

**PARK COUNTY
HEALTH DEPARTMENT**

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FARMER'S MARKET ACT

AN ACT ALLOWING NONPROFIT ORGANIZATIONS TO SELL BAKED GOODS AND PRESERVES; EXEMPTING GARDENERS, FARM OWNERS, AND FARM OPERATORS WHO SELL RAW AND UNPROCESSED FARM PRODUCTS AT A FARMER'S MARKET FROM LICENSURE UNDER FOOD ESTABLISHMENT LAWS; ALLOWING PERSONS TO SELL BAKED GOODS AND PRESERVES AT FARMER'S MARKETS AND EXEMPTING THEM FROM LICENSURE UNDER FOOD ESTABLISHMENT LAWS; REQUIRING ORGANIZED FARMER'S MARKETS AUTHORIZED BY A MUNICIPAL OR COUNTY AUTHORITY TO KEEP RECORDS; AMENDING SECTIONS 50-50-102, 50-50-103, AND 50-50-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

DEFINITIONS

- (1) **"Baked goods"** means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods.
- (2) **"Farmer's Market"** means a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority.
- (3) **"Potentially hazardous food"** means a food that is natural or synthetic and is in a form capable of supporting:
 - (a) the rapid and progressive growth of infectious or toxigenic microorganisms; or
 - (b) the growth and toxin production of *Clostridium botulinum*.

The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.

The term does not include:

- (a) an air-cooled, hard-boiled egg with intact shell;
- (b) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24°C (75°F);
- (c) a food with a water activity value of 0.85 or less;
- (d) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or
- (e) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium botulinum* cannot occur.

growth of *Clostridium botulinum* cannot occur.

- (4) **"Preserves"** means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24°C (75°F) and that are aseptically processed, packaged, and sealed.

The term does not include:

- (a) tomatoes or food products containing tomatoes; or
 - (b) any other food substrate or product preserved by any method other than that described under definition of "preserves."
- (5) **"Raw and unprocessed farm products"** means fruits, vegetables, and grains sold at a farmer's market in their natural state that are not packaged and labeled and are not:
- (a) cooked;
 - (b) canned;
 - (c) preserved, except for drying;
 - (d) combined with other food products; or
 - (e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

50-50-202. Establishments exempt from license requirement - farmer's market records.

- (1) Establishments owned or operated by the state or a political subdivision of the state are exempt from licensure but must comply with the requirements of this chapter and rules adopted by the department under this chapter.
- (2) A license is not required to operate an establishment if it is operated by a nonprofit organization for a period of less than 14 days in 1 calendar year. An establishment exempt from licensure under this subsection must:
 - (a) be operated in compliance with the remaining provisions of this chapter and rules adopted by the department under this chapter; and
 - (b) prior to each operation, register with the local health officer or sanitarian on forms provided by the department.
- (3) (a) A license is not required of a gardener, farm owner, or farm operator who sells raw and unprocessed farm products at a farmer's market.
(b) A license is not required of a person selling baked goods or preserves at a farmer's market.
- (4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall keep registration records of all individuals and organizations that sell baked goods or preserves at the market.
(b) The registration records must include but are not limited to the name of the seller, the seller's address and telephone number, the products sold by the seller, and the date the products were sold.
(c) The registration records must be made available to the local health officer or the officer's agent.