



City of Chicago



O2019-286

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	1/23/2019
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Amendment of Municipal Code Chapters 4-4 , 4-12 and 7-38 regarding farmers markets
Committee(s) Assignment:	Committee on Special Events, Cultural Affairs and Recreation

SP EV



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

January 23, 2019

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Cultural Affairs and Special Events, I transmit herewith an ordinance amending Chapter 4-12 of the Municipal Code regarding Farmers Markets.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 4-4-337 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-4-337 Illegal use of parking facilities.

(a) No licensee under this Code shall allow the use of the licensee's outdoor parking facilities for any business activity by any other person, except:

(Omitted text is unaffected by this ordinance)

(4) A farmers' farmers market conducted pursuant to Chapter 4-12 of this Code.

(Omitted text is unaffected by this ordinance)

SECTION 2. The header to Chapter 4-12 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

**CHAPTER 4-12
FARMERS' FARMERS MARKETS**

SECTION 3. Section 4-12-010 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-010 Definitions.

~~The following terms are defined for the purpose of~~ As used in this chapter, unless the context clearly indicates otherwise as follows:

"Approved food-processing establishment" means an establishment acceptable to the City of Chicago ~~board of health~~ Board of Health, or its authorized representative, based on its determinations of conformance with the appropriate standards and good health practices.

"Central Business District" means the district consisting of those streets or parts of streets within the area bounded by a line as follows: beginning at the easternmost point of

Division Street extended to Lake Michigan; then west on Division Street to LaSalle Street; then south on LaSalle Street to Chicago Avenue; then west on Chicago Avenue to Halsted Street; then south on Halsted Street to I-290; then east on I-290 to Congress Parkway to its easternmost point extended to Lake Michigan; including parking spaces on both sides of the above-mentioned streets.

“Commissioner” means the commissioner of cultural affairs and special events Commissioner of Cultural Affairs and Special Events.

“Cottage food operation” has the meaning ascribed to that term in subsection (a) of Section 4 of the Food Handling Regulation and Enforcement Act.

“Farmers’ Farmers markets” or “market(s)” means areas designated by the commissioner Commissioner, where, on designated days and times, growers and producers may sell certain articles and foods directly to the public in accordance with the ordinances of the City of Chicago this chapter and any rules promulgated thereunder.

“Food Handling Regulation and Enforcement Act” or “Act” means the Food Handling Regulation and Enforcement Act, codified at 410 ILCS 625/4, and any rules promulgated thereunder. Section 4 of this Act is commonly known as the Illinois cottage food operation law.

“Grower” or “producer” means any person offering for sale: (1) articles for human consumption, such as whole or uncut fruits and vegetables or their juices, vegetables, edible grains, nuts, and berries and apiary products; or (2) nonedible articles, such as cut or potted flowers or handmade products, which if the articles identified in items (1) and (2) herein have been raised, or prepared or made by the grower or producer, or by members of his family or by persons in his employ as required under Section 4-12-110(a); or (3) prepackaged and non-perishable food or beverages permitted by the commissioner Commissioner pursuant to Section 4-12-090; or (4) authorized foods produced in a cottage food operation in conformity with Section 4 of the Food Handling Regulation and Enforcement Act.

“Letter of agreement” means the document: (1) required under Section 4-12-030 to be signed by the commissioner and applicant grower or producer as a condition to obtaining a permit under this chapter; and (2) The letter of agreement sets setting forth the terms and conditions governing the farmers’ farmers market areas and the permittee’s operations within those areas.

“Millennium Park” has the meaning ascribed to that term in Section 10-36-140.

“Prepackaged and non-perishable” means any food or beverage which is: (1) not capable of supporting the rapid and progressive growth of microorganisms which may cause food infections; and which is (2) packaged in a container designed to keep the contents free of contamination by microorganisms and maintain the commercial sterility of its contents after thermal processing.

SECTION 4. Section 4-12-020 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-020 Issuance of rules and regulations.

The ~~commissioner~~ Commissioner shall have the authority to issue rules and regulations ~~as are necessary or appropriate to effectuate~~ implement the provisions of this chapter.

SECTION 5. Section 4-12-030 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-030 Letter of agreement – Required.

(a) No permit shall be issued under this chapter unless: (1) the applicant for such permit has signed a letter of agreement, as defined in Section 4-12-010, and (2) the Commissioner has approved the permit application for compliance with this chapter. ~~The letter of agreement is signed by the commissioner and the applicant grower or producer. The letter of agreement contains the relevant rules and regulations with which the applicant grower or producer must comply.~~

(b) A permittee under this chapter shall comply with the terms and conditions set forth in the letter of agreement.

SECTION 6. Section 4-12-040 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-040 Permit – Application.

An applicant for a permit under this chapter ~~to sell goods within the market~~ shall submit to the ~~commissioner~~ Commissioner, ~~together with the required fee, an a written application in writing including but not limited to~~ for such permit in a form and manner approved by the Commissioner. Such application shall include the following information:

- (a) The applicant's Name, name and address of the applicant;
- (b) ~~Products for which a sale license or~~ The articles or products that the grower or producer intends to offer for sale at the market pursuant to the permit is sought;
- (c) ~~Source~~ The source of the articles or products identified pursuant to subsection (b) of this section;

- (d) A warranty that such articles or products are fit for human consumption or use; and
- (e) A letter of agreement, as required under Section 4-12-030(a)(1);
- (f) An affidavit, as required under Section 4-12-110(c);
- (e)(g) The applicant's State sales tax permit number or proof of application for the same;
- (h) At least 50% of the applicable permit fee, with the balance payable in accordance with Section 4-12-050(b)(3); and
- (i) Any other information that the Commissioner may reasonably require.

SECTION 7. Section 4-12-050 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-050 Permit required – Fee.

(a) Permit required. ~~No grower or producer person shall sell or offer for sale any article or products product at any farmers market unless such person: (1) is a grower or producer; and (2) without~~ has first having obtained a permit therefor under this chapter.

(b) Permit fee.

(1) Amount – Non-refundable. ~~The~~ Except as otherwise provided in subsection (b)(2) herein, the fee for a permit under this chapter shall be as follows: If the farmers market is located within the Central Business District, the permit fee shall be \$25.00, per 10-foot by 10-foot space, for each day of permitted sales in each farmers' farmers market area where the grower or producer intends to sell. If the farmers market is located outside the Central Business District, the permit fee shall be \$15.00, per 10-foot by 10-foot space, for each day of permitted sales in each farmers market area where the grower or producer intends to sell. The permit fee required under this subsection (b)(1) shall not be reduced, abated or apportioned due to the failure of the grower or producer to sell or offer for sale products in accordance with a permit non-refundable.

(2) Waiver of permit fee – Authorized when. The Commissioner is authorized to reduce or waive the permit fee required under subsection (b)(1) for all growers or producers at a specific farmers market if such farmers market is located in a low-income, low-supermarket-access census tract as determined by the United States Department of Agriculture.

(3) Installment payments – Authorized when. Except as otherwise provided under subsection (b)(2) herein, at least 50% of the permit fee required under subsection (b)(1) shall be

paid at the time the permit application is submitted in accordance with Section 4-12-040(h). The balance of the applicable permit fee shall be paid in accordance with a payment schedule determined by the Commissioner in duly promulgated rules. Such balance shall: (i) be a debt due and owing to the the City; and (ii) not be abated, reduced, or apportioned due to the permittee's failure to conduct any of the activities authorized by the permit.

SECTION 8. Section 4-12-060 of the Municipal Code of Chicago is hereby repealed in its entirety.

SECTION 9. Section 4-12-070 of the Municipal Code of Chicago is hereby repealed in its entirety.

SECTION 10. Section 4-12-080 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-080 Establishment and relocation of farmers markets – Powers and duties of the Commissioner.

(a) The commissioner Commissioner shall have the authority to: (1) establish areas upon on the public ways of the City, and, following consultation with affected city City departments, upon on other city City property, to be designated for designation as farmers' farmers markets; (2) assign spaces at farmers markets to permitted growers and producers in accordance with Section 4-12-120; The commissioner shall have the authority to (3) relocate or discontinue the any farmers markets market; to (4) specify the days of the week and hours of the day they that farmers markets may be operated operate; and to (5) determine which goods may be sold at farmers markets in accordance with Section 4-12-090. However no farmers' market shall be established or relocated Prior to establishing or relocating a farmers market in any ward of the City, of Chicago by said commissioner until the Commissioner shall provide the applicable local alderman of the ward gives written consent for the farmers' market to be established or relocated in his or her ward with an opportunity to object in writing to the establishment or relocation of a farmers market there if such establishment or relocation will substantially or unnecessarily: (i) interfere with a publicly managed infrastructure project in the area, or (ii) interfere with pedestrian or vehicular traffic in the area, based on factors such as estimated attendance at the market, population density of the area, required street closures, or similar factors; or (iii) interfere with a parade, carnival or other previously scheduled event in the area, or (iv) interfere with the ability of other City departments to provide proper fire or police protection or ambulance or sanitation services in the area or at the market; or (v) subject the surrounding neighborhood to an unreasonable degree of noise, littering or parking difficulties in

light of the character of the neighborhood; or (vi) create other objectively identifiable problems in the area.

(b) ~~Provided further that no~~ No farmers' farmers market shall be established or relocated within, or on any sidewalk that abuts, Millennium Park, ~~as that term is defined in section 10-36-140.~~

SECTION 11. Section 4-12-090 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-090 Sales items designated.

(a) A grower or producer holding a valid permit under this chapter may sell or offer for sale articles for human consumption, such as whole and uncooked fruits and vegetables, fruit and their juices, edible grains, nuts, and berries and apiary products, or non-edible articles, such as cut or potted flowers or handmade products, if such articles or products have been raised, made or prepared by the grower or producer or by members of his family or by persons in his employ as required under Section 4-12-110(a).

(b) Food and beverages that are produced and packaged pursuant to a cottage food operation may be sold at a farmers market in conformity with this chapter and Section 4 of the Food Handling Regulation and Enforcement Act.

(c) In addition to the articles, products, food, and beverages set forth in subsections (a) and (b) of this section, the commissioner Commissioner may grant a grower or producer written permission to sell or offer for sale other food that is or sell prepackaged and non-perishable food or beverages at a farmers market if the Commissioner determines that such selling or offering for sale of the food activity is consistent with the character of the farmers' farmers market. The Commissioner may also grant a grower or producer written permission to offer for sale or sell foods, or beverages containing ingredients, that are cooked, cut, or otherwise prepared at a farmers' market if: (1) the Commissioner determines that: (i) such activity is consistent with the character of the farmers' market, and (ii) adequate space exists at the farmers' market to accommodate such activity; and (2) the permittee holds a valid City of Chicago Food Service Sanitation Certificate issued by the Department of Health. The department of cultural affairs and special events is authorized to conduct a pilot program at no more than five locations at which items such as: coffee, tea, hot chocolate, pretzels, chestnuts, popcorn, cheese and sausage may be sold so long as the preparation, packaging and storage and handling of such foods are performed in compliance with department of cultural affairs and special events rules and regulations regarding the sale of such foods.

SECTION 12. Section 4-12-100 of the Municipal Code of Chicago is hereby repealed in its entirety.

SECTION 13. Section 4-12-110 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-110 Sales items restrictions – Certifications.

(a) Sales restriction. Except for food or beverages permitted by the ~~commissioner~~ Commissioner to be sold at a farmers market pursuant to Section 4-12-090, no grower or producer shall ~~sell or offer for sale or sell~~ any edible or nonedible ~~article or products~~ product within the meaning of items (1) and (2) of the definition of a "grower or producer" ~~which have not unless such article or product has been raised, made or prepared by the grower or producer, or by members of his family or by persons in his employ.~~

(b) Cottage food operations – Restriction. No grower or producer who conducts a cottage food operation shall offer for sale or sell any food or beverage at a farmers market in violation of Section 4 of the Food Handling Regulation and Enforcement Act.

(c) Affidavit – Required. Growers and producers shall submit to the Department, as part of the permit application, an affidavit certifying, as applicable, that: (1) any edible or nonedible article or product, within the meaning of items (1) and (2) of the definition of a "grower or producer," offered for sale or sold at the applicable farmers market will be raised, made or prepared by the grower or producer or by members of his family or by persons in his employ; and (2) in the case of food or beverages offered for sale or sold at a farmers market pursuant to a cottage food operation, any such food or beverages will be produced, packaged and made available for direct sale by the owner, a family member or employee in conformity with Section 4 of the Food Handling Regulation and Enforcement Act.

SECTION 14. Section 4-12-120 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-120 Assignment of space.

~~Spaces Available space at any farmers market shall be assigned by the Commissioner on a first-come, non-discriminatory basis in accordance with based on the order in which permit applications are filed with the department of cultural affairs and special events Department. Permit fees shall be paid in advance of occupancy. Sellers shall submit, in advance of occupancy, an affidavit certifying that articles offered for sale are of the growers' or producers' own raising or production.~~

SECTION 15. Section 4-12-125 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-125 Care of food and related requirements.

(a) All food ~~to be sold or~~ that is offered for sale or sold at a farmers market shall be protected from contamination and from the elements at all times while such food is being stored, displayed or sold at a farmers' farmers market and during ~~the~~ its transportation to the market.

(b) All ~~foods to be sold or~~ food that is offered for sale or sold at a farmers' farmers market ~~must~~ shall be clean, wholesome, free from spoilage, adulteration, contamination or misbranding, and safe for human consumption. The standards for judging the wholesomeness of food for human consumption shall be those promulgated ~~and amended from time to time~~ by the United States Department of Public Health and Human Services, Food and Drug Administration, and published in the Code of Federal Regulations at 21 CFR 130, as amended.

(c) All permitted prepackaged and non-perishable ~~foods~~ food or beverages offered for sale or sold at a farmers market shall have been processed in an approved food-processing establishments establishment. ~~The use, preparation, display, sale or storage of home-canned foods is prohibited, and no other foods which have been processed in a private home or other than in an approved food-processing establishment shall be stored, used or kept for sale at a farmers' market.~~

(d) Without the express written permission of the ~~commissioner~~ Commissioner pursuant to Section 4-12-090, no grower or producer shall cook, cut or otherwise prepare food at a farmers' farmers market.

SECTION 16. Section 4-12-130 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-130 Violation – Penalty.

(a) ~~Any~~ In addition to any other penalty provided by law, any person violating any of the provisions of who violates this chapter or any rule promulgated hereunder shall be subject to a fine of not less than \$50.00 not to exceed nor more than \$300.00 \$500.00 for each offense. A separate offense shall be deemed committed for each day such violations continue. Each day a violation continues shall constitute a separate and distinct offense. The Commissioner may institute an action with the Department of Administrative Hearings in order to determine liability and to seek fines or other remedies authorized by this section.

(b) Following notice and an opportunity for a hearing before the Commissioner, the Commissioner may suspend or revoke a person's permit or deny a person's permit application if such person is found liable in a judicial or administrative proceeding of two or more violations, in any combination, of this chapter or any rules promulgated hereunder within any 12-month period. The subject matter of any hearing conducted pursuant to this subsection (b) shall be limited to determining whether the permittee has, in fact, been found liable in a judicial or administrative proceeding of two or more violations, in any combination, of this chapter or any rules promulgated hereunder within any 12-month period.

(c) If the Commissioner has good cause to believe that: (1) a permittee under this chapter is operating a space in the market in violation of this chapter or any other applicable law; and (2) continued operation of such space in the market poses an imminent danger to the public health or safety, the Commissioner may order the immediate temporary suspension of the applicable permit for a period not to exceed ten days. Written notice of the temporary suspension and the grounds for that suspension shall be sent or delivered to the permittee without delay. The permittee shall have an opportunity for a hearing before the Commissioner prior to the expiration of the ten-day temporary suspension period. If the permittee fails to request a hearing within the prescribed time indicated on the notice, or requests a hearing but fails without good cause to appear at such hearing, such person's permit under this chapter shall be deemed to be revoked. Nothing in this subsection shall prevent the suspension or revocation of such permit for a longer period pursuant to an action instituted by the Commissioner in the Department of Administrative Hearings.

SECTION 17. Section 4-12-135 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-12-135 Additional open air markets.

Any additional ~~Additional~~ open air markets that are outside the scope of the ~~not farmers'~~ farmers markets as defined in Section 4-12-010, and including but not limited to pilot programs for such open air markets, shall be conducted under the authority of the ~~commissioner~~ Commissioner, ~~who is authorized to adopt regulations in accordance with rules duly promulgated by the Commissioner therefor.~~

SECTION 18. Section 7-38-142 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

7-38-142 Produce merchants – Operational requirements – Unlawful acts.

It shall be unlawful for any produce merchant to engage in any of the following activities at any produce stand operated by such produce merchant:

(Omitted text is unaffected by this ordinance)

(9) To combine any activity authorized under a mobile food vendor license to engage in a produce merchant business with any activity for which a different or separate license or permit is required under this Code, other than a public way use permit issued under Chapter 10-28 of this Code, including, but not limited to, any permit required in connection with participation in any ~~farmers'~~ farmers market, as defined in Section 4-12-010, or any outdoor special event, as defined in Section 10-8-335;

(Omitted text is unaffected by this ordinance)

SECTION 19. This ordinance shall take full force and effect upon its passage and publication.