

2011-Or-___

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By Gordon

**Amending Title 10, Chapter 201 of the Minneapolis Code of Ordinances
relating to Food Code: Public Markets.**

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 201.10 of the above-entitled ordinance be amended by added thereto the following definitions in alphabetical sequence to read as follows:

201.10. Definitions. As used in this chapter and chapter 202, the following terms shall mean:

Agricultural producer: A grower, farm processor, or a group of growers or farmer processors belonging to a growers' cooperative, or wild-harvester that is principally engaged in the production of farm and wild-harvested products and who is licensed by or registered with the City of Minneapolis according to Minnesota law or city ordinance.

Craft producer: A market vendor who manufactures or crafts non-food goods by the force of their own labor, who has control over the means and methods of production and who assumes the principal financial and liability risk for the production enterprise.

Farm processor: A market vendor who sells products that are grown, raised or harvested on land owned or leased by the farm processor and which products may have additional ingredients added that are not grown, raised or harvested by them on their land such as to produce sausage, bacon, cheese etc. and who is licensed according to Minnesota law or city ordinance.

Farmers market: A primarily outdoor recurring event, created for public benefit, where on designated days and times, a group of market vendors consisting principally of agricultural producers, and that may include food market manufacturers, food market distributors, craft producers, home processors and vendors of services are organized for the purpose of selling their products directly to the public.

Food market distributor: A market vendor who sells fresh produce purchased from retail stores, wholesalers or agricultural producers, or sells prepackaged foods for off-site consumption, excluding home processors, provided that the vendor does not

handle unpackaged food while at the market, and who is licensed according to Minnesota law or city ordinance.

Food market manufacturer: A market vendor who sells and handles foods prepared for immediate consumption at the market and who is licensed according to Minnesota law or city ordinance.

Grower: A market vendor who sells products that are grown, raised or harvested on land owned or leased by grower including vegetables, fruits, eggs, meats (without added ingredients), plants, flowers, honey, maple syrup etc. as registered with the City of Minneapolis pursuant to Minn. Statute Section 28A.15 or as recognized by Minnesota law.

Home processed foods: Products made through the transformation of raw ingredients into a finished food product prepared in the home including, but not limited to, jams, jellies, pickles, baked goods and confections.

Home processor: A market vendor who sells home processed foods prepared by market vendor who has control over the means and methods of production, assumes principal financial and liability risk for the production enterprise and who is not regularly engaged in the business of manufacturing and selling food as registered with the City of Minneapolis pursuant to Minn. Statute Section 28A.15 or as recognized by Minnesota law.

Immediately consumable: Products made through the transformation of raw ingredients into a finished food product intended for consumption at the farmers market including, but not limited to, any foods sold heated or prepared on-site, beverages, and ice cream or services that are provided during the designated days and times of the market.

Market manager: The designated contact person responsible for the supervision, management, and control of the ~~public market~~ farmers market, mini market or produce and craft market or municipal market.

Market vendor: Any person or entity selling goods or services at a municipal, farmers, mini, or produce and craft market.

Mini market: A type of farmers market, limited to five (5) or fewer vendors, whose primary purpose is to improve access to locally grown agricultural products.

Plant vendor: A market vendor who resells live plants or non-food plant products purchased from retail stores, wholesalers or agricultural producers, or sells such plants or plant products grown and harvested on land that is not owned or leased by the vendor.

Produce and craft market: A recurring event, held outdoors or in another defined place, where on designated days and times, where market vendors consisting of agricultural producers, home processors, food market manufacturers, food market distributors, craft producers and vendors of services are organized for the purpose of selling their products directly to the public.

Public market: A defined place regulated by the city for the selling and buying of farm products and other market related products. The three (3) categories of recognized and licensed public markets shall include (1) farmers markets, (2) mini markets and (3) produce and craft markets.

Vendor of services: A market vendor who provides a service intended for immediate consumption including, but not limited to, chair massage and face painting.

Wild harvester: A market vendor who sells products that are grown and harvested on land that is not owned or leased by the harvester, and who is licensed according to Minnesota law or city ordinance.

Section 2. That Section 201.20 of the above-entitled ordinance be amended to read as follows:

201.20. License required. It shall be unlawful for any person to conduct or operate a ~~public market~~ farmers market, mini market or produce and craft market without obtaining a license therefor. The requirements applicable to such license categories shall be as established pursuant to this chapter.

Section 3. That Chapter 201 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 201.30 to read as follows:

201.30. Farmers market requirements. The holder of a farmers market license issued pursuant to this chapter shall comply with the following requirements:

- (1) A minimum of sixty (60) percent of market vendors at farmers markets held between the eligibility dates set by the Farmers Market Nutrition Program must be agricultural producers.
- (2) Farmers markets may contain a maximum combined total of forty (40) percent of the following market vendor types. A maximum of twenty-five (25) percent of total vendors may be non-food vendors, including craft producers and vendors of services.
 - a. Food market distributors, who when reselling produce may only sell produce that is not in season and not available at the market from agricultural producers.

- b. Home processors.
- c. Food market manufacturers.
- d. Craft producers.
- e. Vendors of services.
- f. Plant vendors.

(3) Farmers markets may not contain market vendors of the following types:

- a. Market vendors selling any entity's non-food product as an agent, franchisee, distributor, or licensee; or on consignment; or by any other third-party arrangement.
- b. Market vendors selling non-food items such as "vintage," "found," "reclaimed" or "recycled" objects, or any other objects not originally manufactured by the market vendor unless those objects have been substantially transformed by the market vendor into objects of dissimilar form or function from the original.

(4) A farmers market shall be either a subsidiary or project of a recognized Minnesota nonprofit organization or itself be incorporated or organized as a Minnesota nonprofit organization.

(5) Upon initial application, renewal application or request by city staff, farmers markets shall provide a set of bylaws, or in the case that the market is sponsored by another organization, a set of approved operating rules along with the bylaws of the sponsoring organization, that address the market's ownership, governance structure, decision-making process, the market vendors' relationship to the market organization and the means by which vendors' interests are represented and protected in the governance of the market.

(6) Farmers markets shall become authorized to accept FMNP (Farmers Market Nutrition Program), S/FMNP (Senior Farmers Market Nutrition Program), WIC-CVV (Women, Infants and Children Fruit and Vegetable Vouchers), and any other similar food assistance programs as designated by the director of regulatory services, not including SNAP-EBT (Supplemental Nutrition Assistance Program Electronic Benefits Transfer), within twelve (12) months of licensure.

(7) Farmers markets shall take place outdoors, with the exception of up to six (6) indoor events per year, as designated on the license application and

approved by the appropriate departments in advance of the indoor event or events.

Section 4. That Chapter 201 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 201.40 to read as follows:

201.40. Mini market requirements. The holder of a mini market license issued pursuant to this chapter shall comply with the following requirements:

- (1) Mini markets may contain a maximum of five (5) vendors. At least one (1) vendor must be an agricultural producer.
- (2) Mini markets may contain a maximum of one (1) food market distributor of only fresh fruits and vegetables, and only when those foods are not in season and not available at the market from agricultural producers, and a maximum of one (1) home processor selling foods intended for off-site consumption including pickles, jams, jellies, breads, etc.
- (3) Mini markets may not contain market vendors of the following types:
 - a. Food market manufacturers.
 - b. Vendors of foods intended for immediate consumption.
 - c. Craft producers.
 - d. Vendors of services.
 - e. Plant vendors.
- (4) Mini markets shall take place outdoors, with the exception of up to six (6) indoor events per year, as designated on the license application and approved by the appropriate departments in advance of the indoor event or events.

Section 5. That Chapter 201 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 201.50 to read as follows:

201.50. Produce and craft market requirements. The holder of a produce and craft market license issued pursuant to this chapter shall comply with the following requirements:

- (1) Produce and craft markets may contain market vendors selling self-produced goods, of any type, with a maximum of one (1) market vendor, or ten (10) percent of market vendors, whichever is greater, being food market distributors. Permitted vendors include:

- a. Agricultural producers.
- b. Food market distributors, who when reselling produce can only distribute when produce is not in season and not available at the market from agricultural producers.
- c. Home processors.
- d. Food market manufacturers.
- e. Craft producers.
- f. Vendors of services.
- g. Plant vendors.

(2) A minimum of thirty (30) percent of market vendors in produce and craft markets shall be food market vendors (agricultural producers, food market manufacturers, food market distributors, or home processors).

(3) Produce and craft markets shall not contain market vendors of the following types:

- a. Market vendors selling any entity's non-food product as an agent, franchisee, distributor, licensee; or on consignment; or by any other third-party arrangement.
- b. Market vendors selling non-food items such as "vintage," "found," "reclaimed" or "recycled" objects, or any other objects not originally manufactured by the market vendor unless those objects have been substantially transformed by the market vendor into objects of dissimilar form or function from the original.

(4) A produce and craft market shall be either a subsidiary or project of a recognized Minnesota nonprofit organization or itself be incorporated or organized as a Minnesota nonprofit organization.

(5) Upon initial application, renewal application or request by city staff, produce and craft markets shall provide a set of bylaws, or in the case that the market is sponsored by another organization, a set of approved operating rules along with the bylaws of the sponsoring organization, that address the market's ownership, governance structure, decision-making process, the market vendors' relationship to the market organization and the means by which market vendors' interests are represented and protected in the governance of the market.

(6) Produce and craft markets may take place outdoors or indoors.

Section 6. That Chapter 201 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 201.60 to read as follows:

201.60. Growers and home processors registration required. It shall be unlawful for any person to conduct or operate as a grower or home processor without registering as a vendor with the City of Minneapolis.

Section 7. That Section 201.30 of the above-entitled ordinance be amended, and renumbered as Section 201.70 to read as follows:

201.3070. License application. Each applicant for a license to operate a ~~public market~~ farmers market, mini market or produce and craft market shall file an application with the department of licenses and consumer services on forms provided by the department. The director of licenses and consumer services may require such information on the application as the director considers reasonable and necessary, including:

- (1) The full name, date of birth, and current residence address of the applicant.
- ~~(2) If the applicant is a partnership or firm, the name, place and date of birth, residence address of all partners or persons interested therein; if a corporation, the state of incorporation, the name, place and date of birth, of all persons named in the corporation, and shall state whether or not any person named in the application has ever been convicted of any crime.~~
- ~~(3)~~ (2) The proposed location of the ~~public market~~ farmers market, mini market or produce and craft market and the dates on which and the hours during which the market will be operated and hours of market operations.
- ~~(4)~~ (3) A scaled diagram showing the site plan and layout of the market stalls with an indication of the portion thereof intended to be used in the conduct of such business pursuant to the license.
- ~~(5)~~ (4) A list of all ~~food market manufacturers and food market distributors~~ market vendors at the ~~public market~~ farmers market, mini market or produce and craft market.
- ~~(6)~~ (5) The market manager's name, residence address, and telephone contact number.

Section 8. That Section 201.40 of the above-entitled ordinance be amended, and renumbered as Section 201.80 to read as follows:

201.480. License fee and when licenses expire. The licensee of a ~~public market~~ farmers market, mini market or produce and craft market shall pay an annual license fee as established in Appendix J, License Fee Schedule. Licenses issued under this chapter shall expire on April first of each year.

Section 9. That Section 201.50 of the above-entitled ordinance be amended, and renumbered as Section 201.85, to read as follows:

201.5085. License adverse action. An application or approved license may be denied, revoked, suspended, or not renewed, after notice and an opportunity for a hearing thereon, for any of the following reasons:

- (1) The application contains material omissions or false, fraudulent, or deceptive statements.
- (2) The premises ~~is~~ are operated in such a manner as constituting a public nuisance per this Code or Minnesota Statute 609.74 and 609.745.
- (3) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Code pertaining to building maintenance, fire prevention, and health or safety.

The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.

Section 10. That Section 201.60 of the above-entitled ordinance be amended, and renumbered as Section 201.90 to read as follows:

201.6090. Duties of market manager. Each licensed farmers market, mini market or produce and craft market shall designate a market manager who is responsible for the supervision, management and control of the licensed market. The market manager shall prepare rules and regulations relative to the care and conduct of said ~~public market~~ farmers market, mini market or produce and craft market and the placing of vehicles therein, preservation of order, prevention and removal of obstructions and nuisances, removal of vagrants and disorderly persons or persons found loitering therein, and the seizure of unhealthy, unwholesome or noxious substances. The market manager or designee is responsible for the operation of the ~~public market~~ farmers market, mini market or produce and craft market and must be present when the market is open to the public. The market manager shall:

- (1) Complete an environmental health plan review and pay the applicable plan review fee as indicated in Appendix J, License Fee Schedule.

- (2) Provide fully operational and stocked toilet facilities shall be available to all market customers and market vendors.
- (3) Provide sufficient potable water to meet the needs of each market vendor.
- (4) ~~Insure~~ Ensure that all market food ~~distributors and market food manufacturers are located on~~ vendors of immediately consumable foods are operating from a hard, smooth and easily cleanable surface.
- (5) ~~Insure~~ Ensure prompt removal of all trash and debris from the market and areas of public right of way within one hundred (100) feet of the ~~public market~~ farmers market, mini market or produce and craft market and in accordance with the Code of Ordinances.
- (6) Ensure that all food market manufacturers and food market distributors are licensed prior to vending. Food market manufacturer and food market distributor licenses must be renewed yearly.
- (7) Ensure all agricultural producers and home processors who may be exempt from licensure under Minn. Statute Section 28A.15 have received approval to operate at farmers, mini and produce and craft markets under such classification. Approval shall be granted by the director of environmental health or the director's designee. Such market vendors must renew their registration documentation annually.
- (8) Ensure a current list of all food market vendors selling or sampling food at the farmers, mini or produce and craft market is available to city staff to review at all times during which the market is open and operating.
- (9) Ensure that the market complies with the percentages stipulated to in this chapter for the number of food to non-food market vendors and/or agricultural producers to other market vendor types.
- (10) Ensure all farmers, mini and produce and craft markets and market vendors comply with the Minnesota Food Code (Minnesota Rules, Chapter 4626) and all applicable ordinances.

Section 11. That Chapter 201 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 201.95 to read as follows:

201.95. Market manager, records. The market manager must maintain a record, on site and easily accessible to health inspectors and other officials, of all market vendors who qualify for exemption under MN State Statute 28A.15, Subd. 9 & 10. Each individual vendor record must contain at minimum the following data: applicant name, home number, business name, phone number, mailing address, email, name of farm/garden, name of owner of the farm/garden, address of farm/garden,

telephone of farm/garden owner, approximate total acres of farm/garden, percent cultivated by vendor, list of farm products sold, Minneapolis location(s) where products are sold, and list vehicles used for delivery of farm products. This data must be available upon request by City staff.

Section 12. That Section 201.70 of the above-entitled ordinance be amended, and renumbered as Section 201.100 to read as follows:

201.70100. Health requirements. A food market distributor or food market manufacturer shall meet the following requirements in addition to any already noted in Chapters 186 and 188:

- (1) Completion of an environmental health plan review and pay the applicable plan review fee as indicated in Appendix J, License Fee Schedule.
- (2) Food market manufacturer shall complete an approved two (2) hour food handler safety class.

Section 13. That Section 201.80 of the above-entitled ordinance be amended, and renumbered as Section 201.110 to read as follows:

201.80110. Food sampling, demonstrations and surfaces. (a) Market food distributors and market food manufacturers vendors may provide food samples in accordance with the requirements of the Minnesota Food Code as referenced, including and Chapters 186 and 188 of this Code. Samples shall only be offered in individual portions and served only by the market vendor with individual paper napkins, soufflé cups or toothpicks. Samples may be distributed with tongs shall be dispensed with a clean and sanitized utensil or a person wearing disposable gloves.

(b) Market-sponsored food and cooking demonstrations that include distribution of samples to market patrons shall be permitted, provided that the market has a trained and certified food manager on site who shall be responsible for ensuring compliance with all requirements of the food code. The manager shall be responsible for maintaining a log of each cooking demonstration that contains information identifying the person conducting the demonstration, the products sampled, and the demonstrator's contact information including home or business address, telephone number and electronic mail address if applicable. Records of the required log shall be maintained on file for one (1) year and provided to city staff upon request.

(c) Non-food market vendors and agricultural producers shall be permitted to vend from an unpaved surface provided the market and market vendors comply with all requirements of the food code.

Section 14. That Chapter 201 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 201.120 to read as follows:

201.120. Insurance. A license for a farmers market, mini market and produce and craft market, any part of which is on a street, sidewalk or other public right-of-way, may be granted only after the applicant has filed with the division of licenses a liability insurance policy, or evidence thereof, which policy shall provide coverage in the amount of two hundred thousand dollars (\$200,000.00) for one claimant and six hundred thousand dollars (\$600,000.00) for any number of claimants, and shall specifically provide for the payment by the insurance company on behalf of the insureds of all which the insureds shall become obligated to pay by reason of liability, imposed upon them by law for injuries or damages to persons or properties arising out of the activities and operations of the insureds occurring on any public right-of-way pursuant to the provisions of this chapter. The applicant and the city shall be named as joint insureds on the liability policy.