File #: 140010, **Version:** 1

Amending Section 9-213 of The Philadelphia Code, entitled "Farmers' Markets," to remove the requirement that operators of farmers' markets obtain a license from the Department of Licenses and Inspections, to provide for registration by market operators with the Department of Public Health, and to adjust various requirements for the operation of farmers' markets, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 9-213 of The Philadelphia Code is amended to read as follows:

§ 9-213. Farmers' Markets.

(1) Definitions.

* * *

(g) Department. Unless otherwise specified, in this Section 9-213 "Department" shall mean the Department of Public Health.

(2) [Licenses] *Registration.*

(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] *registering such operation with 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.] *Each Farmers' Market entity will be assigned one registration number for each market it operates. Registrants shall submit information in form and content as instructed by the Department, including the information listed in § 9-213(3).*

(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.] *The Department shall notify the Farmers' Market entity of approval or rejection of the registration application within 30 business days after receipt. Registrations shall be submitted annually*.

(c) [All licenses] *Approval of registration* under this Section shall permit the [licensee] *Farmers' Market entity* to conduct [licensed] operations only on the blockfaces and/or street segments designated in the *registration application.* [A Farmers' Market entity may conduct licensed operations from any location on the designated blockface.] *The Department shall determine whether the requested location, if in a public space or right-of-way, has been approved under § 9-213(7), and shall register no more than one*

entity for each approved location, in the order in which applications are received.

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

(3) [License Issuance] *Registration approval*. One [license] *registration number* shall be issued by the Department to any Farmers' Market entity which is in compliance with the following provisions in connection with each location at which the entity will operate:
(a) The Farmers' Market entity furnishes the following information to the Department [on an application form provided to applicant by the Department] *in a form and manner as instructed 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), *or a request to operate at other locations as provided in subsections (b) and (c) hereof;* the number of Farmers' Market vendors to be present at each approved location, *the types of products to be sold by each vendor,* and the dates and times during which the applicant wishes to operate a Farmers' Market in each location; *and*

[(.3)] *(2)* the applicant's current and valid Philadelphia commercial activity license number, unless the Farmers' Market entity is organized as a not for profit organization[;].

[(b) 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 of three hundred dollars ($300) for each license in connection with each approved Farmer's Market location;

(.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.]

(b) An applicant proposing to operate a Farmers' Market o property under the management of the Department of Parks and Recreation shall also obtain, at no charge, a permit from the Department of Parks and Recreation at the discretion of the Department of Parks and Recreation based on the suitability of the location, following the issuance of a registration number by the Department.

(c) An applicant proposing to operate a Farmers' Market on privately-owned property shall first register with the Department as required by this Section, and shall be responsible for obtaining zoning approval, if required, for such Farmers' Market, in addition to obtaining written permission from the property owner.

(4) [Identification and License Plates] *Proof of Registration.*

(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 or about the person of each Farmers' Market vendor while engaged in the business of selling products during the Farmers' Market.] *its approved registration application and number or numbers at a central location. Each Farmers' Market entity, or at least one vendor at each market location, must be able to supply the registration number for the market location, if requested during market operations by Department staff or other enforcement agency employees*. [Licenses] *Registration numbers* shall be used only by the entity to [whom] *which* 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;] *Re-registration;* Change [of License Information; Change in Category of Goods Sold] *in Entity or Vendor Information*.

(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] *A previously registered Farmers' Market entity shall send a new registration form to the Department within one year after its previous registration date if it intends to continue operations. If a registrant has not provided a new registration to the Department by thirty (30) days after its annual registration date, the registrant's* blockface location shall be made available to any other *qualified* Farmers' Market entity applicant who seeks to operate a Farmers' Market at that location.

(b) [Licensees must] *A registrant shall*, during the [license] *registration* 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.

(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] *registrant or vendor* 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.

* * *

(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;

(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; *and*

(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]*registration*;

(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;

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(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.

(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; *or*

(c) conduct [licensed]*Farmers' Market* 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) *Enforcement;* 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 *registration privileges for* up to thirty (30) days, *at one or more of the operator's assigned locations.* [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) The provisions of this Section may be enforced by the Department of Public Health, the Department of Licenses and Inspections, and the Streets Department, as appropriate.

[(b)] *(c)*In addition to the penalties provided in subsection 9-213(11)(a), the Department, *the Department of Licenses and Inspections or the Streets 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

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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 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] *registered* 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.

Explanation:

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

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