1,000 birds/year can slaughter and sell direct to consumer their own birds at their own facility without registration or inspection. The same is true for rabbits, but the exemption limit is 250 head/year.
  - **Growers selling 1,001 to 20,000 birds/year must register their exemption from inspection with KDA (at no cost).** Registration form and more details available at <https://agriculture.ks.gov/docs/default-source/rc-meat-and-poultry/mp-19-m-p-registration-application.pdf>
  - *Poultry growers raising more than 20,000 birds/year must only sell product that has been slaughtered and processed at an inspected facility.*
  - *When selling meat wholesale (not direct to consumer), product must also be processed under USDA or KDA Meat and Poultry inspection. If sold direct to consumer, processor must start with inspected product, but does not need to process under USDA or KDA Meat and Poultry Inspection.*
- *Meat packaging labels must be approved by the KDA Meat and Poultry program or USDA.*

<sup>25</sup> Note that products containing 2% or more cooked meat or cooked poultry or more than 3% raw meat by weight are considered meat and poultry products.



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- *Label claims such as grain or grass fed and raised without antibiotics must be registered (at no cost) with KDA<sup>26</sup>, including provision of appropriate documentation for approval.*
- *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/year<sup>27</sup>.*
- *Raw product must be transported and sold solidly frozen (0°F or below) or fresh (36°F or below) 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:
  - *KDA must evaluate the process to ensure that it is adequate.*
  - *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 below) or frozen.*

### 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/hour) with a stem food thermometer<sup>28</sup>.
- *In storage and display, ensure that the juices of one species (i.e. poultry, beef, etc.) do not drip onto and contaminate another*

<sup>26</sup> Contact the KDA Meat and Poultry program at 785-564-6776 for more information on registering label claims and label requirements. Information on the meanings of meat label claims is available from: [www.bookstore.ksre.ksu.edu/pubs/MF3209.pdf](http://www.bookstore.ksre.ksu.edu/pubs/MF3209.pdf)

<sup>27</sup> License application available from: <http://agriculture.ks.gov/divisions-programs/meat-and-poultry-inspection/registration>

<sup>28</sup> Stem food thermometers and refrigerator thermometers can be purchased for around \$10 at most grocery stores, variety stores, and hardware stores. Quick-read digital thermometers usually cost only a little more. Be sure the food thermometer can be calibrated and check its calibration occasionally.



*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”<sup>29</sup>** and understand these safe practices so that you can explain them to customers to increase the likelihood that the customer will handle the product safely.

## 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 unless you choose to grade your eggs. You can choose to sell ungraded or graded eggs.

- **Selling graded eggs<sup>30</sup> 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 strongly recommended best practices to reduce the risk of illness. Although it is not required for vendors with fewer than 50 hens, it is strongly recommended to keep eggs at temperatures below 45°F for safety. (Find more information in the Egg Fact Sheet at <https://agriculture.ks.gov/docs/default-source/rc-food-safety/egg-fact-sheet-selling-eggs-without-a-license.pdf>.)

**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 are 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 re-using 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.**

<sup>29</sup> These instructions are available from: [http://www.fsis.usda.gov/OA/pubs/Safe\\_Handling2.gif](http://www.fsis.usda.gov/OA/pubs/Safe_Handling2.gif)

<sup>30</sup> 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>

- **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 and require a Kansas egg license.
- **If all sales are direct to consumers**, you can choose to sell graded or ungraded eggs (selling graded eggs requires a Kansas egg license). **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 requirements. (More information on selling baluts is available in the Egg Fact Sheet referenced on this page.)

## 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 program<sup>31</sup>.**
- **Vendors that are 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.
  - More information available from: <http://agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-industry>

<sup>31</sup> Contact information for the KDA Dairy Inspection program: <http://agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-consumers>

## References and other resources:

- *A Guide to Operating Farmers Markets in Kansas*. KC Healthy Kids. <http://www.kchealthykids.org/Our-Initiatives/A-Guide-to-Operating-Farmers-Markets-in-Kansas>
- *Kansas Food Code 2012*: [https://agriculture.ks.gov/docs/default-source/fsl--handouts/2012\\_kda\\_food\\_code\\_12\\_14\\_12.pdf](https://agriculture.ks.gov/docs/default-source/fsl--handouts/2012_kda_food_code_12_14_12.pdf)
- *Kansas Department of Agriculture Food Safety and Lodging Program website*: [agriculture.ks.gov/foodsafety](http://agriculture.ks.gov/foodsafety)
- *Kansas Farmers Market Resources* and resources for consumers, producers, and organizers of farmers markets: <https://www.fromthelandofkansas.com/page/farmers-market-resources>
- *Starting a Seasonal Open-Air Market in Kansas*. K-State Research and Extension and the Kansas Rural Center. 2008. [www.bookstore.ksre.ksu.edu/pubs/S140.pdf](http://www.bookstore.ksre.ksu.edu/pubs/S140.pdf)
- *Buying Guide for Kansas-Grown Fresh Fruits and Vegetables*. K-State Research and Extension. July 2010. <http://www.bookstore.ksre.ksu.edu/pubs/mf2647.pdf>
- *Vegetable Garden Planting Guide*. K-State Research and Extension. 1992. [www.bookstore.ksre.ksu.edu/pubs/mf315.pdf](http://www.bookstore.ksre.ksu.edu/pubs/mf315.pdf)
- *Kansas Garden Guide*. K-State Research and Extension. 2010. [www.bookstore.ksre.ksu.edu/pubs/S51.pdf](http://www.bookstore.ksre.ksu.edu/pubs/S51.pdf)
- Kansas State University Extension Food Safety website, including numerous publications and resources related to farmers market vendors and produce safety: [www.ksre.ksu.edu/foodsafety](http://www.ksre.ksu.edu/foodsafety)

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## Key Contacts

| Questions on?  | Who to contact   | Website  | Email                     | Phone          |
|--|--|--|---------------------------|----------------|
| Food Safety licensing and inspection   | KDA Food Safety and Lodging program  | <a href="http://agriculture.ks.gov/foodsafety">agriculture.ks.gov/foodsafety</a>   | kda.fsl@ks.gov            | 785-564-6767   |
| Value added product recipe approval, product development, Better Process Control School, HACCP, etc. | Kansas State University Value-Added/ Product Development Lab                               | <a href="http://www.ksre.ksu.edu/kvafl">www.ksre.ksu.edu/kvafl</a>   | kvafl@ksu.edu             | 785-532-1668   |
| Sales tax information  | Kansas Department of Revenue   | <a href="http://www.ksrevenue.org/">www.ksrevenue.org/</a>   | tac@kdor.ks.gov           | 785-368-8222   |
| Filing as a business entity  | Kansas Secretary of State  | <a href="http://www.kssos.org/main.html">www.kssos.org/main.html</a>   |                           | 785-296-4564   |
| General information on Kansas farmers markets, registering a farmers market                          | From the Land of Kansas program  | <a href="https://www.fromthelandofkansas.com/page/farmers-market-resources">https://www.fromthelandofkansas.com/page/farmers-market-resources</a>  | farmersmarkets@kda.ks.gov | 785-564-6755   |
| Accepting Senior Farmers Market Nutrition Program (SFMNP) coupons                                    | Kansas Department of Health and Environment  | <a href="http://www.kdheks.gov/sfmnp/">www.kdheks.gov/sfmnp/</a>   |                           |                |
| Accepting SNAP (Benefits Cards) from customers   | USDA Supplemental Nutrition Assistance Program (SNAP)                                      | <a href="http://www.fns.usda.gov/ebt/learn-about-snap-benefits-farmers-markets">www.fns.usda.gov/ebt/learn-about-snap-benefits-farmers-markets</a>   |                           |                |
| Scale testing, method of selling produce   | KDA Weights and Measures   | <a href="http://agriculture.ks.gov/divisions-programs/weight-measures">agriculture.ks.gov/divisions-programs/weight-measures</a>   |                           | 785-564-6700   |
| Selling live plants  | KDA Plant Protection and Weed Control Program  | <a href="http://agriculture.ks.gov/divisions-programs/plant-protect-weed-control/live-plant-dealer_">agriculture.ks.gov/divisions-programs/plant-protect-weed-control/live-plant-dealer_</a>     |                           | 785-564-6700   |
| Meat and poultry inspection and registering of label claims  | KDA Meat and Poultry program   | <a href="http://agriculture.ks.gov/divisions-programs/meat-and-poultry-inspection/general-information">agriculture.ks.gov/divisions-programs/meat-and-poultry-inspection/general-information</a> |                           | 785-564-6776   |
| Questions on dairy processing, licensing, and product labeling                                       | KDA Dairy Inspection program   | <a href="http://agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-consumers">agriculture.ks.gov/divisions-programs/dairy-inspection/dairy-consumers</a>                               | amanda.anderson@ks.gov    | 785-564-6700   |
| Business consulting for small businesses   | Kansas Small Business Development Center   | <a href="http://www.kansasbdc.net/">www.kansasbdc.net/</a>   |                           | 1-877-625-7232 |
| Information and personal assistance to start or maintain a Kansas business                           | Kansas Business Center   | <a href="http://www.kansas.gov/businesscenter/">www.kansas.gov/businesscenter/</a>   |                           | 877-521-8600   |
| Small business development assistance  | Kansas Department of Commerce  | <a href="http://www.kansascommerce.com/">www.kansascommerce.com/</a>   |                           | 785-296-3481   |
| Information on funding opportunities for rural food businesses                                       | USDA Rural Development   | <a href="http://www.rd.usda.gov/ks">www.rd.usda.gov/ks</a>   |                           | 785-271-2700   |
| Resources and information on Sustainable Agriculture   | Kansas Center for Sustainable Agriculture and Alternative Crops                            | <a href="http://kansassustainableag.org/">kansassustainableag.org/</a>   | kebert@k-state.edu        | 785-532-2976   |
| General farmers market food safety best practices questions; produce safety                          | Kansas State University Extension Consumer Food Safety Program                             | <a href="http://www.ksre.ksu.edu/foodsafety">www.ksre.ksu.edu/foodsafety</a>   | Inwadike@ksu.edu          | 913-307-7391   |
| Information on production of fruits, vegetables, and live plants                                     | Kansas State University Extension Horticulture Program; Specialty Crop Growers Association | <a href="https://hnr.k-state.edu/extension/">https://hnr.k-state.edu/extension/</a> ;<br><a href="https://www.kscga.org/">https://www.kscga.org/</a>   |                           | 785-532-6173   |

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