



Guide for Buying and Selling Local Food

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Determining how to purchase local food for retailers or businesses can be challenging. This document busts the myths of local food purchasing and selling with guidance from the the North Dakota Department of Health and the North Dakota Department of Agriculture.

Produce

Buying Produce From Farmers is OK

Raw agricultural commodities (referred to as “produce” throughout the remainder of this document) are any whole (intact), fresh fruit or vegetable in its raw or natural state. Produce also includes mushrooms, peanuts and tree nuts that are not adulterated or misbranded. Fresh sprouts of any variety that require temperature control for safety are not covered under this guidance and are required to meet North Dakota Food Code requirements under license and inspection.

Produce may be purchased and used by licensed food-service establishments and other food-preparing institutions in North Dakota without the grower or producer obtaining a license from the North Dakota Department of Health or most local health units. This guidance also applies to food-service establishments and food-preparing institutions whose employees, residents or students grow gardens and use the produce harvested in the food-service operation.

Guidelines and Restrictions for Fruit and Vegetable Producers

The following guidelines relate to the purchase, sale and use of locally grown, harvested and packed produce by licensed food-service establishments and other food-preparing institutions in North Dakota and what restrictions may apply.

1. The farm must be excluded from being subject to the Federal Safety Modernization Act (FSMA) Product Safety Rule requirements (published in the Federal Register Nov. 27, 2015) by selling \$25,000 or less of produce annually and by selling produce directly to consumers within 275 miles of the grower’s home or else must comply with this federal law. Visit www.fda.gov/food/food-safety-modernization-act-fsma/background-fda-food-safety-modernization-act-fsma for more information about FSMA requirements.
2. Produce must be whole, intact and unprocessed. Unprocessed means without additional manufacturing/processing such as peeling, slicing, cutting, blanching, freezing or cooking. Cutting does not refer to the harvest cutting.
3. Growers must transport, deliver and sell their own produce.
4. The produce must be protected from contamination from outside sources such as filth, stagnant water, mishandling or ill food handlers. Produce should not be stored or sold in dirty or contaminated containers. Spoiled or decomposing product should be separated from fresh product and disposed of properly.
5. Irrigation practices, application of biological soil amendments such as aged or composted manure, produce washing procedures, and methods for storing and transporting produce must be consistent with the U.S. Department of Agriculture’s Good Agricultural Practices (GAP) in addition to having a potable water supply that meets the requirements of the North Dakota Drinking Water Program. Wastewater from washing produce must be disposed of in a manner that does not create a nuisance or public health hazard. Visit www.ams.usda.gov/services/auditing/gap-ghp for more information about GAP.
6. Growers must obtain a proper food license from the North Dakota Department of Health or local health jurisdiction if the growers or farmers sell whole (intact), raw produce that they have purchased or consigned from another grower or source or the growers sell processed produce such as peeled, cut, shredded, sliced or chopped fresh (raw) fruits or vegetables.

The North Dakota Department of Health considers approved sources of fresh raw fruits and vegetables to be those that farmers grow themselves. However, local health units and private companies may have additional standards that need to be followed.

When marketing these products through different channels, such as farmers markets, institutions, social media, schools, retail food or food-service facilities, producers are encouraged to work with their local health unit and/or buyer on any requirements to facilitate a strong partnership and build a lasting relationship.

Eggs

Egg dealer license: Small flock producers who sell eggs at wholesale or commercially need a license. The license fee is \$10.00 annually and is renewed June 1st after an initial inspection and annual inspections thereafter. *Eggs sold to end consumers are exempt from egg dealer licensing requirements.

Egg dealers quick reference sheet:

<https://www.ndda.nd.gov/sites/www/files/documents/files/Egg%20Dealers%20quick%20reference%20licensing%20requirements.pdf>

Selling Locally Sourced Meat

Livestock producers have the option to provide sales directly to retail, food-service facilities or consumers. Meat is referred to as raw, intact product originating from cattle, swine, sheep and goats. Wild game and exotic meats guidelines are not addressed in this document.

Producers located in the regulatory jurisdiction of the North Dakota Health and Human Services Food and Lodging (NDHH-F&L) Unit should obtain a local or regional Department of Health license and a tax identification number to sell the meat products out of the producer's home or business.

Information at: <https://www.hhs.nd.gov/sites/www/files/documents/DOH%20Legacy/FL/F%26L%20PDF/SFN7151-Low%20Risk%20Food%20Establishment%20License%20Application.pdf>

Operators not located within F&L's area of jurisdiction should contact the applicable licensing agency based on their location of operation.

Information at:

<https://www.hhs.nd.gov/health/food-and-lodging/food-and-lodging-areas-jurisdiction>

An animal can be delivered to a local processing facility that is U.S. Department of Agriculture (USDA) or state inspected and have animals slaughtered under inspection. According to North Dakota inspection regulations, state-inspected establishments slaughter livestock and may process meat products under regulated inspection. These products contain the state mark of inspection and are eligible to be wholesaled within North Dakota, while meat harvested under USDA inspection may be sold across state lines.

However, custom-exempt facilities allow individuals to provide their own animal for slaughtering and processing. The owner of the animal is the sole owner of the meat that was produced from the animal. To sell to a consumer, the main restriction is the buyer must pay the livestock producer for the animal or portion of the animal, so technically, the producer is not selling the meat. The buyer then typically pays the processor for the slaughter, processing and packaging. Additionally, as of April 2020 in North Dakota, a processing facility can serve as a custom-exempt operator or "broker" who can purchase an animal and then sell the animal to one person or to a maximum of eight people.

For more information,

<https://www.ndda.nd.gov/divisions/livestock-industries/meat-inspection>

Poultry farmers may register with the North Dakota Department of Agriculture for a producer-grower exemption regarding inspection for up to either 1,000 or 20,000 chickens to sell off of their operation. Emphasis should be on proper recordkeeping, adequate facilities and sanitation standards.

The Local Foods Map is an online search tool that connects consumers with local farmers, ranchers and businesses that grow, produce and sell their own products in North Dakota (provided by the North Dakota Department of Agriculture).

Map available at: <https://ole.ndda.nd.gov/localfoods>.



Do I need a business license to sell?

If you use a business name, you should consider registering that name with the state. For a \$25 fee, you can register your business name for five years. You do not have to physically open a business. Registering a business name prevents someone from using the same or a similar name.

At the end of five years, you have the option of allowing the registration to lapse or renewing for another five years. Information on types of businesses, a business name search engine and forms to register your business name can be found at the North Dakota secretary of state's website at www.nd.gov/businessreg/register.

Tax Identification Information

New businesses may access necessary permitting information on the North Dakota tax commissioner site at:

<https://www.tax.nd.gov/business/new-businesses-and-contractors/starting-new-business>

References

North Dakota Department of Agriculture Quick Reference for Egg Dealer Requirements (revised March 26, 2021)

North Dakota Department of Health Division of Food and Lodging