

Food Protection Program:

Food Establishments at Events and Farmers Markets *Questions and Answers*

The MA Department of Public Health's Food Protection Program works in conjunction with Local Boards of Health to ensure a safe and wholesome food supply in Massachusetts by promulgating and enforcing regulations related to food safety, conducting foodborne illness complaint investigations, and responding to other food emergency incidents.

Food vendors at events like farmers markets, carnivals, fairs and fundraisers may be required to get a local Temporary Food Establishment permit from the board of health where the event is held, and comply with certain requirements in 105 CMR 590 (the Retail Food Code).

The following is provided to assist individuals in complying with state regulations related to the production and sale of food made by vendors requiring a Temporary Food Establishment permit.

Do food vendors at Events and Farmers Markets need a permit?

Yes, a food vendor that operates in a temporary location, including at farmers markets, fairs, carnivals, celebrations, fundraisers, or restaurant food shows, must have a permit to conduct certain activities. The Local Board of Health (LBOH) will require the operation to have a Temporary Food Establishment (TFE) permit and comply with certain sections of the Retail Food Code (105 CMR 590).

What activities at an Event or Farmers Market require a TFE permit?

- Preparing and selling food items such as hot dogs, grilled sandwiches, salads, kettle corn or popcorn, shaved ice, and roasted nuts;
- Selling commercially processed pre-packaged time/temperature control for safety (TCS) foods such as packaged ice cream products;
- Selling Time/Temperature Control for Safety (TCS) beverages such as milk or juice;
- Selling beverages that contain TCS ingredients such as coffee with milk/ cream or smoothies;
- Conducting complex food preparation that involves cooking, cooling, reheating, hot holding, and/or specialized food processing methods that must be prepared pursuant to a Hazard Analysis Critical Control Point (HACCP) Plan.

What activities at an Event or Farmers Market do not require a TFE permit?

The following activities conducted by a non-permanent food operation do not require a retail food permit:

- Transporting only whole, uncut fresh fruits and vegetables, unprocessed honey, pure maple products, or farm fresh eggs which are stored and maintained at 45°F (7.2°C) or less;
- Transporting food as a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers or jobbers; and
- Selling commercially processed pre-packaged non-TCS foods such as candy bars, potato chips, bottled water, and/or bottled or canned soda products.

How Are Farmers Markets Different from Other Temporary Events?

A Farmers Market is a public market or market place occurring more than once per year, where the primary purpose of the market is for multiple Massachusetts farmers to sell food, crops and other farm-related items. Unlike other events where vendors may operate for a period of no more than 14 consecutive days (e.g., festivals, or restaurant trade shows), a Farmers Market vendor may be permitted to operate for a longer time frame, such as annually or for the entire season.

Additionally, applicable state laws allow vendors at Farmers Markets to sell three products that may not be sold at other temporary events: raw finfish, raw shellfish, and wine.

- Raw finfish and shellfish may be sold by a vendor at a Farmers Markets if they have proper permits from the Massachusetts Division of Marine Fisheries (DMF), comply with DMF regulations, and are approved by the LBOH.
- Licensed farm-wineries may sell wine at events that are approved by the Massachusetts Department of Agriculture (MDAR) as "Agricultural Events." The event must be certified by MDAR and the vendor must have a license from the local liquor/license control board.

Is a TFE permit required for each vendor at a Farmers Market or Event?

Yes, a permit is required for each individual vendor conducting activities that require a Food Establishment permit. While some events will be organized by one manager (coordinating permitting and other issues for the event), each individual vendor must have a Temporary Food Establishment (TFE) permit from the Local Board of Health (LBOH) to operate. (590.008; FC 8-301.11).

The permit should indicate the time frame for the issued permit; in the case of Farmers Markets, this could be for the entire season, for other temporary events it may be for no longer than 14 consecutive days in conjunction with a single event or celebration.

What if there is no water supply at the Farmers Market or Event location?

If no permanent water supply is available, the vendor may access water through:

- A supply of containers of commercially bottled drinking water
- Closed portable water containers
- An enclosed vehicular water tank
- An on-premises water storage tank
- Piping, tubing, or hoses connected to an adjacent approved source. (590.005; FC 5-104.12)

What are the restroom and handwashing requirements Farmers Markets or Events?

If permanent restrooms and handwashing facilities are not available, portable restrooms and handwashing facilities must be provided for use by the vendors. (590.005; FC 5-203.11; 590.006; FC 6-402.11).

Handwashing sinks must be easily accessible (within 25 feet) to vendors handling exposed, processed foods. If handwashing sinks are not easily accessible, and food exposure is limited, the local authority may approve the use of chemically treated towelettes for handwashing. (590.005; FC 5-203.11 (C))

Do TFE vendors need to store food in refrigerators?

No. Mechanical refrigeration is not required if food temperatures can be maintained and verified (with the exception of shellfish transportation). Foods requiring time/temperature control for safety (TCS) must be held at proper temperatures during transportation and display for sale. This can be achieved by refrigeration or by storing the food on self-draining ice in an insulated container. (590.003; FC 3-303.11, FC 3-501.16)

Can TFE vendors store fresh produce on the ground?

No. Fresh uncut fruits and vegetables can be displayed in the open air but must be stored off the ground. Vendors often use a table, empty crates, or boxes underneath the crates holding the produce. (590.003; FC 3-305.11 & 590.004; FC 4-903.11)

Can TFE vendors have an open-air display for processed foods?

No. Processed Foods require protection while on display. Vendors may individually package items (such as cut fruits and vegetables or baked goods) or, if displayed in bulk, should cover the items while on display until given to the consumer. (590.003; FC 3-306.11; FC 3-301.11). Items offered in bulk should be served with a utensil, single-use glove, or single-use paper sheet.

Do TFE vendors need to have a Certified Food Protection Manager on staff?

A Certified Food Protection Manager is required unless:

- 1) the vendor is a non-profit organization; or
- 2) the food being served has been deemed by the LBOH to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation; or
- 3) the vendor is serving only:
 - pre-packaged food;
 - a limited preparation of non-TCS food; and/or
 - meat and poultry products processed under USDA supervision with a nitrite level of at least 120 PPM and a minimum brine concentration of 3.5% (Ex.: Beef Jerky) (590.002 (C); FC 2-102.12)

Can TFE vendors sell raw milk or raw milk products?

Raw (unpasteurized) milk is not allowed for sale at TFEs or any other Food Establishments. Raw milk is only allowed for sale in Massachusetts at farms which are certified and inspected by the Massachusetts Department of Agricultural Resources (MDAR).

Aged cheeses made with raw milk may be sold, provided 1) that they are made in a licensed food manufacturing facility and 2) that vendors maintain strict temperature control of 41°F or below.

Can a TFE vendor sell home cooked or home canned food?

Home canned and home cooked foods may not be offered at the TFE unless the home kitchen is inspected and permitted by the LBOH in accordance with the Retail Food Code.



For Any Questions, please contact your Local Board of Health or the Massachusetts Department of Public Health, Bureau for Environmental Health's Food Protection Program at 617-983-6712 | Fax: 617-983-6770 | TTY: 617-624-5286 | Email: FPPDPH@state.ma.us

If you would like a copy of the state regulations or additional information concerning the Retail Food Code, please visit: mass.gov/lists/retail-food

