

# Utah Department of Agriculture and Food OUTDOOR MARKET REQUIREMENTS

Ver 2.7.12

**OUR GOAL: Protect the personal health of consumers, the economic health of the market and vendors, and the future viability of the local foods movement.**

The Utah Department of Agriculture and Food is the regulatory authority for food sold and manufactured in Utah. This means foods that are manufactured, processed, packaged, stored, transported, prepared, sold or offered for sale in the state of Utah. This regulatory responsibility also extends to food sold at outdoor market venues including farmers markets. It is the expectation of UDAF that outdoor markets comply with the same requirements that retail food stores must follow, with the exception of raw agricultural products sold by the producer. Foods prepared or cooked on site for immediate consumption are regulated by your local health department. In addition to those foods, only food items that are pre-packaged in an approved food establishment with complete labeling information will be allowed for retail sale at an outdoor market. In the following list are requirements that shall be followed by markets and vendors who sell food items at outdoor markets. These requirements are based upon regulations promulgated by the Utah Food Protection Rule R70-530 and Utah Wholesome Food Act.

## REGISTRATION

- The outdoor market shall be registered by the Utah Department of Agriculture and Food.
  - In addition, each vendor who sells food in any form must be registered by UDAF or the local health department as stated in the Food Establishment Registration Rule R70-540. Typically, local health departments permit vendors whose food is intended for immediate consumption and is not in pre-package form.
  - Vendor registration by the Division of Regulatory Services is required for retail sale even if the vendor is registered with another division within the UDAF.
  - The outdoor market must maintain copies of its and its vendor's permits and provide them to an inspector upon request.
  - Each vendor shall conspicuously display a copy of their permit at the booth

## EXEMPTION

- Vendors who **grow their own** unprocessed fruits and vegetables will be exempt from registration by UDAF.
  - They shall not cut, process, prepare, package produce or offer other prepackaged food products for sale.
  - Fruits and vegetables that are advertised as locally grown or grown in Utah but are not are considered misbranded and misleading and a violation of the Utah Wholesome Food Act.

## PERSON IN CHARGE

- A person in charge (PIC) shall be designated by the market.
  - Typically, this would be the person who would accompany an inspector during an inspection and assist in voluntary enforcement actions.

## POTENTIALLY HAZARDOUS FOOD

- Potentially hazardous food (PHF) means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.
  - Foods requiring refrigeration shall be maintained at 41 degrees or less.
  - Eggs shall be maintained at 45 degrees or less.
  - Some examples of PHF are meat, fish, cheese, salsas, hummus, juice, yogurt, prepackaged processed produce, cut melons and any prepackaged food that indicates on

the label to “keep refrigerated”. This is not an all-inclusive list but only a few examples that may be observed at outdoor markets. Please contact the UDAF to determine if a food item is considered a PHF and requires refrigeration.

- Any potentially hazardous food removed from a cooler or from any refrigeration device and displayed shall not be sold and shall be identified as “not for sale” and or “for display only”.

## **REFRIGERATED FOODS**

- Sale of food from coolers and other non-mechanical type containers is discouraged as this practice makes maintaining temperature standards for PHF difficult, thus increasing the risk of pathogen growth. Temperature control is best achieved by mechanical refrigeration, however if ice is used as a cooling method the following requirements shall be met:
  - Storage of open food products in contact with ice is prohibited.
  - Packaged foods that are subject to the entry of water because of the nature of packaging, wrapping, or container, cannot be stored in contact with water.
  - If ice is the principle means of refrigeration, it must be done in such a way so that the ice is constantly draining (into a proper area or container; not onto the ground).
  - Vendors are required to have a thermometer to verify that equipment is operating at correct temperatures or if using ice, food is maintained at 41 degrees or less.

## **FROZEN FOODS**

- Frozen foods such as meat, fish and foods originally frozen or indicates “keep frozen” on the label shall remain frozen and not be allowed to thaw at an outdoor market.
  - Mechanical refrigeration equipment should be used; however dry ice may be used to maintain **frozen** foods.

## **SAMPLING**

- Sampling on site of any food is an activity that may be regulated by local health departments.

## **ENFORCEMENT**

- Unregistered vendor:
  - The vendor will be asked to voluntarily destroy the affected food or remove the food from the market for suspicion of adulteration and or misbranding.
  - The market may receive a citation for allowing an unregistered vendor to sell food at an outdoor market because food is considered “from an unapproved source”.
- Food found out of temperature:
  - The vendor will be asked to voluntarily destroy the affected food or remove the food from the market.
  - Food items requiring refrigeration that are found not refrigerated (at 41 degrees or less) as indicated in these requirements will be suspect of temperature abuse.
- Inspectors may complete appropriate documentation such as voluntary destruction forms, hold orders, embargo tags or inspection reports.
- Inspectors will notify the person in charge of any enforcement actions.

It is the policy of the Utah Department of Agriculture and Food to seek voluntary compliance. However, if voluntary compliance is not obtained, additional regulatory action may be deemed necessary. Violations of agriculture laws and rules are punishable, either criminally as a class B misdemeanor, by citation of up to \$500.00, or by civil penalties of up to \$5000.00 per occurrence.

## **OTHER REQUIREMENTS**

- Any food sold at an outdoor market or farmers market shall be presented honestly and not be misleading to the consumer.
- Vendor dogs and pets should not be allowed to be kept at the vendor booth or in close proximity to food.
- All packaged and processed food is subject to federal labeling requirements.
- Any whole meat, processed meat or products containing meat, including poultry, sold at an outdoor market must bear marks of inspection and safe handling instructions. Some exemptions apply, contact the Utah Department of Agriculture and Food, Division of Regulatory Service for clarification.
- Raw milk or food products made with raw milk shall not be sold at an outdoor market, except that raw milk cheese aged at least 60 days is allowed.
- Fish and shellfish intended to be consumed raw should not be sold at an outdoor market and require special attention.
- Eggs can only be sold by the owner of the flock to avoid additional regulatory requirements. Eggs shall arrive and be maintained at the market 45 degrees or less and be clean and sound. Egg cartons must include safe handling instruction. The reuse of egg cartons is not allowed.
- The sale of wild mushrooms requires special attention. Please contact the Utah Department of Agriculture and Food.
- The sale of honey in packaged form is subject to registration, meaning a permit is required, by Utah Department of Agriculture and Food.
- “Cut leafy greens” means, leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. Cut leafy greens are considered a potentially hazardous food and require temperature control and are subject to registration, permit required, by Utah Department of Agriculture and Food, Division of Regulatory Services.

## **INFORMATION**

[www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2005/default.htm](http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2005/default.htm)

[www.rules.utah.gov/publicat/code/r070/r070-530.htm](http://www.rules.utah.gov/publicat/code/r070/r070-530.htm)

<http://ag.utah.gov/divisions/regulatory/index.html>

CONTACT: (801)538-7152