

## **Article 2**

# **FARMERS' MARKET**

### **18-2-1: PUBLIC POLICY STATEMENT:**

It is in the public interest for the Village to allow producers of food to sell directly to the public as provided in 505 Illinois Compiled Statutes 70/1. Therefore, food products may be sold in a farmers' market in Oak Park as hereinafter provided without individual vendor licensing subject to the conditions hereinafter set forth. (Ord. 18-347, 4-16-2018)

### **18-2-2: DEFINITIONS:**

For the purpose of this article only, the following words and phrases shall have the meanings, and are hereby defined, as follows:

**CHEESE MAKER:** Any person in the five (5) state region of Illinois, Iowa, Wisconsin, Michigan and Indiana offering for sale at the farmers' market only cheese products that are made by such persons in an artisanal fashion primarily by hand, in small batches, with particular attention paid to the tradition of the cheese maker's art and using as little mechanization as possible to make the cheese. The cheese maker shall obtain its milk from their immediate locale/state, or any of the other four (4) states, and shall be licensed as an itinerant vendor by the Village.

**FARMERS' MARKET:** A designated area where, on designated days and times, growers and producers may sell directly to the public in accordance with Village regulations. The Village shall have the right to relocate or discontinue the market, to specify the days and times of its use, and to stipulate what goods may be sold.

**FISH:** The flesh of any numerous cold blooded aquatic vertebrates of the superclass Pisces, having a bony skeleton, jaws, fins, gills and normally a streamlined body.

**GROWER OR PRODUCER:** Any person from the five (5) state region of Illinois, Iowa, Wisconsin, Indiana and Michigan offering for sale articles for human consumption, including fruits, vegetables, edible grains, nuts and berries, apiary products, maple sugars and syrups, eggs, dairy products, bread products, baked goods, cheese, cider, prepackaged meat, poultry or fish that are frozen and that have been processed and properly labeled at a Federal or State licensed facility or nonedible articles such as cut or potted flowers as long as all such edible and nonedible articles have been raised and prepared by the grower or producer, members of their families, or by persons in their employ. All meat, poultry, fish, bread products/baked goods or any other processed food item offered for sale at the farmers' market shall conform with all applicable local, Village, State and Federal statutes, rules, regulations and codes. Sale of any article proscribed by the Director of Public Health shall be prohibited.

**LOCAL NOT-FOR-PROFIT ORGANIZATIONS:** Organizations which are located in Oak Park or which have most of their members in Oak Park, and which are incorporated as not for profit corporations or which are operated solely for educational, religious or charitable purposes.

**PROCESSORS OF BREAD PRODUCTS/BAKED GOODS:** Any person licensed by a governmental entity as a food retailer in a permanent location in which such person makes non-potentially

hazardous one hundred percent (100%) natural bread products and/or baked goods by hand and from scratch with no premade or premixed ingredients and without preservatives or other additives and from which he or she transports his or her bread products and/or baked goods directly to the farmers' market and whose business is more than fifty percent (50%) from bread products (not including other bakery goods) and is licensed as an itinerant vendor by the Village. Bread products must make up more than fifty percent (50%) of the product which the person has available for sale at the market.

PRODUCE: Farm products including, and limited to, apiary products, fruits and vegetables and products made from animals which are raised on the farm where the products are made. (Ord. 18-347, 4-16-2018)

### **18-2-3: MARKET MANAGER; APPOINTMENT, RESPONSIBILITY:**

A Market Manager, appointed by the Village Manager, shall review and approve or deny the application of any grower or producer, cheese maker, local not-for-profit organization, or processors of bread products/baked goods, issue permits and collect fees therefor, assign spaces to approved applicants, establish a system of bookkeeping for the market, maintain the market's cleanliness and shall be authorized to enforce this article and any rules and regulations promulgated pursuant to this article on behalf of the Village. An applicant's history of cooperation with the Market Manager and the Manager's designees and good faith effort to obey this article and any rules and regulations promulgated pursuant to this article as a permittee during prior market seasons shall be considered by the Market Manager when reviewing applications for approval or denial. The permit fee for any application which is denied shall be refunded by the Market Manager to the applicant in full as soon after the time of the denial as is reasonably possible. The Village Manager may designate such other person to perform the duties of the Market Manager and act on behalf of the Village as set forth in this article in lieu of an appointment of the Market Manager. (Ord. 18-347, 4-16-2018)

### **18-2-4: LOCATION OF MARKET; MARKET DATES AND HOURS:**

The farmers' market may be located at a place approved by the Village Board. The farmers' market shall be in operation every Saturday beginning on the second to the last Saturday in May through the last Saturday in October from seven o'clock (7:00) A.M. to one o'clock (1:00) P.M. with participant set-up beginning no earlier than six o'clock (6:00) A.M. (Ord. 18-347, 4-16-2018)

### **18-2-5: SPACE RENTAL FEE:**

Rental fees for farmers' market spaces shall be established each year by the Farmers' Market Commission with the approval of the Village Board.

A. Maximum Rental Space Allowed: A maximum of six (6) market spaces may be rented by any one permittee. Each market space is approximately ten (10) linear feet wide. The number of spaces to be rented to any one permittee shall be determined by the Market Manager, with consideration given to the market's mix of producers and growers and the market's needs at the time of application.

B. Permanent Space: A permanent market space on the same site at the market may be rented for the entire season at the fee set forth in this section. Permittees with permanent market spaces

shall be present at all market dates unless a permittee receives prior written approval from the Village to be absent.

C. Space For One Day: Space for one day may be rented at the discretion of the Village at the fee set forth in this section.

D. Market Space Permit Fee Tables:

Category	Rental Fee Per Space
Permanent space	\$260 .00
Space for one day	25 .00

E. Fees: Fees will be collected by the Market Manager. Season permits are not transferable and no refunds will be given. Participation in the market will not be permitted until the full fee has been received by the Market Manager. (Ord. 18-347, 4-16-2018)

### **18-2-6: APPLICATION:**

A. An applicant for a space to sell goods within the market may request an application from the Market Manager and shall submit to the Market Manager together with the required fee, said application in writing containing the following information:

1. Name and address of the applicant;
2. Product(s) for which a permit is sought;
3. A warrant that such product is fit for human consumption or use;
4. State Sales Tax permit number and satisfactory evidence of payment of the State Sales Tax, if any, for the preceding year. The Village shall be the sole determiner of whether the evidence presented is satisfactory;
5. Agreement to abide by this article and any rules and regulations promulgated pursuant to this article;
6. Additional information required by this article and any rules and regulations promulgated pursuant to this article;
7. Such other information as may be required by the Market Manager.

B. Only those products set forth in a permit application may be sold by a permittee at the market. (Ord. 18-347, 4-16-2018)

### **18-2-7: ASSIGNMENT OF SPACES:**

Except as otherwise provided in section [18-2-3](#) or [18-2-5](#) of this article, spaces shall be assigned to all applicants who leased permanent space in the market for the preceding market season who were in compliance with this article and any rules and regulations promulgated pursuant to this article before spaces may be assigned to new applicants. Fees shall be paid in advance of occupancy. For new applicants, priority will be given to applicants who are growers/producers of farm products. The Village has discretion to make operational changes to the market layout to accommodate special events or changes to market participation. Permittees' vehicle displays and employees must remain within their assigned space. (Ord. 18-347, 4-16-2018)

## **18-2-8: GENERAL REGULATIONS; CERTIFICATE OF PRODUCTION:**

### **A. No permittee shall:**

1. Sell any product other than produce of the permittee's farm, orchard, vineyard or garden except as follows:
  - a. A "local not-for-profit organization" shall be allowed a maximum of two (2) spaces per year for bake sale (additional spaces for bake sales may be allocated when space is available), provided that each use of a space for a bake sale shall constitute a "day" upon which goods are sold for purposes of licensing itinerant vendors in accordance with section [18-1-2](#) of this chapter.
  - b. A maximum of two (2) parking spaces per Saturday will be reserved for "food demonstrations". Food demonstration participants shall adhere to the requirements of this Code and any rules and regulations promulgated pursuant to this article and shall be exempt from the temporary food service fee event set forth in section [8-2-1](#) of this Code. Dates will be scheduled on a first submitted, first assigned basis and Oak Park businesses will receive preference for participation in the demonstrations.
  - c. A grower or producer may be permitted to sell the products of another grower or producer upon approval by the Market Manager. An affidavit signed by the permittee and grower shall be submitted by the permittee to the Village in conformity with this article and any rules and regulations promulgated pursuant to this article. Only products of another grower or producer not currently grown and/or produced by the permittee grower or producer, may be sold at the market and shall not make up more than twenty percent (20%) of the items available for sale by the permittee grower or producer. All products shall be clearly labeled with the name and address of the grower or producer or a placard shall be displayed at the market that provides the grower's or producer's name and address.
2. Sell or offer any article according to weight except in accordance with the established standards for weight of the State of Illinois.
3. Sell apiary products, maple sugars and syrups or any processed food unless properly labeled in accordance with State standards for labeling.
4. Sell or offer any unwholesome or spoiled articles.
5. Create or produce such loud, unnecessary, prolonged or unusual noise which disturbs the peace of others.
6. Sell or offer any article without first obtaining current Illinois Sales Tax number and producing evidence satisfactory to the Market Manager of the payment of the preceding year's Sales Tax or

fail to display prominently the Illinois Sales Tax number.

7. Transport or display food without adequate protection against contamination. Delivery trucks and other equipment used for transportation and display shall be kept clean at all times. Semi-trailer trucks are prohibited at the market.
  8. Allow any waste, garbage or any other refuse to remain on or near the space after the closing hour of any market day.
  9. Begin set-up of its market space prior to six o'clock (6:00) A.M.
  10. Leave its market space prior to one o'clock (1:00) P.M. without prior written approval from the Village.
  11. Locate in walkways in order to attract customers to its market space.
- B. No animals or pets shall be allowed in the market except for service animals accompanying the disabled.
- C. No motorized vehicles, skateboards or bicycles other than those authorized by the Village shall be allowed in the market, except for motorized wheelchairs.
- D. All approved dairy products and frozen meat, poultry and fish offered for sale must be prepared and packaged under conditions meeting the requirements of Federal, State and local laws, packaged individually, stored and displayed at a temperature of forty one degrees Fahrenheit (41°F) or below in the case of dairy products and frozen meat, poultry and fish shall be kept frozen at all times in facilities that meet the requirements of State and local rules and regulations, and served directly to the customer in the unopened container in which it was packaged.
- E. Permittees and growers and producers who sell their produce through the permittees, as authorized under subsection [18-2-8A](#) of this section (hereinafter referred to as "affidavit growers") shall cooperate fully and in good faith with the Market Manager in response to requests by the Market Manager to inspect the land used by the permittee or affidavit grower for the production of products sold at the farmers' market. It shall be the responsibility of the permittee or affidavit grower to provide the Market Manager or the Manager's designee with a timely opportunity to inspect and verify that the products sold by the permittee at the market is grown and produced by the permittee or affidavit grower on the land or processing facilities designated in the permittee's application or affidavit.
- F. The permittee shall at all times abide by the regulations of the farmers' market.
1. Village staff shall have the right to conduct an inspection of any permittee's market space.
  2. Participants shall conduct themselves in a manner that is courteous to other participants, market staff and the public.
  3. Smoking is prohibited at the market.
  4. Prices must be either displayed with each item or a list of all prices must be posted.
  5. Price fixing among permittees is not allowed.

6. Permittees shall secure their tents with weights of sufficient size to prevent their tents moving due to high winds or other severe weather events.
7. All produce to be sold at the market shall be sold by legal weights and measures. Permittees are responsible for having their scales certified for compliance annually. The use of non-certified scales that do not conform to the State of Illinois regulations is prohibited. At the Market Manager's discretion, scale checks shall be performed. (Ord. 18-347, 4-16-2018)

### **18-2-9: PENALTIES FOR VIOLATION:**

Any person, firm, corporation, partnership or association violating any of the provisions of this article including the regulations adopted hereunder, shall be subject to a penalty pursuant to section [1-1-5](#) of this Code. Each day of violation shall be deemed a separate offense. The Market Manager may, in the Manager's discretion, suspend or revoke the license or permit of any individual for a violation of this article or any rule and regulation promulgated pursuant to this article pursuant to the provisions of section [18-2-10](#) of this article. (Ord. 18-347, 4-16-2018)

### **18-2-10: NOTICE, REVIEW AND HEARING; REQUIREMENTS:**

The Market Manager shall provide any permittee with written notice of a suspension or revocation of a permit. The notice shall state the reason for the suspension or revocation and shall set forth the time, manner and location for the filing of a request for review by the permittee.

Any permittee may request a review of the Market Manager's action by the Farmers' Market Commission within three (3) working days of the service of such notice or within five (5) working days of the mailing date of such notice of said action.

The request for review shall state the name, address and permit number of the permittee and shall contain a brief statement by the permittee relating the reason or reasons why the proposed suspension or revocation should not be imposed. The request for review shall be signed and dated by the permittee and must be received by the Market Manager within three (3) working days of receipt of the Market Manager's notice or within five (5) days of the mailing of the notice.

A permittee may only request a review of actions which are punitive in nature as to the permittee. Decisions of the Market Manager concerning the general operation of the market may not be appealed, even though such decisions may impact on individual permittees. There shall be no refund of any portion of the permit fee if a permit has been suspended or revoked for cause.

Any suspension or revocation of a farmers' market permit imposed by the Market Manager against a permittee for which the permittee has requested a review shall be postponed until completion of the review by the Farmers' Market Commission. A hearing shall be held on the request for review at the next regularly scheduled meeting of the Farmers' Market Commission in compliance with the Open Meetings Act, 5 Illinois Compiled Statutes 120/1 et seq.

The Market Manager and the Farmers' Market Commission shall receive and consider such relevant information as is available from the Market Manager and presented by the permittee. Within five (5) days of the completion of the review, the Farmers' Market Commission shall provide the Market Manager with a written recommendation stating the commission's opinion as to: a) whether or not the permittee has violated any farmers' market rule or regulation as set forth or adopted by reference in this article and b) if a violation is found to have occurred, the recommended penalty therefor. The Market Manager shall render written findings of fact and a decision within ten (10) days following the

conclusion of the review. Once the written findings and decision have been prepared, the Market Manager shall cause a copy of the recommendation of the commission and the findings and decision of the Market Manager to be delivered to the permittee requesting the review and the full commission, either in person or by regular mail.

The permittee may appeal the decision of the Market Manager by filing with the Village Manager within three (3) days after the receipt of the Market Manager's decision, or, if the decision is delivered by mail, within five (5) days of the mailing date of said decision, specific written exceptions to the findings of fact and decision of the Market Manager. The Village Manager shall immediately provide the Market Manager with a copy of the written exceptions filed with the Village Manager by the permittee. The Village Manager shall establish a hearing date not less than ten (10) nor more than twenty (20) days from the date of receipt of the written exceptions and shall immediately inform the parties of the date by letter. The Market Manager shall have seven (7) days from the date of receipt of the written exceptions to file a written response to the exceptions with the Village Manager, along with a copy of the written findings of fact and decision and all supporting documentation presented at the original review. The Market Manager shall also cause a copy of the response to be delivered to the appealing permittee, either in person or by regular and certified mail, at the time of filing the response with the Village Manager.

The Village Manager shall preside over the hearing and shall provide both parties with an opportunity to orally state their positions. Evidence which was not presented at the review conducted by the Market Manager, and was readily ascertainable prior to the review, will not be received by the Village Manager in hearing the appeal of the decision of the Market Manager.

The Village Manager shall render a decision affirming, reversing or modifying the decision of the Market Manager within seven (7) days of the hearing and shall serve the decision by either personal delivery or regular mail. In rendering the decision, the Village Manager shall consider the arguments of the parties, the written findings of fact and decision, the documentation presented at the original hearing, the appealing party's written exceptions to the decision and the Market Manager's written response thereto. The decision of the Village Manager shall be final. The Village Manager may delay the imposition of any suspension or revocation which has been appealed hereunder until the completion of the appeal process in the Manager's discretion. (Ord. 18-347, 4-16-2018)

## **18-2-11: CREATION OF FARMERS' MARKET COMMISSION:**

- A. Members: There is hereby created a Farmers' Market Commission composed of eleven (11) members including a Chairperson, each of whom shall serve without compensation.
- B. Appointment And Term Of Office: The Chairperson and ten (10) members of the commission shall be appointed by the President, with the advice and consent of the Board of Trustees. Such appointment shall be on a staggered basis for a term of three (3) years, with the Chairperson and three (3) members appointed during one year, three (3) members appointed the following year and four (4) members appointed in the following year. Commissioners shall be eligible for reappointment. Any vacancy shall be filled in like manner to an original appointment and shall be for the balance of the term of the vacated office. Any member may be removed by the President for failure to regularly attend meetings or for inattention to duties. All Commissioners shall be residents of the Village. Each Commissioner shall have one vote.
- C. Ex Officio Members Of The Commission: In addition to the eleven (11) members of the commission appointed hereunder, the Public Health Director or a member of that staff designated by the

Director shall be an ex officio member of the commission.

D. Powers And Duties: It shall be the duty of the Farmers' Market Commission to review the activities of the market and make recommendations to the Village Board for any changes in operating policies or regulations necessary to improve the operations of the market. Further, the commission will review permit suspensions or revocations for which the aggrieved permittee has submitted a timely request for review. The Market Commission shall also, at its discretion, recruit owners and producers and publicize the market. (Ord. 18-347, 4-16-2018)