

Substitute Bill No. 1 For

BILL NO. 17, 2012

ORDINANCE NO. , 2012

Introduced by Councilmembers O'Mara, Erby, Wasinger  
& Dolan

**AN ORDINANCE**

AMENDING CHAPTER 807, TITLE VIII SLCRO 1974 AS AMENDED, "THE FOOD CODE," BY REPEALING AND RE-ENACTING SECTION 807.030 AND BY ADDING AND ENACTING FIVE NEW SECTIONS PERTAINING TO FARMERS' MARKETS.

BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 807, Title VIII SLCRO 1974 as amended,

"The Food Code," is hereby amended by repealing and re-enacting

Section 807.030, which shall read as follows:

**807.030 Amendments to Chapter 1 of The Food Code, 2005, -**  
Chapter 1 "Purpose and Definitions" of the Food Code, 2005 is adopted as part of the Food Code of St. Louis County, except that the following defined terms are added to Part 1-2 "Definitions," or substituted for a definition in the Food Code, 2005, as the case may be.

"**COMMISSARY**" means a catering establishment, restaurant, or any other place in which FOOD, containers, or supplies are kept, handled, prepared, packaged or stored for subsequent transport, sale, or service elsewhere.

"**DAY CARE FACILITY**" means a childcare center, child day care home, day nursery, or nursery school as defined by the County Zoning Ordinance, Chapter 1003 SLCRO 1974 as amended.

"**DEPARTMENT**" means the St. Louis County Department of Health. Throughout this Code the term may be used interchangeably with "REGULATORY AUTHORITY".

"**DIRECTOR**" means the DIRECTOR of the St. Louis County Department of Health and includes duly authorized representatives.

"**FARMER**" means a person who grows or processes any article of farm produce or farm product on such person's own farm.

"**FARMERS' MARKET**" means a location, which may include a building or structure, used for the direct sale of farm produce, farm products and/or other FOOD products to individual CONSUMERS.

"**FARMERS' MARKET VENDOR**" means any person, not a Missouri FARMER, selling or providing at a FARMERS' MARKET: (1) samples of raw farm produce or farm product; (2) uncooked

POTENTIALLY HAZARDOUS FOOD to individual CONSUMERS; or (3) FOOD that is not prepacked for individual consumers, or samples thereof.

**"FOOD ESTABLISHMENT"**

- (1) **"FOOD ESTABLISHMENT"** means an operation that stores, prepares, packages, serves, vends, or otherwise provides FOOD for human consumption:
- (a) Such as a RESTAURANT; satellite or catered feeding location; catering operation if the operation provides FOOD directly to a CONSUMER or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or FOOD bank; and
  - (b) That relinquishes possession of FOOD to a CONSUMER directly, or indirectly through a delivery service such as home delivery of grocery orders or FOOD ESTABLISHMENT takeout orders, or delivery service that is provided by common carriers.
- (2) **"FOOD ESTABLISHMENT"** includes:
- (a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the Department; and
  - (b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the FOOD.
- (3) **"FOOD ESTABLISHMENT"** does not include:
- (a) An establishment that offers only prepackaged FOODS that are not potentially hazardous;
  - (b) A produce stand that only offers whole, uncut fresh fruits and vegetables;
  - (c) A FOOD processing plant;
  - (d) A kitchen in a private home if only FOOD that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by LAW and if the CONSUMER is informed by a clearly visible placard at the sales or service location that the FOOD is prepared in a kitchen that is not subject to regulation and inspection by the Department;
  - (e) An area where FOOD that is prepared as specified in Subparagraph (d) of this definition is sold or offered for human consumption;
  - (f) A kitchen in a private home, such as a small family day-care provider, or a bed-and-breakfast operation that prepares and offers FOOD to guests if the home is owner occupied, the number of available guest bedrooms does

not exceed 5, breakfast is the only meal offered, the number of guests served does not exceed 18, and the FOOD Consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the FOOD is prepared in a kitchen that is not regulated and inspected by the regulatory authority;

(g) A private home that receives catered or home-delivered FOOD.

**[FOOD SAFETY SCHOOL.**

(a) **"FOOD SAFETY SCHOOL"** means a program operated or approved by the REGULATORY AUTHORITY that requires the certified FOOD protection manager or designated employee of a FOOD ESTABLISHMENT to engage in a two-hour training following provisions of a FOOD safety program; it does not refer to or fulfill any part of the ACCREDITED PROGRAM as outlined in The CODE 2-201.20.

**"MARKET MANAGER"** means the person responsible for operational activities with regard to a FARMERS' MARKET, as identified in the PERMIT application or supplement thereto.

**"MOBILE FOOD ESTABLISHMENT"** means a FOOD ESTABLISHMENT selling, offering for sale, or dispensing FOOD for human consumption from any vehicle or other temporary or itinerant station. MOBILE FOOD ESTABLISHMENTS are classified as follows:

(a) **"MOBILE FOOD UNIT"** means and refers to an enclosed vehicle-mounted FOOD ESTABLISHMENT designed to be readily movable from which FOOD is composed, compounded, processed, or prepared and from which FOOD is vended, sold or given away.

(b) **"PUSHCART"** means and refers to a non-self-propelled vehicle designed to be readily movable which is limited to the serving of non-potentially hazardous FOOD maintained at proper temperatures or limited to the assembling and serving of frankfurters. Unpackaged non-potentially hazardous FOOD items approved for sale from a PUSHCART shall be limited to popcorn, nuts, produce, pretzels and similar bakery products, shaved ice, and snow cones.

(c) **"TEMPORARY FOOD ESTABLISHMENT"** means and refers to a FOOD ESTABLISHMENT that operates in conjunction with a single event or celebration for not more than fourteen (14) consecutive days within any permit year provided it is the same permittee, at the same location and the same event.

(d) **"SEASONAL FOOD ESTABLISHMENT"** means and refers to a FOOD ESTABLISHMENT that operates for fifteen (15) to one hundred twenty (120) days within any permit year. At the termination of the event, the seasonal establishment shall be removed from the premises.

(e) **"FARMERS' MARKET FOOD ESTABLISHMENT"** means and refers to a FOOD ESTABLISHMENT that provides PREPARED FOOD at a

FARMERS' MARKET, meaning FOOD that is ready to eat after having been washed, cut, chopped, blended, mixed, combined with other ingredients, heated and/or cooled on site. ]

SECTION 2. Chapter 807, Title VIII SLICRO 1974 as amended,

"The Food Code," is hereby amended by adding and enacting five new sections, which shall read as follows:

**807.122 Farmers' Markets-General Provisions.** 1. No FARMERS' MARKET may operate without a PERMIT from the DEPARTMENT, the application for which shall identify and be signed by the proposed MARKET MANAGER and shall list the name and location of the proposed FARMERS MARKET and shall affirm that the FARMERS' MARKET will comply with this Code. A supplemental application shall be filed in the event of a new MARKET MANAGER, identifying and signed by the new MARKET MANAGER. A FARMERS' MARKET PERMIT shall permit operation of a FARMERS' MARKET [for not more than 120 days in a calendar year, except that a FARMER selling or providing raw farm produce or farm product, or samples thereof, shall be permitted without such limitation.]

2. The following provisions of this Code, and no others, shall apply to the administration of FARMERS' MARKET and FARMERS' MARKET VENDOR PERMITS:

- 8-103.11 Appeals and variances
- 8-103.11.1 Procedure on appeals
- 8-304.40 Suspension of permits
- 8-304.60 Revocation of permits
- 8-304.70 Notice for hearing
- 8-304.80 Hearings
- 8-402.11 Inspections allowed
- 8-402.12 Examination and condemnation of FOOD

3. No person may operate a FARMERS' MARKET FOOD ESTABLISHMENT without a PERMIT issued in accordance with Sec. 8-302.14 of this Code, for which the following fees shall be charged:

- 1) \$75.00 for the first FARMERS' MARKET location;
- 2) \$50.00 for a second FARMERS' MARKET location;
- 3) \$50.00 for a third FARMERS' MARKET location;
- 4) \$193.00 for four (4) or more FARMERS' MARKET locations with concurrent operating dates.

4. [No person may operate or act as a FARMERS' MARKET VENDOR without a PERMIT issued in accordance with Sec. 8-302.14 of this Code, for which the following fees shall be charged:

- 1) \$50.00 for the first FARMERS' MARKET location;
- 2) \$30.00 for a second FARMERS' MARKET location;
- 3) \$30.00 for a third FARMERS' MARKET location;
- 4) \$30.00 for the fourth FARMERS' MARKET location
- 5) \$30.00 for the fifth FARMERS' MARKET location
- 6) \$193.00 for six (6) or more FARMERS' MARKET locations with concurrent operating dates.]

PERMITS are specific to the owner/operator and the FARMERS' MARKET location for which the PERMIT is issued. However, only one (1) PERMIT is needed to operate at multiple FARMERS' MARKETS with non-concurrent operating dates.

4. In addition to complying with all provisions set out in Sections 807.120, 807.120.1 and 807.120.2 relating to TEMPORARY FOOD ESTABLISHMENTS (except for those provisions relating to fees), the following provisions of this Code shall apply to FARMERS' MARKET FOOD ESTABLISHMENTS:

- 8-103.11 Appeals and variances
- 8-103.11.1 Procedure on appeals
- 8-302.13 Qualification and responsibilities of applicants
- 8-302.14 Contents of the application
- 8-303.30 Denial of application for permit; notice
- 8-304.11 Responsibilities of the permit holder
- 8-304.20 Permits not transferable
- 8-304.40 Suspension of permits
- 8-304.60 Revocation of permits
- 8-304.70 Notice for hearing
- 8-304.80 Hearings
- 8-401.10 Establishing inspection interval
- 8-402.11 Inspections allowed
- 8-402.12 Examination and condemnation of FOOD
- 8-405-11 Timely correction

**807.123 Farmers' Markets-Duties of Market Manager.** 1. Every MARKET MANAGER shall remain responsible for compliance with this Code unless and until he or she notifies DEPARTMENT in writing that he or she is no longer serving in that capacity. Every MARKET MANAGER shall insure the occurrence of each of the following, and failure to do so shall be unlawful and a violation of this Code:

- (a) Every FARMERS' MARKET shall have a current, valid permit during all periods of operation, which permit shall be available on the premises for review by members of the public and/or DEPARTMENT upon request;
- (b) The MARKET MANAGER or his or her designee shall be present at the FARMERS' MARKET during all hours of operation or in absence of an on-site representative provide emergency contact information to the DEPARTMENT;
- (c) The MARKET MANAGER shall maintain a list of all FARMERS' MARKET VENDORS and Missouri FARMERS at the FARMERS MARKET, which list shall be made available to members of the public and/or DEPARTMENT upon request;
- (d) DRINKING WATER shall be available for hand-washing and sanitizing as approved by the DEPARTMENT.
- (e) Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the DEPARTMENT.
- (f) Approved toilet and hand-washing facilities shall be available to the FARMERS' MARKET in accordance with the law or as approved by the DEPARTMENT.
- (g) No live animals, birds or fowl shall be kept or allowed within twenty feet of any area where FOOD is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service animals when used in the manner specified in Section 2-403.11 of the Food Code. All other animals are prohibited as set forth in Section

6-501.115 of the Food Code.

(h) All garbage and REFUSE shall be stored and disposed of in a manner approved by the DEPARTMENT.

**807.124 Farmers' Markets-Duties of Vendors.** Every FARMERS' MARKET VENDOR shall comply with the following requirements, and failure to do so shall be unlawful and a violation of this Code:

(a) Possess and display a valid PERMIT issued by the DEPARTMENT to operate as a FARMERS' MARKET VENDOR, and operate only at a validly permitted FARMERS' MARKET;

(b) Insure that all prepared or POTENTIALLY HAZARDOUS FOOD is stored at least six inches off the floor or ground or under any other conditions that are approved by the DEPARTMENT for any common storage areas;

(c) Insure that prepared or POTENTIALLY HAZARDOUS FOOD shall be protected from contamination by a source not specified;

(d) Post a legible and clearly visible sign at its FARMERS' MARKET location stating its business name or owners, and its address and telephone number. Lettering may not be less than one inch in height and shall be of a color contrasting with the surface on which it is posted.

(e) Insure that FOOD-related and utensil-related equipment used in conjunction with the operation of a FARMERS' MARKET VENDOR are approved by the DEPARTMENT;

(f) During periods of operation, supplies and non-potentially hazardous FOOD may be stored adjacent to the location of the FARMERS' MARKET VENDOR operation or in a DEPARTMENT-approved nearby temporary storage unit.

(g) Insure that all FOOD preparation of raw farm produce or farm product is conducted on-site at the FARMERS' MARKET or other FOOD ESTABLISHMENT approved by the applicable REGULATORY AUTHORITY, and that no food is cooked on site.

(h) All raw animal meat products shall be shipped, sold and/or provided frozen.



(i) A VENDOR selling or otherwise providing EGGS must possess a Missouri Egg License and be in compliance with Code of State Regulations 2 CSR 90-36.010 and 2 CSR 90-36.020.

**807.125 Farmers' Markets-Duties of Farmers' Market Food Establishments.** Every person operating a FARMERS' MARKET FOOD ESTABLISHMENT shall comply with the following requirements, and failure to do so shall be a violation of this Code:

(a) Possess a valid PERMIT issued by the DEPARTMENT to operate a FARMERS' MARKET FOOD ESTABLISHMENT, and operate only at a validly permitted FARMERS' MARKET;

(b) All FOOD shall be stored at least six inches off the floor or ground or under any other conditions that are approved by the DEPARTMENT for any common storage areas;

*Approved by  
Department of  
Regulatory  
Services*

- (c) No home-canned or home-processed FOODS shall be permitted within a FARMERS' MARKET FOOD ESTABLISHMENT;
- (d) Grills and barbecues or other approved cooking equipment shall be separated from public access by using ropes or other approved methods to prevent contamination of the FOOD and injury to the public;
- (e) The name of the FARMERS' MARKET FOOD ESTABLISHMENT, city, state, zip code and the name of its PERMIT HOLDER shall be posted in writing at the site of the FARMERS' MARKET FOOD ESTABLISHMENT, shall be written legibly and be clearly visible to the public. Lettering may not be less than one inch in height and shall be of a color contrasting with the surface on which it is posted;
- (f) All FOOD preparation shall be conducted on-site at the FARMERS' MARKET or other FOOD ESTABLISHMENT approved by the applicable REGULATORY AUTHORITY;
- (g) FARMERS' MARKET FOOD ESTABLISHMENTS shall be equipped with overhead protection for all FOOD preparation, FOOD storage, and ware-washing areas. Overhead protection shall be made of wood, canvas, or other materials that protect the facility from precipitation, dust, bird and insect droppings, and other contaminants;
- (h) FOOD-related and utensil-related equipment used in conjunction with a FARMERS' MARKET FOOD ESTABLISHMENT shall be approved by the DEPARTMENT;
- (i) Mechanical cold and hot holding EQUIPMENT shall be provided to insure proper temperature control during transportation, storage, and operation of the FARMERS' MARKET FOOD ESTABLISHMENT;
- (j) EQUIPMENT shall be located and installed to prevent FOOD contamination;
- (k) During periods of operation, supplies and non-potentially hazardous FOOD may be stored adjacent to the FARMERS' MARKET FOOD ESTABLISHMENT or in a DEPARTMENT-approved nearby temporary storage unit.
- (l) During periods of non-operation, FOOD at a FARMERS' MARKET FOOD ESTABLISHMENT shall be stored within a permanent FOOD facility or other facility approved by the DEPARTMENT, or in approved FOOD compartments where the FOOD is protected at all times from contamination, exposure to the elements, ingress of rodents and other vermin, and temperature abuse.
- Permitted Factory Requirements* 
- 807.126 Farmers' Markets-Duties of Missouri Farmers.** Each Missouri FARMER who sells or provides samples of POTENTIALLY HAZARDOUS FOOD or samples of non-prepared food to the public at a FARMERS' MARKET shall comply with the following requirements, and failure to do so shall be a violation of this Code:
- (a) Be registered as a Missouri FARMER with the DEPARTMENT and operate only at a validly permitted FARMERS' MARKET;
- (b) A Missouri FARMER shall not sell or sample  cooked FOOD

unless a FARMERS' MARKET FOOD ESTABLISHMENT permit has been obtained. A Missouri FARMER who prepares FOOD at a FARMERS' MARKET for selling or sampling, such as by chopping, cutting or slicing, but who does not cook it, shall not be considered a FARMERS' MARKET FOOD ESTABLISHMENT and is not required to obtain a permit to operate a FARMERS' MARKET FOOD ESTABLISHMENT.

(c) Insure that all POTENTIALLY HAZARDOUS FOOD is stored at least six inches off the floor or ground or under any other conditions that are approved by the DEPARTMENT for any common storage areas;

(d) Insure that POTENTIALLY HAZARDOUS FOOD shall be protected from contamination by a source not specified;

(e) Post a sign at its FARMERS' MARKET location stating its business name, and its address and telephone number. Such information shall be posted in writing, shall be written legibly and be clearly visible to the public. Lettering may not be less than one inch in height and shall be of a color contrasting with the surface on which it is posted.

(f) Insure that FOOD-related and utensil-related equipment used in conjunction with the operation of a FARMER at a FARMERS MARKET are approved by the DEPARTMENT;

(g) All raw animal meat products shall be shipped, sold and/or provided frozen;

(h) A Missouri FARMER selling or otherwise providing EGGS must possess a Missouri Egg License and be in compliance with Code of State Regulations 2 CSR 90-36.010 and 2 CSR 90-36.020.

SECTION 3. Every person, firm or corporation found guilty of violating any provision of Section 2 of this ordinance shall be punished as provided in Section 807.135 SLCRO 1974 as amended.

ADOPTED: \_\_\_\_\_

CHAIR, COUNTY COUNCIL

APPROVED: \_\_\_\_\_

COUNTY EXECUTIVE

ATTEST: \_\_\_\_\_

ADMINISTRATIVE DIRECTOR

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
COUNTY COUNSELOR