

## A G E N D A



## Recommendation for Council Action

Austin City Council

Item ID

27130

Agenda Number

16.

Meeting Date:

10/24/2013

Department:

Health and Human Services

## Subject

Approve an ordinance amending City Code Chapter 10-3 by amending provisions regulating certified farmers' markets and vendors, creating offenses and providing penalties, adding annual permits and requirements, and making other miscellaneous changes related to food and food handlers.

## Amount and Source of Funding

Revenue in the amount of an additional \$65,000 per year is estimated to be generated by the new permitting requirements of this ordinance.

## Fiscal Note

A fiscal note is not required.

**Purchasing  
Language:**

**Prior Council  
Action:**

**For More  
Information:**

David B. Lopez, Chief Sanitarian, HHSD Environmental Health Services Division, 512-978-0303; Vincent Delisi, Assistant Division Manager HHSD Environmental Health Services Division 512-978-0320; Alma Ruiz, Agenda Coordinator, 512-972-5010.

**Boards and  
Commission  
Action:**

Unanimously approved by the Public Health and Human Services Committee

**MBE / WBE:**

**Related Items:**

## Additional Backup Information

In 2010, the City Code Chapter 10-3 was amended to allow open food sampling and service at the farmers' market. Current issues surrounding farmers' markets have prompted the need to review and revise the ordinance to address issues surrounding the need for an annual permit of foods at a farmers' market and to make other housekeeping changes.

Farmers' markets have become more complex than in the past when the only food products provided were whole fruits and vegetables. The current expectation of consumers for a farmers' market is to have a variety of "value added" foods available. These foods include processed items, breads, meats and in some cases, involve food preparation and service on-site. Current food rules allow for these food items to be offered under mobile food vending rules or as a temporary food establishment at the market.

The proposed changes to the code will allow for combining of the three types of permits currently issued into one annual permit required at the market while still meeting the intent for food protection of the Texas Food Establishment Rules.

In addition, there are changes included which will clarify and strengthen definitions and other code requirements and create a concession stand exemption for food handler's in Chapter 10-3.

Key changes in the Code are more specifically described in Attachment A.

**PERFORMANCE MEASURE:**

Performance will be reported in association with the Temporary Food Permitting Program measures. PM 1947 – Number of Temporary Food Booth Inspections conducted;  
PM 7973 – Percentage of Temporary Food Booths Inspected (new for FY14).

**Attachment A**

**Fee Impacts:**

The change establishes a new annual permit by category (Class A, B or C) for booths offering product at a farmers' market. The proposed fee levels for this Farmers' Market Vendor Permit are as follows:

Class A	\$150
Class B	\$300
Class C	\$650

**Impacts for Farmers' Market:**

Amendment to Section 10-3-1 (B) of the City Code, adding and clarifying certain definitions.

Addition of Article 5 to the City Code that allows for an annual permit for vendors at a Certified Farmers' Market under certain conditions.

**Impacts for Food Establishments:**

**§ 10-3-1 DEFINITIONS.**

**NEW:** BONA FIDE EDUCATIONAL PURPOSE - means providing cooking demonstrations solely for the purpose of informing, training, or educating persons how to prepare foods or providing samples in order to inform persons of the quality and characteristics of the sample and is not done in conjunction with the sale of food or food products.

**NEW:** CONCESSION STAND - means a food establishment operated by a city or county, a non-profit organization, or public school district from which limited foods are served during athletic or entertainment events.

**NEW:** FARMERS MARKET VENDOR - means a vendor operating an individual booth at a certified farmers market with a Class A, B, or C permit described in Section 10-3- 97 of this chapter.

**REVISED:** FOOD ENTERPRISE includes:

- (a) a food establishment; ~~and~~
- (b) a food processing plant; ~~[-]~~

- Add (c) a certified farmers market vendor;
- Add (d) a temporary food establishment; and
- Add (e) a mobile food establishment.

**NEW:** LIMITED FOODS means foods requiring limited handling and preparation and that may be heated for hot holding and service. The term does not include foods cooked from a raw state or that are cooled and reheated for subsequent service.

**REVISED:** TEMPORARY FOOD ESTABLISHMENT - shall mean a food establishment that operates for a period of no more than 14 consecutive days and no more than a total of thirty (30) days in a calendar year, in conjunction with a single special event or celebration, and shall also include an establishment that is granted an exemption by the health authority.

**REVISED:** (b) to allow exemption only for city or county owned or operated facilities.

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#### **§ 10-3-34 FOOD HANDLER REGISTRATION REQUIRED.**

Delete (4) a temporary event; or

##### **Addition**

(6) a concession stand that offers only limited foods and maintains a Certified Food Manager, registered with the City of Austin, on duty during all hours of operation. The valid, registered Food Manager Certificate issued to the food manager on duty must be posted in compliance with Subsection (D) of Section 10-3-31 (*Food Manager Certificate Required*).

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#### **§ 10-3-61 PERMIT REQUIRED.**

(B) A person must hold a permit issued by the health authority to operate a group residence with more than six residents when food is provided, stored, or prepared onsite or by a third party operator or facilitator.

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#### **§ 10-3-62 PERMIT TO BE POSTED.**

Create sub-paragraph (E) as below:

(E) in a location determined by the health authority to ensure proper notice to the general public and patrons.

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#### **§ 10-3-95 USE OF PUBLIC PROPERTY.**

A person who operates a mobile food establishment may not go into a City park to sell, offer for sale, or display a food item, unless the person's activity is authorized by:

- (1) a park property rental agreement; or
- (2) written permission of the director of the Parks and Recreation Department.