

# Ohio Licensing and Registration

Selling homegrown or homemade products is a fun, hands-on way to generate more revenue from your farm. As exciting as it is to make that first sale, farmers need to first make sure they have met all of the appropriate licensing and registration requirements. These requirements will vary based on the product/products an individual would like to sell. This chapter will acquaint you with the various food processing related licensing or registration requirements found within this guide. For a more in-depth look at the specific regulations for the various food items, please proceed to the relevant chapters.

## Retail Food Establishments

With the aid of 113 local health departments, the Ohio Department of Health and the Ohio Department of Agriculture work to protect and promote the health of Ohio communities. Local health departments maintain independent governance, so any person wishing to apply for a retail food establishment license will need to reach out to their local health department. While there are certain standards and requirements set by the state for retail food establishments, there may be some variation in rules between the local departments.

## Retail Food Establishment License

Unless otherwise exempt, any entity that stores, processes, prepares, manufactures, or otherwise holds food for sale to consumers must obtain a retail food establishment license from their local health department.<sup>1</sup> The following categories are the establishments relevant to this guide that are exempt from the retail food licensing requirement under specific circumstances:<sup>2</sup>

- A person at a farmers market that offers for sale fresh unprocessed produce, products of a cottage food operation, tree syrup, sorghum, honey, commercially prepackaged foods, apple syrup, and/or apple butter;
- A person who offers for sale at a roadside stand only fresh fruits and fresh vegetables that are unprocessed;
- A cottage food production operation, on the condition that the operation offers its products directly to the consumer from the site where the products are produced;

<sup>1</sup> ORC 3717.21, 3717.01(C)

<sup>2</sup> ORC 3717.22(B)



- A tree syrup and sorghum processor, beekeeper, or apple syrup and apple butter processor that sells directly to the consumer from the site of production;
- A person who annually maintains 500 or fewer birds, on the condition that the person offers the eggs from those birds directly to the consumer from the location where the eggs are produced;
- A person who annually raises and slaughters 1,000 or fewer chickens, on the condition that the person offers dressed chickens directly to the consumer from the location where the chickens are raised and slaughtered;
- A person who raises, slaughters, and processes the meat of nonamenable species, on the condition that the person offers the meat directly to the consumer from the location where the meat is processed;
- A properly registered farm market or farm product auction.

Retail food establishment applications are submitted to an entity's local health department for review and approval. An application for a license must be filed at least 10 days prior to an establishment opening for business and include information about the facility layout and equipment specifications.<sup>3</sup> In addition to asking for information about plumbing, lighting, and food surface materials, applications will also ask for information about the type of food a facility would like to offer.

<sup>3</sup> OAC 901:3-4-02

There are several categories of Retail Food Establishment licenses, varying by the size, risk level, mobility, and permanence of the facility applying.<sup>4</sup> There are four risk levels an establishment may be categorized as, with the entire establishment risk level being based on the highest risk level food present.<sup>5</sup>

- Risk level I poses potential risk to the public in terms of sanitation, food labeling, sources of food, storage practices, or expiration dates.
    - Example: self service drinks, fresh unprocessed fruits and vegetables, pre-packaged refrigerated or frozen time/temp controlled for safety food, and food delivery operations.
  - Risk level II poses a higher potential risk to the public than risk level I because of hand contact or employee health concerns but minimal possibility of pathogenic growth exists.
    - Example: handling, heat treating, or preparing non-time/temperature controlled food for safety; or hand dipping of commercially manufactured ice cream.
  - Risk level III poses a higher potential risk to the public than risk level II because of the following concerns: proper cooking temperatures, proper cooling procedures, proper holding temperatures, contamination issues or improper heat treatment in association with longer holding times before consumption, or processing a raw food product requiring bacterial load reduction procedures in order to sell the product as ready-to-eat.
    - Example: handling, cutting, or grinding raw meat; cutting or slicing ready-to-eat meats and cheeses; or operating soft serve ice cream machines.
  - Risk level IV poses a higher potential risk to the public than risk level III because of concerns associated with: handling or preparing food using a procedure with several preparation steps that includes reheating of a product or ingredient of a product where multiple temperature controls are needed to preclude bacterial growth.
    - Example: operating a heat treatment dispensing freezer, catering, using a freezer for parasite destruction, or performing activities requiring a HACCP plan.
- The categories a license may fall under include:<sup>6</sup>
- Retail food establishments, including micro markets, in which the interior premises is under 25,000 square feet for each risk level.
  - Retail food establishments in which the interior premises is 25,000 square feet or more for each risk level.
  - Temporary retail food establishments as a per event fee or as a per day fee.
  - Mobile retail food establishments and low risk mobile retail food establishments.

4 OAC 901:3-4-03

5 OAC 901:3-4-05

6 OAC 901:3-4-03

A renewal application must be submitted every year between February and March,<sup>7</sup> and fees for the licensing process will vary by health district and specific facility licensing and inspection needs.<sup>8</sup> Facility inspection frequency will depend on the risk level of the food establishment, though inspections will occur every 15 months at a minimum.<sup>9</sup> In order to pass inspections, facilities must be constructed, equipped, and managed in a manner that complies with both Ohio's Uniform Food Safety Code and RFE regulations applicable to your operation.<sup>10</sup> Licensure denials, suspensions, or revocations may be appealed to the licenser, with a hearing conducted by a hearing officer.<sup>11</sup>

A **mobile retail food establishment** is a retail food establishment that operates from a movable vehicle or other portable structure that routinely changes location.<sup>12</sup> Mobile retail food establishments only need to receive their license from the local health district where they are headquartered and this license may be used to serve food anywhere in Ohio.<sup>13</sup> Mobile retail food establishments are subject to inspection by the licensing authority of any area they operate regardless of where they obtained their license.<sup>14</sup> Establishments that operate from any one location for more than 40 consecutive days will no longer be eligible to be licensed as a mobile retail food establishment. Mobile retail food establishments are a popular option for those looking to sell frozen meat directly to consumers in locations such as a farmers' market.

Anyone interested in more information about retail food establishment licensing should reach out to their local health department, which can be found online here: [ofb.ag/odhgateway](http://ofb.ag/odhgateway).

## Ohio Department of Agriculture Licensing

### *Division of Food Safety*

Through the Division of Food Safety, the Ohio Department of Agriculture helps to protect consumers from unsafe, adulterated, or mislabeled foods. Farms that wish to produce, process, and sell food items should acquaint themselves with both the voluntary and required registrations available through ODA prior to selling food to consumers to ensure food quality and avoid penalties.

### **Farm Market and Farm Product Auction Registration**

Farm markets and farm product auctions are a great way to directly market products to consumers. Individuals looking to sell farm and home sourced food from either their own facility or in a farmers market location should consider the rules and regulations specifically governing the operation of these markets to ensure they are compliant with the law. Elements

7 ORC 3717.43, OAC 3701-21-02

8 ORC 3717.25

9 OAC 901:3-4-06

10 ORC 3717.05, OAC 901:3-4-07, 3717-1

11 OAC 901:3-4-08

12 ORC 3717.01(Q)

13 ORC 3717.23

14 ORC 3717.26

such as cleanliness and food safety must not be overlooked when selling food items to consumers.

A **Farm Market** is a producer operated facility where only the following are offered for sale:

- Fresh unprocessed fruits or vegetables;
- Products of a cottage food production operation;
- Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper;
- Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than 100 cubic feet on the premises where the person conducts business at the farm market;
- Cider and other juices manufactured on site at the farm market;
- Raw eggs, raw poultry, and raw non-amenable meat on the condition that those products were produced by the farm market operator, and further conditioned that, with respect to the eggs offered from the location where the eggs are produced, the farm market operator annually maintains 500 or fewer poultry, and with respect to the dressed poultry offered from the location where the poultry is raised, the farm market operator annually raises and slaughters 1,000 or fewer poultry.<sup>15</sup>

A **Farm Product Auction** is a location where agricultural products, including food products, are offered for sale at auction. Farm product auctions may offer for sale:

- Raw eggs, raw poultry, or raw non-amenable meat species on the condition that, with respect to the eggs offered, the producer annually maintains 500 or fewer poultry, and with respect to the dressed poultry, the producer annually raises and slaughters 1,000 or fewer poultry.
- Fresh unprocessed fruits or vegetables;

Separate from farm markets, farmers markets that sell only one or more of the following are exempt from RFE licensing:

- Fresh unprocessed fruits or vegetables;
- Products of a cottage food production operation;
- Tree syrup, sorghum, honey, apple syrup, or apple butter that is produced by a tree syrup or sorghum producer, beekeeper, or apple syrup or apple butter processor;
- Certain authorized wines; and
- Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farmers market.

Farmers markets that fall under this exemption are also not required to register with ODA. Farmers markets that would like to sell items outside of this scope will need to look into licensing requirements from their local health department and/or ODA Food safety.

- Products of a cottage food production operation;
- Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper.

In order to ensure consumer safety and avoid penalties, farm market and farm product auction operators must, at a minimum, abide by the rules set forth and enforced by ODA.<sup>16</sup> Operators must grant ODA inspectors access to the premises to allow for inspection and supply records to inspectors when requested.<sup>17</sup> If an inspector identifies a food product being sold outside of the scope of the allowable farm market or farm product auction exempt food, then the inspector will refer the facility to the local health department for an RFE license.<sup>18</sup> RFE licensed facilities may still voluntarily register with ODA as a farm market or farm product auction. Compliant farm markets and farm product auctions will observe the following general practices (in addition to other item specific regulations that may be needed):<sup>19</sup>

- Food is obtained from legally compliant sources;
- Food is properly labeled in an honest manner with no misleading information;
- All unsafe, adulterated, or mislabeled food is discarded;
- Food is protected from contamination;
- Food is not displayed or stored on the ground (unless it is a whole raw agricultural product);
- Eggs are sound, clean, and maintained at 45 degrees Fahrenheit;<sup>20</sup>
- Ice used as a cooling medium is made with either municipal water or water that is regularly inspected for coliform;<sup>21</sup>
- Poultry and non-amenable meats are maintained at a frozen or internal temperature of 41 degrees Fahrenheit or less;<sup>22</sup>
- Foods that require refrigeration are held in mechanical refrigeration at the proper temperature.<sup>23</sup>
- Facilities and equipment are maintained and clean.<sup>24</sup>
- Toilet facilities must be readily accessible to the farm market of farm product auction personnel.<sup>25</sup>
- Market personnel observe proper handwashing procedures and there must be access to municipal or an otherwise compliant source for hand washing.<sup>26</sup>

If a farm market or farm product auction offers raw poultry, non-amenable meats or both, the facility must properly sanitize utensils and food contact surfaces and equipment used in the preparation, display, and sale of the raw product.<sup>27</sup> Proper sanitation will include a two or three compartment sink or an

15 OAC 901:3-6-01

16 ORC 3717.221(C)

17 OAC 901:3-6-07

18 OAC 901:3-6-08

19 OAC 901:3-6-02

20 OAC 901:3-6-03

21 OAC 901:3-6-06

22 OAC 901:3-6-03

23 OAC 901:3-6-03

24 OAC 901:3-6-03

25 OAC 901:3-6-03

26 OAC 901:3-6-05, 901:3-6-06

27 OAC 901:3-6-04

ODA approved substitute, and a proper multi-step sanitization process must be followed.<sup>28</sup>

Farm markets and farm product auctions may register online with ODA's Division of Food Safety. Markets or auctions not registered with ODA must otherwise be licensed as an RFE with the district health department.<sup>29</sup>

### Food Processing Establishment Registration

A "food processing establishment" is a place where food is processed, packaged, manufactured, held, or otherwise handled for distribution to another location or for sale at wholesale. This will include the activities of a bakery, confectionery, cannery, bottler, warehouse or distributor, and the activities of an entity that receives or salvages distressed food for sale or use as food. The following are not included within the definition of "food processing establishments" and are not required to register as such when the product is prepared and processed in accordance with the law:

- cottage food producers,
- processors of tree syrup,
- processors of sorghum,
- processors of apple syrup,
- processors of apple butter, and
- processors of honey.<sup>30</sup>

Food processing establishments must register annually with ODA, with the registration expiring every year on January 31. Renewal applications will be automatically sent to current establishments and must be submitted prior to the expiration of the registration. Before issuing a certificate of registration to a new establishment, ODA will first inspect the facility to ensure the establishment is in compliance with state regulations. Fees for registration of an establishment are based on the size of the establishment and can range from \$50 to \$300, with late fees ranging from \$25 to \$50.<sup>31</sup> Registration certificates must be displayed in an area where customers of the establishment will see it. Food processing establishments not properly registered with ODA will be issued a warning from ODA, with 10 days to come into compliance. Failure to comply within the 10 day period can result in civil penalties ranging from \$500 to \$5,000.

ODA does have the authority to revoke or suspend the registration of a food processing establishment they find to be in violation of state law. In the event a violation is found, establishments will normally be provided an opportunity to appeal ODA's determination prior to the revocation or suspension taking effect. In the event ODA determines a food processing establishment presents an immediate danger to public health, they may issue an order immediately suspending

an establishment's registration, with an appeal being available no later than 10 days after the suspension has taken effect.

### Food Processing Establishment - Warehouse Registration

A person operating a warehouse facility to hold or store food may be required to register with ODA Division of Food Safety if they do not otherwise have a license with the Division of Food Safety. Warehouse registration is especially notable for anyone looking to store frozen meat on their farm or at their household for later sale. Warehouse registration comes with an annual fee of \$50 or more depending on the square footage of the facility, with the fee being due at the time of inspection. Typical inspections will check the location of the freezer or fridge (making sure it is not located inside a residence), the cleanliness of the location, and the accuracy of the thermometer being used in the storage equipment. Request for inspection forms can be found on ODA's Division of Food Safety webpage.

### Cold Storage Registration

No person may operate a cold-storage facility for hire without registering as a warehouse.<sup>32</sup> The annual registration period runs from February 1 through January 1 with an initial fee of \$200 and a renewal fee of \$50 or more depending on the square footage of the facility. A cold-storage warehouse is a place artificially cooled by the employment of refrigerating machinery or ice or other means, in which articles of food are stored for 30 days or more at a temperature of 40 degrees Fahrenheit, or lower.<sup>33</sup> An inspector will evaluate the location of the warehouse and assess the sanitary conditions. Sanitary warehouses with the proper equipment for cold storage will be issued a license to operate a warehouse. Warehouses deemed to be unsanitary or not in compliance with applicable laws and administrative rules may be closed and/or have their license revoked.<sup>34</sup>

### Cannery License<sup>35</sup>

Vegetable, fruit, and specialty product canneries must first obtain a cannery license from ODA prior to engaging in the business of operating a cannery (packaging products in hermetically sealed containers and thermally sterilizing them to be sold for human consumption) regardless of where the product will be sold. Canning foods that fall within Ohio's cottage food category is the one exception to the general licensing requirement.

Before issuing the initial license, ODA will first conduct an inspection to ensure the facility is compliant with all relevant rules and regulations, including federal Good Manufacturing Practices.<sup>36</sup> Requirements may vary based on the pH level of the food a facility would like to process.<sup>37</sup> Those producing a

<sup>28</sup> Id

<sup>29</sup> OAC 901:3-6-01

<sup>30</sup> ORC 3715.021

<sup>31</sup> OAC 901:3-21-01, Under ORC 3715.041(G), licensed bakeries, canneries, soft drink plants, cold-storage warehouses or lockers, and those with a flock less than 500 laying hens engaged in egg production are not required to pay food processing establishment processing fees.

<sup>32</sup> ORC 915.02

<sup>33</sup> ORC 915.01

<sup>34</sup> ORC 915.10, 915.23

<sup>35</sup> ORC 913

<sup>36</sup> 21 CFR 117

<sup>37</sup> ORC 913.04

naturally high acid canned food will need to have the product tested to determine the actual pH before reaching out to ODA. Further, individuals that wish to produce an acidified canned food or low acid canned food must attend “Better Process Control School,”<sup>38</sup> have the product evaluated by a process authority, register with the FDA as a cannery, and file the canning process with the FDA prior to contacting ODA, Division of Food Safety. A process authority is someone the FDA recognized as knowledgeable in food processing. According to ODA:

- A naturally high acid canned food is a food that has a natural (without the addition of acid) pH of 4.6 or below. Example: tomato-based products
  - An acidified canned food is a low acid food to which an acid or acid food has been added. Example: pickles
  - A low acid canned food is a food that has a pH greater than 4.6 and a water activity greater than 0.85. Example: green beans
- Facilities not required to register with the FDA will need to be able to show the processes for each processing method utilized prior to processing food. Inspection will include the type of equipment used, the type of thermal processing equipment used, minimum initial temperatures, time and temperature of processing, sterilizing values, and critical control factors.

The cannery licensing period is July 1 through June 30, and canneries must renew prior to June 30 every year. The annual licensing fee is \$200 and is due at the time of the application submission or renewal. ODA may enter the premises of a licensed cannery during normal business hours for the purposes of inspection and investigation.<sup>39</sup>

FDA establishment registration & process filing for acidified and low-acid canned foods can be found online: [ofb.ag/homebakery](http://ofb.ag/homebakery).

**Home Bakery Registration<sup>40</sup>**

Any person that owns or operates a Home Bakery must register with the ODA to receive a Home Bakery License. The licensing fee is \$10 and licenses must be renewed annually between October 1 and September 30. Those wishing to obtain a license must first submit to and pass ODA inspection. Producers can request a Home Bakery Inspection on ODA’s website at the following location: [ofb.ag/homebakerysafety](http://ofb.ag/homebakerysafety).

For more information about home bakery registration, please see page 21.

*Division of Meat Inspection*

The ODA Division of Meat Inspection works to protect consumers through regulatory oversight of meat processing facilities. Through regular inspections, the Division of Meat Inspection ensures that meat products that come from ODA inspected facilities are safe, wholesome, and properly labeled.

For information about the **Fully Inspected Operator License, Custom Operator License, & Voluntary Inspection License** offered by the ODA Division of Meat Inspection, please see page 45. Chapter 918 of the Ohio Revised Code contains Ohio’s laws covering meat inspection with section 901:2 of the Ohio Administrative Code containing ODA’s rules regarding meat inspection.

**Fully Inspected Operator License<sup>41</sup>**

Fully inspected facilities are monitored by the Ohio Department of Agriculture, Division of Meat inspection, with ODA inspectors being present at the facility each day it is processing a product intended for sale. Fully inspected operator licenses come with a fee of \$100 and must be renewed annually by March 31. Applications can be requested from and submitted to the Ohio Department of Agriculture Meat Inspection Division.

**Custom Operator License<sup>42</sup>**

Custom operator licenses are monitored by the Ohio Department of Agriculture, Division of Meat inspection. Licenses come with a fee of \$100 and must be renewed annually by March 31. Applications can be requested from and submitted to the Ohio Department of Agriculture Meat Inspection Division.

**Voluntary Inspection License<sup>43</sup>**

The Voluntary Meat Inspection License is a voluntary licensing and inspection system that allows custom operators to harvest and/or process certain exotic animals under modified regulatory compliance standards with ODA oversight to ensure certain food safety standards are being met. Establishments that receive a voluntary state inspection must renew with ODA annually, with the licensing term expiring March 31. Renewals are sent each year by the ODA Division of Meat Inspection. In addition to a \$100 licensing fee, establishments will also be required to pay inspection fees at an hourly rate.

*Division of Dairy*

The ODA Division of Dairy is responsible for the oversight of dairy production in Ohio. Through inspection and sampling, the Division of Dairy works to ensure that Ohio’s milk and milk products meet or exceed the FDA and USDA standards to provide safe and wholesome products to consumers.

38 “Better Process Control Schools” are often offered in an online format by universities such as The Ohio State University.

39 ORC 913.03

40 ORC 911.02

41 ORC 918.28

42 ORC 918.28

43 ORC 918.12

For information about the **Milk Dealer's License, Milk Hauler License, Milk Processor License, Milk producer License, and the Weigher, Sampler & Tester License** offered by the ODA Division of Dairy, please see page 61.<sup>44</sup> Chapter 917 of the Ohio Revised Code contains Ohio's laws covering Dairy inspection with section 901:11 of the Ohio Administrative Code containing ODA's rules regarding dairy inspection.

#### **Milk Dealer's License**<sup>45</sup>

A milk dealer is a person who purchases or receives milk from a producer for the purpose of bottling, packaging, selling, processing, jobbing, brokering, or distributing the milk except where the milk is disposed of in the same container in which it is received, without removal from the container and without processing in any way except by necessary refrigeration. Any person who buys or distributes milk in containers under their own label is a dealer.<sup>46</sup> Applications can be submitted online with a \$15 fee.

#### **Milk Hauler License**<sup>47</sup>

This license is for any individual that *owns* tankers or conveyances that are used to move milk from farms to processing locations, or between processing locations. There are four categories of milk hauler licenses: 1) Grade A Bulk Milk Hauler, 2) Grade A Can Milk Hauler, 3) Manufacture Bulk Milk Hauler, and 4) Manufacture Can Milk Hauler. Applications for the four categories must be submitted with the \$15 licensing fee. A license remains valid unless it is suspended, revoked, or canceled.

#### **Milk Processor License**<sup>48</sup>

In order to produce and sell milk products, producers must first obtain a milk processor license based on the product they would like to sell. Complete applications must be submitted with the \$15 licensing fee. ODA will conduct an inspection to ensure all applicable standards have been met by the facility.

#### **Milk Producer License**<sup>49</sup>

Anyone wishing to ship milk from their facility must first obtain approval from ODA. In addition to submitting the general application to ODA with the \$15 application fee, producers should be prepared to submit acceptable water samples from the EPA, a facility plan submittal form that includes drawings of the facility, and evidence of a completed and acceptable inspection from the district sanitarian.

#### **Weigher, Sampler & Tester License**

Persons in charge of collecting and handling milk samples from a bulk tank on a farm, or the person collecting official regulatory samples in a milk plant must have a Weigher, Sampler, and Tester License. Applications must be submitted to ODA along with the \$15 licensing fee.<sup>50</sup> No one will be issued a license unless they have received a passing Weigher, Sampler, and Tester examination score.<sup>51</sup>

### **Contacts and Resources**

#### **Ohio Department of Health**

Phone: (614) 466-3543

Web: [odh.ohio.gov](http://odh.ohio.gov)

Find local health districts: [ofb.ag/localhealthdistricts](http://ofb.ag/localhealthdistricts)

#### **Ohio Department of Agriculture**

##### *Division of Food Safety*

Phone: (614) 728-6250

Email: [foodsafety@agri.ohio.gov](mailto:foodsafety@agri.ohio.gov)

Web: [ofb.ag/foodsafety](http://ofb.ag/foodsafety)

##### *Division of Meat Inspection*

Phone: (614) 728-6260

Email: [meat@agri.ohio.gov](mailto:meat@agri.ohio.gov)

Web: [ofb.ag/meatinspection](http://ofb.ag/meatinspection)

##### *Division of Dairy*

Phone: (614) 466-5550

Email: [dairy@agri.ohio.gov](mailto:dairy@agri.ohio.gov)

Web: [ofb.ag/dairydivision](http://ofb.ag/dairydivision)

### **Additional Resources**

#### **State of Ohio Uniform Food Safety Code:**

[ofb.ag/foodsafetycode](http://ofb.ag/foodsafetycode)

#### **Ohio Food Safety Rules:**

[ofb.ag/foodsafetyrules](http://ofb.ag/foodsafetyrules)

#### **Federal Good Manufacturing Practices:**

[ofb.ag/manufacturingpractices](http://ofb.ag/manufacturingpractices)

<sup>44</sup> ORC 917.09

<sup>45</sup> OAC 901:11-1-04(A)

<sup>46</sup> ORC 917.01(D)

<sup>47</sup> OAC 901:11-4-02

<sup>48</sup> OAC 901:11-1-04(A)

<sup>49</sup>

<sup>50</sup> ORC 917.09; OAC 901:11-4-02

<sup>51</sup> ORC 917.08, OAC 901:11-4-02(D)