

City of Philadelphia



(Bill No. 050384)

AN ORDINANCE

Enacting a new Section 9-213 of The Philadelphia Code, entitled “Farmers’ Markets,” and amending Section 9-203 of The Philadelphia Code, entitled “Street Vendors,” Section 9-204 of The Philadelphia Code, entitled “Sidewalk Vendors in Center City,” and Section 9-205 of The Philadelphia Code, entitled “Sidewalk Sales,” to provide for the licensing and regulation of Farmers’ Markets throughout the City of Philadelphia, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. A new Section 9-213 of The Philadelphia Code, entitled “Farmers’ Markets,” is hereby enacted, to read as follows:

§9-213. *Farmers’ Markets.*

(1) *Definitions.*

(a) *Blockface.* One Side of a segment of a street that does not extend beyond any intersection with another street, or portion thereof;

(b) *Farmers’ Market.* An area where on designated days and times, growers and producers of horticultural and agricultural products sell those products directly to the public.

(c) *Farmers’ Market Entity.* A person who organizes, manages and operates a farmers’ market.

(d) *Farmers’ Market Vendor.* Any person who exhibits, displays, offers for sale or sells any horticultural or agricultural product, baked good or handmade product from any stand while at a Farmers’ Market;

(e) *Sidewalk.* All that area legally open to public use as a pedestrian public way between the curb line and the legal house line of the abutting property;

(f) *Stand.* One or more showcases, tables, benches, racks, handcarts, pushcarts, canopies that do not require permits under the Fire Code, stalls or any other fixtures, devices or things which are used by a Farmers’ Market vendor to display, exhibit, carry, transport, store, offer for sale, temporarily shelter, or sell any food, beverages, goods, wares or merchandise upon the sidewalk.

City of Philadelphia

BILL NO. 050384 continued

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(2) *Licenses.*

(a) *It shall be unlawful for any person to operate a Farmers' Market without first obtaining a license pursuant to this subsection from the Department. Such Farmers' Market license shall show the name and address of the Farmers' Market entity, the blockfaces or street segments on which the farmers' market is permitted, the time period or periods for which the Farmers' Market is licensed, the number of farmers' stands, the amount of the license fee, the date of issuance and the license number. Each license shall also show the expiration date of the license and the license's plate number as issued by the Department.*

(b) *Every license issued under this Section shall be issued as of the first day of January of the then current calendar year and shall be effective, unless suspended or revoked, until the thirty-first (31st) day of December of the same calendar year. Licenses may be renewed in accordance with this Section for similar one (1) year periods.*

(c) *All licenses issued under this Section shall permit the licensee to conduct licensed operations only on the blockfaces and/or street segments designated in the license. A Farmers' Market entity may conduct licensed operations from any location on the designated blockface.*

(d) *Every license shall be non-assignable and non-transferable.*

(3) *License Issuance.*

One license shall be issued by the Department to any Farmers' Market entity which is in compliance with the following provisions:

(a) *The Farmers' Market entity furnishes the following information to the Department on an application form provided to applicant by the Department:*

(.1) *proof of identity and address, together with two (2) photographs of the principal owner or officer of the Farmers' Market entity, not less than two (2) inches square, nor more than three (3) inches square;*

(.2) *the applicant's selection of one or more approved locations, as provided in §9-213(7), the number of Farmers' Market vendors to be present at each approved location and the dates and times during which the applicant wishes to operate a Farmers' Market in each location;*

City of Philadelphia

BILL NO. 050384 continued

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(.3) *the applicant's current and valid Philadelphia business privilege license number, unless the Farmers' Market entity is organized as a not for profit organization.*

(b) *The applicant pays a non-refundable application fee of fifty (\$50) dollars; and*

(c) *The applicant, after being notified by the Department that his application has been provisionally approved:*

(.1) *agrees to approved locations selected pursuant to §9-213(7);*

(.2) *pays the annual license fee as follows:*

(i) *for one to three Farmers' Market locations – three hundred (\$300) dollars;*

(ii) *for four to six Farmers' Market locations – five hundred (\$500) dollars;*

(iii) *for seven to nine Farmers' Market locations – seven hundred (\$700) dollars;*

(iv) *for ten to twelve Farmers' Market locations - nine hundred (\$900) dollars;*

(v) *for thirteen to fifteen Farmers' Market locations – one thousand one hundred (\$1,100) dollars;*

(vi) *for sixteen or more Farmers' Market locations – the fee set forth in 9-213(3)(c)(.2)(v) shall be increased by \$200 for every increment of three (3) locations over and above fifteen locations.*

(.3) *sends at least one qualified representative to attend (in the initial year of licensure only) an orientation session conducted by the Department at which the applicant will receive copies of this Section and applicable regulations, and at which those provisions will be explained.*

(4) *Identification and License Plates.*

(a) *Each Farmers' Market entity shall keep a copy of the license at the location of the Farmers' Market and shall distribute copies of its Farmers' Market license to each of the Farmers' Market vendors. A copy of the license must be carried on*

City of Philadelphia

BILL NO. 050384 continued

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or about the person of each Farmers' Market vendor while engaged in the business of selling products during the Farmers' Market. Licenses shall be used only by the entity to whom they were issued and by any Farmers' Market vendor selling products as part of that entity's Farmers' Market and may not under any circumstances be transferred to any other person.

(b) In addition to the license, the Department shall issue license plates in a quantity equal to the number of farmers' stands listed on the license, so that one license plate can be distributed by the farmers' market entity to each Farmers' Market vendor selling products as part of the Farmers' Market. The license plates shall bear the words "Farmers' Market Vendor", the year for which issued, and the number of the license plate, which shall correspond to the number that appears on the license issued to the Farmers' Market entity. The words "Farmers' Market Vendor" and the license plate shall be of uniform size and plainly discernable. The license plate shall be attached to the stand of each Farmers' Market vendor in a place that is clearly visible to the public. The color of the license plate shall be changed at the beginning of each calendar year. License plates shall be used only by the farmers' market entity to whom they were issued and by any Farmers' Market vendor selling products as part of that entity's Farmers' Market and may not under any circumstances be transferred to any other person.

(5) License Renewal; Change of License Information; Change in Category of Goods Sold.

(a) The Department shall send to each Farmers' Market entity licensed under this Section, at a time reasonably in advance of the end of each license year, a renewal license. If the licensee returns the renewal license to the Department, together with payment of the annual renewal fee, as set forth in subsection 9-213(3)(c)(.2) and a statement of the changes, if any, in the license information required by subsection 9-213(3), the Department shall then validate the renewal license and return it, together with new license plates, to the licensee, who shall thereby be licensed for the succeeding license year. If the licensee fails to return the renewal license to the Department within thirty (30) days of the date the Department sent it to the licensee, then the licensee shall be deemed to have failed to apply for renewal, the license shall not be renewed, and the licensee's blockface location shall be made available to any other Farmers' Market entity applicant who seeks to operate a Farmers' Market at that location.

(b) Licensees must, during the license year, notify the Department in writing of any change in the information required by subsection 9-213(3), within thirty (30) days of such change.

(6) Trash Removal and Clean Up: Sanitation.

City of Philadelphia

BILL NO. 050384 continued

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(a) *The Farmers' Market entity and Farmers' Market vendors are responsible for maintaining the sidewalk within fifteen feet of their stands clean of all trash generated by their vending operations, and for washing the sidewalk in the area occupied by their stands whenever necessary to avoid the danger of slip and falls from spilled produce and goods.*

(b) *The Farmers' Market entity and Farmers' Market vendors must take with them at the end of each day all trash, litter, garbage and refuse generated by their vending operations. No licensee may place or deposit any trash, litter, garbage or refuse generated by his licensed operations on the sidewalk, in any public receptacle, or on any private property without the express permission of the property owner.*

(7) *Permissible Locations.*

Farmers' Markets at the following locations shall be permitted:

(a) *The sidewalk of the south side of Walnut Street abutting Rittenhouse Square.*

(b) *East Passyunk Avenue between South Street and Bainbridge Street.*

(c) *The sidewalk of Midvale Avenue from Kelly Drive to the SEPTA Regional Rail overpass, provided that this location shall no longer be a permissible location after December 31, 2007.*

(d) *The sidewalk of the south side of the 3700 block of Powelton Avenue and the sidewalk of the south side of the 3600 block of Lancaster Avenue.*

(e) *The sidewalk of the north side of the 1200 block of Girard Avenue.*

(f) *The sidewalk of the north side of the 2700 block of Girard Avenue.*

(g) *The sidewalk of the south side of the portion of the 6100 block of Ridge Avenue between Krams Street and Leverington Avenue.*

(h) *Winston Road between Germantown Avenue and Mermaid Lane.*

(i) *The sidewalk of the northwest side of Carpenter Lane between Greene Street and Sherman Street.*

(j) *The sidewalk of Barnes Street between Oxford Avenue and Loney Street.*

(k) *The sidewalk of the east side of the 500 block of South 2nd Street.*

City of Philadelphia

BILL NO. 050384 continued

Certified Copy

- (l) *The sidewalk of the west side of the 200 block of South 12th Street.*
- (m) *The sidewalk of the west side of the 400 block of South 23rd Street.*
- (n) *The sidewalk of the south side of the 1400 block of South Street.*
- (o) *The sidewalk of the east side of the 400 block of Frankford Avenue.*
- (p) *The sidewalk of the southwest side of the 6400 block of Chew Street.*
- (q) *In the parking lots of Ogontz Plaza located at the intersection of Ogontz Avenue and 71st Avenue.*
- (r) *The sidewalk of the west side of the 500 block of South 43rd Street.*
- (s) *The sidewalk of the east side of the 700 block of North 22nd Street.*
- (t) *The sidewalk of the east side of the 1000 block of North 3rd Street.*
- (u) *The sidewalk of the north side of the 5200 block of Haverford Avenue.*
- (v) *The sidewalk of the north side of the 5900 block of Summerdale Avenue.*
- (w) *The sidewalk of Ridge Avenue from Merrick Avenue to S. Ferry Drive, provided that this location shall no longer be a permissible location after December 31, 2007.*

The Department shall maintain and make available for public inspection during regular business hours a complete list of the above permitted Farmers' Market locations as designated by Ordinance and shall make such information publicly accessible on one of the City of Philadelphia's websites.

(8) *Permitted Stand Designs and Required Stand Maintenance.*

A Farmers' Market vendors' stand must:

- (a) *not exceed fifty (50) feet in length and be easily dismantled in the event of an emergency;*
- (b) *be placed at least five (5) feet in distance from any other stand;*

City of Philadelphia

BILL NO. 050384 continued

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- (c) have signage limited to one sign, not to exceed the width dimensions of a single stand, to identify the producer; and other signs listing items sold, price, and related promotional graphics;*
 - (d) provide trash storage receptacle; and*
 - (e) not be propelled by an internal combustion engine.*
- (9) Prohibited Locations. No person shall operate a Farmers' Market at any of the following locations:*
- (a) at any location other than the blockfaces or street segments designated in the Farmers' Market entity's license;*
 - (b) at any location that would unreasonably reduce the unobstructed pedestrian right-of-way;*
 - (c) on medians of divided highways;*
 - (d) on any portion of a sidewalk directly in front of any building entrance, loading dock or loading ramp, unless the Farmers' Market Entity obtains the express written permission of the building owner;*
 - (e) within twenty-five feet upstream (in the direction from which vehicular traffic in the nearest curbside lane approaches) of any bus stop sign, unless the Farmers' Market Entity obtains the express written permission of the Department of Streets or the Southeastern Pennsylvania Transportation Authority;*
 - (f) within ten feet of a subway entrance or exit, unless the Farmers' Market Entity obtains the express written permission of the Department of Streets or the Southeastern Pennsylvania Transportation Authority;*
 - (g) within ten feet of a fire hydrant;*
 - (h) within fifteen feet upstream of any mid-block crosswalk;*
 - (i) within fifteen feet of any alley or driveway;*
 - (j) within ten feet of a newsstand;*
 - (k) within five feet of where the curbs have been depressed to facilitate pedestrian or vehicular movement.*

City of Philadelphia

BILL NO. 050384 continued

Certified Copy

(10) Other Prohibited Conduct. No Farmers' Market entity or Farmers' Market vendor shall:

(a) conduct itself or its business in such a way as would restrict or interfere with the ingress or egress of the abutting owner or tenant, or in such a way as would create or become a nuisance or hazard to public health, safety or welfare, or increase traffic congestion or delay, or constitute an obstruction to adequate access to fire, police, or sanitation vehicles;

(b) leave any stand unattended on a sidewalk at any time;

(c) conduct licensed operations between eleven (11) p.m. and six (6) a.m.

(d) violate the provisions of subsection 9-205(8)(r), relating to the Pennsylvania Trademark Act or non-conforming recording devices; and any violations shall be subject to the enforcement provisions of subsection 9-205(8)(r), in addition to any other enforcement provisions provided by law; or

(e) reheat or cook any food.

(11) Penalties, License Suspension, Revocation, and Loss of Assigned Location.

(a) A violation of any provision of this Section shall be classified as a Class II offense and the penalty for such violation is, in addition to any other sanctions provided, a fine not exceeding the maximum fine for Class II offenses as set forth in Section 1-109. Each day of violation shall be deemed a separate offense. Violations may also result in a license suspension of up to thirty (30) days, or license revocation. Violations of subsection 9-213(6) shall result in a license suspension of up to one (1) week. Licenses may also be revoked if any fine is not paid within ten (10) days of imposition by a final order from which all appeals have been exhausted. An order of the Department revoking a license shall also specify when the licensee may reapply for a license, which shall be not less than ninety (90) days nor more than one (1) year from the date of revocation. Persons reapplying for licenses after having their licenses revoked shall be treated as if they were new applicants not previously licensed.

(b) In addition to the penalties provided in subsection 9-213(11)(a), the Department is hereby authorized, when a uniformed police officer is present, to remove any stand, equipment, goods, wares, merchandise or any other article or thing held for sale by any Farmers' Market entity or Farmers' Market vendor who uses the sidewalk or streets in violation of this Section and refuses to comply immediately with this Section upon written notice of violation and an order to vacate the sidewalk or streets. The Farmers' Market entity or Farmers' Market vendor shall be immediately

City of Philadelphia

BILL NO. 050384 continued

Certified Copy

notified of the place where his property can be reclaimed and shall be entitled to claim his property immediately upon payment of the costs of removal.

(c) *Any license issued under this Section may also be revoked for any of the following reasons:*

(.1) *fraud, misrepresentation or knowingly false statement contained in the application for the license;*

(.2) *fraud, misrepresentation or knowingly false statement in the course of carrying on licensed operations; or*

(.3) *failure to conduct licensed operations at an approved location during a vending time period for any consecutive sixty (60) day period, between the months of June and October, without prior notice to the Department. Violation of this subsection 9-213(11)(c)(.3) shall result in license revocation only for the approved location at which the licensee failed to conduct operations.*

(d) *Whenever a licensee's license is revoked under this subsection 9-213(11), the location to which the licensee had been assigned may be reassigned in accordance with subsection 9-213(5).*

(12) *Construction. No part of this Section or the Section itself shall be construed to be in amplification or derogation of the rights of responsibilities of abutting property owners. Any remedy, right or obligation provided to such owners of property or their successors in interest under the law of real property or the laws of the Commonwealth of Pennsylvania shall be in addition to the remedies, rights, obligations or penalties provided hereunder.*

(13) *Regulations. The Department, in cooperation with licensed Farmers' Market entities, shall promulgate such regulations as it may deem necessary to aid in the administration and enforcement of the provisions of this Section.*

SECTION 2. Section 9-203 of The Philadelphia Code is hereby amended to read as follows:

§9-203. Street Vendors.

(1) **Definitions.** In this Section, the following definitions apply:

(a) **Street Vendor.** Any person travelling by foot, wagon, motor vehicle or any other type of conveyance from place to place, house to house or street to street or on property owned or controlled by the City of Philadelphia carrying, conveying,

City of Philadelphia

BILL NO. 050384 continued

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or transporting goods, wares or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers; or who without travelling from place to place, sells or offers for sale products from a wagon, handcart, pushcart, motor vehicle, stand, conveyance or from his person who submits orders, and as a separate transaction, makes deliveries to purchasers. A “street vendor” shall include any “vendor,” “peddler,” “hawker,” “huckster,” “itinerant merchant” or “transient vendor” but shall exclude any vendor licensed under Section 9-201 or Section 9-213;

* * *

SECTION 3. Section 9-204 of The Philadelphia code is hereby amended to read as follows:

§9-204 Sidewalk Vendors in Center City.

(1) Definitions.

* * *

[(g) Farmers’ Market. An area where on designated days and times, growers and producers of horticultural and agricultural products sell those products directly to the public.]

[(h) Farmers’ Market Entity. A person who organizes, manages and operates a farmers’ market.]

(2) Exemptions. The provisions of this Section shall not apply to:

* * *

(g) *Farmers’ Markets licensed pursuant to §9-213.*

* * *

[(13) Farmers’ Markets.]

[(a) Permissible Locations. Farmers’ Markets at the following locations shall be permitted and the number and locations of such farmers’ markets are not subject to the restrictions on sidewalk vending licenses provided for in subsection 9-204(8)(a):]

[(.1) The sidewalk of the south side of Walnut Street abutting Rittenhouse Square.]

City of Philadelphia

BILL NO. 050384 continued

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(b) Design and Maintenance of Stands. Growers and producers selling products at a farmers' market shall be exempt from the provisions of §9-204(9) relating to permitted stand designs and required stand maintenance. All growers' and producers' stands must:]

[(.1) have storage areas not visible to the public;]

[(.2) have signage limited to one sign, no larger than 6 square feet in area on one side, to identify the producer and town of origin; and other signs, each no larger than 8 1/2 inches by 11 inches, listing items sold, price, and related promotional graphics;]

[(.3) be readily movable by vendor;]

[(.4) provide at least a twenty (20) gallon capacity trash storage receptacle; and]

[(.5) not be propelled by an internal combustion engine.]

(c) Licenses. The provisions of §9-204(3) relating to licenses do not apply to farmers' markets for which a license has been issued under the provisions of this subsection. It shall be unlawful for any person to operate a farmers' market entity within Center City without first obtaining a license pursuant to this subsection from the Department. Such farmers' markets license shall show the name and address of the farmers' market entity, the blockface on which the farmers' market is permitted, the time period or periods for which the farmers' market is licensed (Day, Evening, and/or Weekend), the number of farmers' stands, the amount of the license fee, the date of issuance and the license number. Each license shall also show the expiration date of the license and the license's plate number as issued by the Department.]

(d) License Issuance. The provisions of §9-204(4) relating to license issuance shall not apply to farmers' markets for which a license has been issued under the provisions of this subsection. One license for each farmers' market shall be issued by the Department to any farmers' market entity which is in compliance with the following provisions:]

[(.1) The farmers' market entity furnishes the following information to the Department on an application form provided to applicant by the Department:]

[(.a) proof of identity and address, together with two (2) photographs of the principal owner or officer of the farmers' market entity, not less than two (2) inches square, nor more than three (3) inches square;]

[(.b) the applicant's selection of an approved location, as provided in §9-204(13)(a) and the dates and times during which the applicant wishes to operate a farmers' market in that location;]

City of Philadelphia

BILL NO. 050384 continued

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[(c) the applicant's current and valid Philadelphia business privilege license number.]

[(.2) The applicant pays a non-refundable application fee of fifty (\$50) dollars; and]

[(.3) The applicant, after being notified by the Department that his application has been provisionally approved.]

[(a) agrees to an approved location selected pursuant to subsection 9-204(13)(a);]

[(b) pays the initial license fee of four hundred fifty (\$450) dollars; and]

[(c) attends an orientation session conducted by the Department at which the applicant will receive a booklet containing copies of this Section and applicable regulations, and at which those provisions will be explained.]

[(e) Identification and License Plates. The provisions of §9-204(5) relating to identification and license plates shall not apply to farmers' markets. Each farmers' market entity shall keep a copy of the license at the location of the farmers' market and shall distribute copies of its farmers' market license to each of the growers and producers selling products as part of the entity's farmers' market. A copy of the license must be carried on the person of each grower or producer while engaged in the business of selling products during the farmers' market. Licenses shall be used only by the entity to whom they were issued and by any grower or producer selling products as part of that entity's farmers' market and may not under any circumstances be transferred to any other person.]

[In addition to the license, the Department shall issue license plates in a quantity equal to the number of farmers' stands listed on the license, so that one license plate may be distributed by the farmers' market entity to each grower or producer selling products as part of the farmers' market. The license plates shall bear the words "Farmers' Market Producer", the year for which issued, and the number of the license plate, which shall correspond to the number which appears on the license issued to the entity which organizes, manages and operates the farmers' market. The words "Farmers' Market Producer" and the license plate shall be of uniform size and plainly discernable. The license plate shall be attached to the stand of each grower or producer in a place which is clearly visible to the public. The color of the license plate shall be changed at the beginning of each calendar year. License plates shall be used only by the farmers' market entity to whom they were issued and by any grower or producer selling products as part of that entity's farmers' market and may not under any circumstances be transferred to any other person.]

SECTION 4. Section 9-205 of The Philadelphia code is hereby amended to read as follows:

§9-205. Sidewalk Sales.

City of Philadelphia

BILL NO. 050384 continued

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* * *

(2) Exemptions. The provisions of this Section shall not apply to:

* * *

(f) Farmers' Markets licensed pursuant to [~~§9-204(13)~~] *§9-213*.

SECTION 5. Effective Date. This Ordinance shall take effect immediately.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

City of Philadelphia

BILL NO. 050384 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 16, 2005. The Bill was Signed by the Mayor on June 29, 2005.

A handwritten signature in black ink that reads "Patricia Rafferty". The signature is written in a cursive style with a large initial "P" and a long, sweeping tail.

Patricia Rafferty
Chief Clerk of the City Council