

126-O-16

AN ORDINANCE

Amending Title 3, Chapter 22 to Revise Farmers Market Regulations to Permit Farmer Cooperative and non-Evanston bread makers to sell products at the Evanston Farmer's Market

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: Title 3, Chapter 22 "Farmers' Market" of the Evanston City Code of 2012 ("City Code") is hereby amended to read as follows:

3-22-1. - DEFINITIONS.

<i><u>EVANSTON CHARITABLE NOT-FOR-PROFIT ORGANIZATIONS.</u></i>	Any organization with its headquarters or primary place of operation within the City of Evanston and defined under applicable Illinois and Federal Tax Code provisions as <u>a not-for profit corporation.</u>
<i>FARMERS' MARKET.</i>	A designated space within the City of Evanston in which at regularly prescribed intervals, approved vendors may sell agricultural products and other goods directly to the public in accordance with this Chapter.
<i><u>FOOD EDUCATIONAL DEMONSTRATION.</u></i>	Exhibits featuring food preparation by <u>local chefs</u> restaurants, caterers, and nutritional educators, who reside in or have a place of business in Evanston <u>and non-for-profit organizations.</u>
<i>HOME GROWN ARTIST.</i>	An artist or artisan with a residence, studio, or place of business in Evanston or who works as an artist or artisan in Evanston.
<i>IMMINENT HEALTH HAZARD.</i>	A product, practice, circumstance, or event that poses a significant threat or danger of injury to the health and safety of persons without immediate correction or cessation.
<i>LOCAL/LOCALLY.</i>	Of a midwestern state as defined by the United States Census Bureau; specifically, the States of Illinois, Indiana,

	Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin.
<i>MARKET MASTER.</i>	The Director of the Parks, Recreation, and Community Services Department, or other individual selected by the Evanston City Manager or his/her designee to organize and regulate the farmers' markets.
<i>VENDOR.</i>	An approved individual, farm, business, or organization selling or offering for sale at Evanston farmers' markets items deemed saleable under this Chapter.
<u>COOPERATIVE FARMER</u>	<u>A farmer that shares land, or farm as neighbors, or farm together in a community or a region.</u>
<u>VALUE-ADDED PRODUCT</u>	<u>A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam) or the production of a product in a manner that enhances its value, as demonstrated through a business plan (such as organically produced products).</u>
<u>COTTAGE FOOD OPERATION</u>	<u>A person who produces or packages non-potentially hazardous food in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member, stored in the residence where the food is made.</u>

3-22-2. - SUPERVISION AND CONTROL OF MARKET.

(A) This Chapter applies to all farmers' markets within the City of Evanston (the "City") at which vendors need City approval to operate.

(B) The City, at all times, shall have the right to relocate or discontinue a market, to specify the days and times of its use, to regulate what goods may be sold, and to stipulate which vendors may sell within the market.

(C) The Market Master or his/her ~~or her~~ designee shall review the application of any vendor wishing to offer items for sale at the markets, issue permits and collect fees therefore, assign spaces to vendors, maintain a system of bookkeeping for the markets, maintain the markets' cleanliness, and enforce the market regulations and issue penalties as necessary.

3-22-3. - YEARLY AND DAILY SPACE RENTAL FEES.

(A) *Rental of space required.* No vendor shall sell or offer for sale any product without having first applied for a space at the market and paid the applicable fees. Fees shall be paid in advance of space occupancy.

(B) *Yearly rentals.* An approved application and payment of the yearly space rental fee shall ~~entitle~~ ~~en Title~~ a vendor to its designated market space for ~~one (1) calendar year (three hundred sixty-five (365) days)~~ one (1) market season, starting the first day of the market season, unless its vending space is closed or the space is revoked for a violation of this Chapter or other law.

(C) *Daily rentals.* A vendor may obtain a daily permit, entitling the vendor to occupy space in the market for one (1) day, and sell goods in accordance with all the provisions of this Chapter, unless its vending space is closed or the space is revoked for a violation of this Chapter or other law.

(D) *Amount of fees.* The applicable yearly or daily space rental fees shall be determined annually by the City of Evanston and collected by the ~~market~~ Market Master.

3-22-4. - APPLICATION REQUIREMENTS.

(A) An applicant for a vending space at a farmers' market shall submit to the ~~market~~ Market Master, along with the required fee, an application containing all of the following information:

1. Name and address of applicant;
2. Products for which vending space is sought;
3. Affidavit certifying that articles offered for sale are locally grown, cultivated, created, produced or prepared;
4. Affidavit certifying that articles offered for sale are: (a) of the vendor's own growing, cultivation, creation, production, or preparation; or (b) from ~~the actual raiser,~~ a cooperative farmer, cultivator, creator, producer, or preparer and that the applying vendor is authorized sell such products, with full disclosure to the consumer of their source;
5. For farmer-vendors, a description of farming practices and copies of any certifications (showing certifying body and date of certification);
6. Evidence that the vendor's real estate and property taxes and Illinois sales taxes have been paid during the previous market season;
7. State sales tax permit number. Vendors must hold a current Illinois sales tax license in order to qualify for a space at a farmers' market; and
8. Proof of insurance in an amount of \$1,000,000 coverage ~~in an amount~~ and form approved by the City. Under no circumstances shall the City insure or indemnify any vendor, nor shall the City be liable in contribution for any damages for which a vendor is deemed liable.

(B) Applications shall be approved in the sole and exclusive discretion of the ~~market~~ Market Master or his/her designee, but under no circumstances shall an application be approved unless all of the information and documentation required by Subsection (A) is provided.

3-22-5. - SPACE ALLOCATION.

Once a vendor's application is approved and its fee paid, the vendor shall be assigned a vending space. Assignment of spaces is within the ~~market master's~~ Market Master

or his/her designee exclusive discretion, and shall be generally, but not necessarily, in accordance with the order in which applications are submitted and fees are paid.

3-22-6. - ADDITIONAL REQUIREMENTS FOR VENDORS.

- (A) No vendor shall sell at a farmers' market within the City unless it:
1. Resides or operates locally; and
 2. Sells items:
 - (a) Of the vendor's own growing, cultivation, creation, production, or preparation; or
 - (b) Originating from ~~another grower,~~ cooperative farmer, cultivator, creator, producer, or preparer that gives its explicit written permission to the vendor to sell its items on its behalf.
- (B) Each vendor shall post within its allocated market space signs approved by the ~~marker master~~ Market Master or his/her designee stating:
1. Vendor's legal name;
 2. Vendor's home location;
 3. ~~The general type of items being offered for sale by the vendor, such as fruit, produce, or baked goods; and~~
 4. The name of each item offered for sale must be labeled in the vendor's rental space; and the name and location of the source.
 5. The name of the cooperative farmer and location of their source must be labeled.
- (C) Vendors shall be financially self-sufficient and operate at no cost to the City.
- (D) No vendor shall solicit business by hawking or crying out.

3-22-7. - SALEABLE ITEMS.

- (A) Items allowable for sale at the markets:
1. Must be locally grown, cultivated, created, produced or prepared;
 2. Must conform to all federal, state and local public health and food safety regulations; and
 3. ~~Shall~~ May include any or all of the following items:
 - (a) Produce such as fruits or their juices and vegetables;
 - (b) Edible grains, nuts and berries;
 - (c) Apiary products, maple sugar and syrups, only if properly labeled in accordance with state standards for labeling;
 - (d) Baked goods as specified in Subsection (D) of this Section;
 - (e) Meat, fish, poultry, eggs, and dairy products including natural cheeses; provided that vendors may sell only USDA prepackaged meat from animals from their own farms, or from a cooperative farmer and that the sale of such meat must conform to the Illinois Retail Food Store Sanitation Rules and Regulations and the Evanston Health and Sanitation Code.
 - (f) Cut or potted flowers and plants;
 - (g) Artwork and hand-crafted items, if sold during "Home Grown Artists" events; and

(h) Prepared foods, either as part of food demonstrations or with the approval of the ~~market master~~ Market Master or his/her designee; and

(i) Value-added Products

(j) The Farmers' Market may also permit knife sharpening for patrons. ~~for free.~~

(B) Items not allowable for sale at the markets shall include those that are:

1. Unwholesome or spoiled; or
2. Prohibited by the Evanston Department of Health and Human Services.

(C) Items sold according to weight must be sold in accordance with the established standards for weight of the State of Illinois and City of Evanston.

(D) The sale of baked goods bread shall be allowed ~~by vendors that are by Evanston based and non-Evanston based~~ food establishments issued a license or permit licensed by the ~~City Evanston~~ Department of Health and Human Services of Evanston under the following conditions:

1. ~~The bread~~ Baked goods must have been made from all fresh ingredients and processed on-site at the licensed or permitted food establishment, including all mixing, shaping, final proofing, and baking. No baked goods bread can be sold if the dough has been prepared off-site, even if it is baked on the premises of the licensed or permitted food establishment;

2. Eligible vendors ~~of bread~~ shall be those licensed or permitted food establishments where baked goods bread and pastries are the primary items for sale, such as bakeries; and

3. ~~Charitable and n-~~ Not-for-profit organizations that are not licensed food establishments may not sell baked goods bread as "~~vendors~~" at the farmers' markets, but shall be occasionally permitted to sell ~~bread and other~~ baked goods, in the discretion of the ~~market master~~ Market Master or his/her designee, at "special events" as defined in this Chapter and subject to the limitations prescribed.

4. Cottage Food Vendors must be registered with the Evanston Department of Health and Human Services as a cottage food vendor and must adhere to all regulations and standards set forth in the Illinois Food Handling Regulation Enforcement Act, 410 ILCS 625/4, which permits certain foods to be sold at the market at the discretion of the Market Master or his/her designee.

5. Value-Added Products can be sold at the market at the discretion of the Market Master or his/her designee.

3-22-8. - PUBLIC HEALTH AND SAFETY.

At all times, all vendors and participants at the farmers' markets shall comply with all applicable local, state and federal laws pertaining to public health and food safety, including, but not limited to: Hand-washing, food protection and storage, food labeling, food service (including temperature regulation), and vector control.

(A) *General provisions.* At all times vendors shall transport and display food with adequate protection against contamination. Delivery trucks and other equipment for transportation and display shall be kept clean. Vendors shall not allow any waste,

garbage or refuse to remain on or near the vending space after the close of market hours on any market day. No vendor shall sell, serve or offer for sale any food items for human consumption without prior approval and permits issued by the Evanston Health and Human Services Department Director or his/her designee. ~~requiring a written statement from the Evanston Health Director that the product is in compliance with storage and display standards, without first obtaining such statement.~~

- (B) *Incorporation of local law.* Title 8 of the Evanston City Code, "Health and Sanitation," is incorporated herein, and the penalties specified therein shall apply in full force. Vendors and other sellers or preparers of food at the farmers' markets shall comply at all times with Title 8 and all other local laws and regulations pertaining to public health, sanitation, food preparation and food safety. Failure to comply with all such local laws may result in the revocation of vending space, in the discretion of the Health Director or his/her designee.
- (C) *Incorporation of state and federal law.* Vendors and other sellers or preparers of food at the farmers' markets shall comply at all times with all state and federal laws and regulations pertaining to public health, sanitation, food preparation and food safety. Failure to comply with all such laws may result in the revocation of vending space, in the discretion of the Evanston Health Director or his/her designee.
- (D) *Access.* The Health Director or his/her designee, upon the presentation of identification, shall be permitted to enter any vending space, food demonstration space, or special event space in a farmers' market for the purposes of making inspections to determine compliance with this Chapter and other applicable law. The Health Director and his/her designees shall be permitted to examine records of the vendor or other seller or preparer of food, to obtain information pertaining to the food and supplies purchased, sold, received or used.
- (E) *Closure.* At any time, the Health Director or his/her designee may, in his/her or her exclusive discretion, require the immediate closure of any booth, stand, or other vending space presenting an imminent health hazard. In the event of such closure, all vending, marketing, and associated activity must cease until approval to operate is granted after inspection.
- (F) Except as otherwise provided by law, the following shall be prohibited within any farmers' market:
 1. Live animals and pets, other than service animals; and
 2. Riding of bicycles, scooters, skateboards, and the like, including motorized versions of the same, except as required to accommodate a physical disability.

3-22-9. - SPECIAL EVENTS.

Any activity that takes place on the grounds of a farmers' market but is not the sale of food items that are locally grown, cultivated, created, produced, or prepared, and sold by an approved vendor under this Chapter shall be designated a "special event" and shall be subject to the limitations in this Section.

- (A) Home-grown artists events.

1. Shall be approved by and held on dates designated by the Market Master or his/her designee;
 2. Shall be limited to the number of artists' tents designated by the Market Master or his/her designee; and
 3. Shall be held in a contained area of the market as designated by the Market Master or his/her designee.
- (B) Food demonstrations.
1. Shall be approved by and held on dates designated by the Market Master or his/her designee;
 2. Shall be limited to the number of demonstration stations designated by the Market Master or his/her designee;
 3. Shall be held in a contained area of the market as designated by the Market Master or his/her designee; and
 4. Shall be pre-approved by the Health Director or his/her designee and shall at all times comply with all applicable public health and sanitation laws and regulations as set forth in Section 3-22-8.
- (C) Fundraising bake sales.
1. ~~Evanston charitable~~ Not-for-Profit organizations shall be permitted occasionally to sell or distribute baked goods ~~items~~ at farmers' markets to raise funds or awareness, but not as a routine business. Nothing in this Section entitles ~~en~~ ~~Titles a charitable~~ or not-for-profit organization to operate as a "vendor" within the meaning of this Chapter;
 2. Fundraising bake sales shall be held only with the prior approval of the Market Master or his/her designee, who shall reasonably limit the number of vending spaces designated for such use on any given market day; and
 3. A fundraising bake sale may consist of the sale of only home-baked goods ~~bread, pastries, and like baked items~~ not requiring refrigeration. The items may be prepared in non-inspected kitchens; however, it is strongly recommended that the preparation of food items for sale take place in a licensed or permitted food establishment or controlled environment such as a club or church kitchen.
- (D) Additional special events to be held in conjunction with the farmers' markets shall be conducted and regulated under the sole discretion and authority of the Market Master or his/her designee.

3-22-10. - ENFORCEMENT AND PENALTIES.

Any person violating any of the provisions of the Chapter shall be subject to a fine not to exceed five hundred dollars (\$500.00), or, alternatively, the penalty prescribed in any applicable provision of the Evanston City Code. A separate offense shall be deemed committed each day such violation shall continue. The Market Master or his/her designee may, in his/her sole discretion, revoke the vending space of any vendor or special-event space holder for violations of this Chapter, irrespective of the severity, number, or duration of said violations.

SECTION 2: That the findings and recitals contained herein are declared to be prima facie evidence of the law of the City, and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 3: That all ordinances, or parts thereof, which are in conflict with this amendment are hereby repealed.

SECTION 4: That if any provision of this Ordinance 126-O-16, or application thereof to any person or circumstance, is held unconstitutional or otherwise invalid, such invalidity shall not affect the applicability of the other provisions of this Ordinance 126-O-16.

SECTION 5: That this Ordinance 126-O-16 shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: _____, 2016

Approved:

Adopted: _____, 2016

_____, 2016

Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene, City Clerk

W. Grant Farrar, Corporation Counsel