

FAIRHAVEN BOARD OF HEALTH

Farmers Market Regulations

Section 1-1 Authority

These regulations are adopted under the authority of M.G.L. Chapter 111, Section 31, as reasonable health regulations designed to protect and improve the health and quality of life of those who reside within the Town of Fairhaven. The following regulations pertain to the operation of a Farmers Market.

Section 1-2 Statement of Purpose

Whereas minimum standards are being established to promote the safe and responsible operation of a Farmers Market and as considered necessary for the health, safety and welfare of the community, the Fairhaven Board of Health has adopted these regulations.

Section 1-3 Definitions

Acceptable locally grown items — Only the following grown or produced items that meet all applicable federal, state and local rules and regulations may be offered for sale:

- a. Fresh fruits (Uncut)
- b. Fresh vegetable and herbs (Uncut)
- c. Plants and flowers
- d. Honey and maple syrup
- e. Fresh cider
- f. Dairy products
- g. Poultry and meat products
- h. Baked goods
- i. Massachusetts produced specialty food products
- j. Farm Fresh Eggs — Must be refrigerated between 37 and 45 degrees Fahrenheit
- k. Processed Foods as defined in this section

Farmers Market — Outdoor markets where farmers sell their locally grown farm products directly to the consumer.

Market Manager — The individual responsible for the safe and sanitary operation of the Farmers Market. The market manager will be the sole person responsible for obtaining the necessary permits and insurance for the market, assuring vendor compliance with the State Sanitary Code, making sure all vendors secure necessary food permits and paying all fees and/or fines assessed by the Fairhaven Board of Health.

Primary Vendor — A vendor is defined as one who grows or raises product; from the farm to the table, which may include related value-added items.

Processed Foods — Processed foods sold at Farmers Markets must have been processed in a licensed food processing facility, a licensed food establishment, or a licensed residential kitchen. Copies of residential kitchen permits, food establishment permits or food manufacturing licenses at which the food was prepared should be submitted to the Board of Health along with the vendor's application. Processed foods have been altered from their natural state for safety reasons and for convenience.

The methods used for processing foods include canning, freezing, refrigeration, dehydration and aseptic processing.

Secondary Vendor — A vendor who makes or purchases products for sale at the Farmers Market; however, they did not grow or raise the primary materials or ingredients. No more than twenty percent of vendors at the farmers market may be secondary vendors.

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Section 1-4 General Requirements

All applications for a Farmers Market must be submitted to the Board of Health for review and approval and meet the criteria set forth in Section 1-5 of this regulation. A list of vendors including products for sale along with a floor plan or map of the farmers market must be supplied by the market manager with application and include the following:

1. Location of all vendors, hand washing stations, restrooms and/or portable toilets and pedestrian traffic flow.
2. Approval from the land owner to host the farmers market including a signed agreement.
3. Type and location of any barricades required to protect the public and the vendors.
4. Vehicle traffic flow to include layout of vehicle parking.
5. Location of a sign listing market manager and alternate contact who will be onsite as the person in charge.

All food items at every vendor must be kept in baskets, crates, on tables or at least six inches off the ground.

If on-site prepared food is served it must be food from a Massachusetts farm and must comply with the requirements set forth by federal, state and local laws, regulations and rules.

All fish and crustaceans must be kept at or below forty-one (41) degrees and can't be displayed. Crustaceans must be alive and fresh if they are not processed. Fish and crustaceans must be sold by weight.

No food may be processed on site at the Farmers Market.

All processed foods must comply with the requirements set forth by federal, state and local laws, regulations and rules. Processed food must be labeled with the common name of the product. The label must include a list of ingredients in the order of how much is in the product (by weight), sub-ingredients, the net weight, dual net weight if it's more than one pound, the name and address of the manufacturer and packer or distributor, a nutrition label according to federal regulations, a list of all FDA colors, ingredients that could cause allergies, flavoring and additives and the term "keep refrigerated" or "keep frozen" if the food needs it.

All non-food items must be directly related to food or a farm to be determined by the Fairhaven Board of Health.

All non-food vendors must have a business certificate from the Town of Fairhaven or the Town/City their business is registered in.

No vendor shall consume or sell any tobacco, marijuana, CBD or alcohol products while at the Farmers Market.

If portable toilets are to be used, the company supplying the portable toilet must be permitted in the Town of Fairhaven.

Pets are not allowed except for service animals.

All coolers must have thermometers to monitor temperatures.

Trash receptacles shall be provided by the Market Manager for the common areas of the market and by the vendors for their individual locations. All trash must be disposed of properly.

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Meat and poultry must be slaughtered in a federal and/or state licensed and inspected facility under inspection. The sale of shellfish, finfish and crustaceans is prohibited unless a vendor is already licensed as a wholesale seafood dealer (with a base of operation) by the Division of Marine Fisheries and obtains a Fairhaven Board of Health retail food permit.

Cut product that are considered to be PHF's (melons, raw seed sprouts, cut tomatoes and raw garlic mixtures) must be kept refrigerated at or below 41 degrees. If a vendor offers food sampling, the Board of Health may impose additional hand washing requirements for that vendor, which shall be consistent with the regulations promulgated by the Department of Public Health.

Cooking demonstrations with small samples of cooked food may be prepared and offered at the farmers market for promotional and/or educational value with Board of Health approval and compliance with all applicable regulations.

Section 1-5 Permit and Application Requirements

The market manager, primary vendors and secondary vendors must submit a completed Farmers Market application ("Application") to the Board of Health, and must sign a statement indicating that they have read, understand and agree to the Farmers market regulations.

Included with the completed application from the market manager and any vendor will be an inventory list of all products to be sold at the farmers market. Included with this list will be where the product or items were grown or produced. Vendors can only sell items included on their inventory lists. Any changes in the inventory list will be submitted to the Fairhaven Board of Health and approved by the Board of Health prior to being offered for sale. Any products that have not been locally grown must be posted.

Dates and Hours of operation must be listed on the completed Application form.

Vendors already obtaining a food permit in the Town of Fairhaven will still be subject to submit a list of items to the Fairhaven Board of Health be sold. The Board of Health reserves the right to charge fees per the approved fee schedule.

All other vendors will be required to obtain a food permit license if they are selling any products other than fresh uncut fruits and vegetables, unprocessed honey (Raw honey as defined by the National Honey Board), maple syrup or farm fresh eggs.

Farmers Markets, market managers, vendors and anyone associated with the Farmers Market are subject to the fees as listed in the current fee schedule for the Fairhaven Board of Health. The Board of Health reserves the right to charge and assess any fees they deem necessary to ensure the safe and sanitary operation of the Farmers Market per the approved fee schedule.

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Section 1-6 Enforcement

- A. The Board of Health may deny, suspend, revoke, or refuse to renew a permit for failure to comply with any provision of these regulations.
- B. The Market Manager, vendors, their designee, or Responsible Party in charge of the Farmers Market covered by these regulations who fails to comply with these regulations shall be subject to a fine or penalty of not greater than twenty-five dollars (\$25) per day for each violation in accordance with M.G.L. Chapter III and M.G.L. Chapter 40 Section 21D. Each violation of these regulations shall be considered a separate offense.
- C. The Market Manager or vendors who have had a permit denied or revoked shall not operate a farmers market in the Town of Fairhaven for a period of time to be determined by the Board of Health, not to exceed one year.
- D. The continuance of any violation of these regulations beyond a date specified by the Board of Health, when the Owner and/or permit holder of the Facility has been ordered by an agent of the Board of Health to abate any such violations in a safe and sanitary manner, shall be cause for revocation of permit and/or initiation of legal proceedings to eliminate said conditions in accordance with M.G.L. Chapter 111.
- E. The Board of Health, or its authorized agent, upon receipt of a complaint may reasonably conduct unannounced inspections of the Farmers Market to ensure compliance with the State Sanitary Code and the local regulations of the Fairhaven Board of Health and charge any fees to recover costs for these inspections. Notwithstanding the above, the Board of Health, or its authorized agent, will conduct at least one inspection during the Farmers Market season to ensure sanitary conditions.

Section 1-7 Right to a Hearing

Any person or persons aggrieved by a Board of Health order that has been served pursuant to any section of these regulations may request a hearing before the Board of Health by filing a written petition to the health department within seven days of receipt of said order.

Section 1-8 Variance

The Board of Health may grant a variance to any of provisions of these farmers market regulations when, in its opinion, the strict enforcement would do manifest injustice and does not jeopardize public health or the environment.

Section 1-9 Severability

Each provision of these regulations shall be considered as separate to the extent that if any section, item, sentence, clause, or phrase is determined to be invalid for any reason, the remainder of these regulations shall continue in full force and effect.

Section 1-10 Adoption and Effect

These Farmers Market regulations were adopted by the Fairhaven Board of Health, Fairhaven, Massachusetts, on _____.