

**TOWN OF ORLEANS
BOARD OF HEALTH
FARMERS' MARKET REGULATIONS**

SECTION I - FINDINGS AND PURPOSE

It is the responsibility of the Board of Health to protect the public from Foodborne Illness through the promotion of sound public health principles including proper food sanitation practices and adequate storage and proper display of food.

The Board of Health, in reviewing the operations of a Farmers' Market is aware that Farmers' Markets may expand into retail food operations offering processed foods. The presence of these vendors creates a shift in the focus of the market from a traditional farmers' market into more of a retail market. These vendors may retail foods prepared at food service establishments, food processors, residential kitchens and/or mobile food vendors. It is the opinion of the Board of Health that all vendors serving food items other than whole farm products must meet the requirements of the State and Federal Food Code including licensure.

SECTION II- AUTHORITY

The Town of Orleans Board of Health, pursuant to Chapter 111, Section 31, adopts these regulations as reasonable health regulations designed to protect and improve the public health of its residents, visitors, and persons employed within the Town of Orleans.

SECTION III - DEFINITIONS

Farmers' Market: A public market, consisting of two or more vendors, for the primary purpose of connecting and mutually benefiting local farmers, communities and shoppers while promoting and selling whole farm products grown and raised by participating farmers. A farmers' market may also include "value added products" and other pre-prepared products as permitted by the Board of Health.

Farmers' Market Limited Food Service Permit: A permit issued to a vendor, who is presented to the Board of Health by the farmers' market Responsible Person, who prepares, portions or offers for sample any food at the open Market. A Farmers' Market Limited Food Service Permit is restricted to limited food preparation at a farmers' market that is registered with the Board of Health.

Farmers' Market Retail Food Permit: A permit issued to a vendor, who is presented to the Board of Health by the farmers' market Responsible Person, who sells (value added) pre-packaged food product at the open market.

Federal Food Code: Food and Drug Administration 1999 Food Code

Mobile Food Establishment: A self-contained food service operation located in a vehicle or push cart, self or otherwise propelled. Used to store, prepare, display or serve food. A Mobile Food Establishment must meet the criteria set forth in 105 CMR 590.000.

Market Manager: An individual or committee who is responsible for the overall market management.

Responsible Person: Individual responsible for overseeing the on-site food handling practices.

State Food Code: For the purpose of this regulation the State Food Code refers to 105 CMR 590.000 State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments.

Value Added Products: A whole farm product that has undergone a change in physical state or was produced in a manner that enhances its value or expands the customer base of the product.

Whole Farm Food Products: Whole farm products include:

- Fresh produce (fresh uncut fruits and vegetables)
- Unprocessed honey (raw honey as defined by the National Honey Board: Honey as it exists in the beehive or as obtained by extraction, settling or straining without adding heat)
- Maple syrup
- Farm Fresh eggs

SECTION IV – GENERAL REQUIREMENTS

A. Registration

1. All farmers' markets, as defined above, in Orleans must register with the Board of Health.

B. Designation of a Responsible Person:

1. The farmers' market must designate a Market Manager and a Responsible Person who will be responsible for:
 - a. Market Manager
 - i. The overall market management
 - ii. Meeting with the Board of Health on an annual basis prior to the opening of the farmers' market
 - iii. Presenting potential vendors, or new products from existing vendors, to the Board of Health for review and approval.

- iv. Maintaining a master list of all proposed vendors and develops a "plan" of the market, showing the location of food vendors and hand washing stations in appropriate locations.
 - b. Responsible Person:
 - i. The Responsible Person is responsible for oversight of the on-site market setup and food handling procedures.
 - ii. The Responsible Person must have a current certificate as a Certified Food Protection Manager and hold a current Allergy Awareness Training Certificate.
 2. The same individual can serve as both the Market Manager and the Responsible Person.

C. Annual Review by the Board of Health:

1. All farmers' markets must designate a responsible person to meet with the Board of Health prior to the start of each market season to review the operations of the market. This review must include the location, dates and time of the operation, vendors and their associated food products proposed to the public.
2. All farmers' markets must be reviewed and approved by the Board of Health for the following purposes:
 - a. To review the products to ascertain if they meet the definition of Whole Farmed Food Products as defined in this regulation.
 - b. To assess compliance with the State and Federal Food Codes including:
 - i. To assess the market's physical facilities available to the market including:
 1. Hand washing facilities,
 2. Restroom facilities
 3. Dust control,
 - ii. To review the procedures being put in place to assure that all food product being offered can be done in a safe and sanitary manner.
 - c. To review and approve the vendor list which shall identify:
 - i. Vendors name
 - ii. Vendors address
 - iii. Products being offered at the farmers' market
 - iv. Existing state and local licenses (if any)
 - d. To review any request for variances to this regulation and the State and Federal Food Codes.
 - e. To review and approve all required food service licenses needed for participation at the farmers' market.
3. The Board of Health must develop annual conditions for farmers' market Food Vendors.
4. The Board must evaluate Non-food items to determine if they create a conflict with the safe storage, display and sale of food products.

D. Food Storage

1. All food product must be stored a minimum of 6" off the ground.
2. Potentially hazardous food shall be:
 - a. At 140°F or above at all times through the products transportation to the market and its storage, display and service at the market; or
 - b. At 41°F or less at all times through the products transportation to the market and its storage, display and service at the market.
 - c. If a product is transported at 41°F to the market and then warmed, it must be heated/cooked to 165°F and maintained at 140°F at all times through the products display and service at the market;
3. A properly calibrated stem-type thermometer must be kept on hand to check food temperatures to ensure proper temperatures. All potentially hazardous food product must be monitored and logged hourly for proper holding temperatures and written logs must be available for inspection. These logs must be maintained by the vendor for a minimum of 30 days.
4. All food product must be stored in a safe and sanitary manner including but not limited to protection from insects, animals and dust.

SECTION V – REGISTRATION/PERMIT TO OPERATE:

1. The following Registrations/Permits are required prior to the operation of a farmers' market in Orleans. All Permits shall be granted to a specific applicant for a specific farmers' market and are subject to fees and conditions as established by the Board of Health. Permits shall be issued annually and shall expire on December 31st of the issuing year.
 - a. **Farmers' Market Registration** – All farmers' markets shall register with the Board of Health on a form furnished by the Board of Health. This registration allows a farmers' market to offer for sale Whole Farm Food Products as defined in these regulations. The registration is specific to the applicant for the terms set forth in the application.
 - b. **Farmers' Market Retail Food Permit:** All vendors participating at a farmers' market who sell (*value added*) *pre-packaged* food product at the farmers' market are required to obtain a Farmers' Market Retail Food Permit at a fee as set by the Board of Health. This permit is conditioned upon the following:
 - (1) All products to be retailed must be approved by the Board of Health.
 - (2) The permit is valid only for the farmers' market that it is approved for.
 - (3) All food items must be prepared and packaged in a licensed food establishment.

- (4) All vendors must operate from a licensed base of operations.
 - (5) The vendor must meet all of the requirements of the State and Federal Food Code unless a variance is granted by the Board of Health.
- c. **Farmers' Market Limited Food Service Permit:** All vendors participating at a farmers' market who prepare, portion or offer for sample any food at the farmers' market. This permit is limited to:
- (1) A Farmers' Market Limited Food Service operation shall comply with all applicable requirements of the Federal Food Code, except as otherwise provided in 105 CMR 590.009(C). The board of health may impose additional requirements to protect against health hazards related to the conduct of the Farmers' Market Limited Food Service operation, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of 105 CMR 590.000 pursuant to the provisions of 105 CMR 590.010(H).
 - (2) Whenever a Farmers' Market Limited Food Service establishment is permitted to prepare exposed foods without complying with all the requirements of 105 CMR 590.000, the following requirements are applicable. Only those foods requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served. The preparation of other potentially hazardous foods including pastries filled with cream or synthetic cream, custards, and similar products and salads or sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply to the service of any potentially hazardous food that has been prepared and packaged under conditions meeting the requirements of 105 CMR 590.000, is packaged in individual servings, is stored at or below 45° F (7° C)/41° F (5° C) or at or above 140° F (60° C) in facilities meeting the Federal Food Code requirements for storage, display and transportation and is served directly in the unopened container in which it was packaged.
 - (3) Farmers' Market Limited Food Service establishment operators shall comply with the mandatory food protection management certification requirement in accordance with 105 CMR 590.003.
 - (4) A convenient handwashing facility must be available for employee handwashing whenever handling unpackaged foods. This facility shall consist of at least sufficient warm running water, soap and individual paper towels. The Board of Health may approve the use of chemically treated towelettes in lieu of handwashing facilities if:
 - (a) Only frankfurters, non-potentially hazardous foods or non-perishable foods are prepared and served and there is no bare-hand contact, or

- (b) If other foods are served and there is no bare-hand contact.
 - (5) All Farmers' Market Limited Food Service establishments shall provide only single-service articles for use by the consumer.
 - (6) All sewage, including liquid waste, shall be disposed of according to law.
 - (7) All products to be served must be approved by the Board of Health.
 - (8) The permit is valid only for the farmers' market that it is approved for.
 - (9) All vendors must operate from a licensed base of operations.
 - (10) The vendor must meet all of the requirements of the State and Federal Food Code unless a variance is granted by the Board of Health.
 - (11) All vendors must have a designated Certified Food Protection Manager/Person in Charge, as defined by the State and Federal Food Codes, on site during the farmers' market.
 - (12) All potentially hazardous food must:
 - (a) Be maintained at a temperature either $\geq 140^{\circ}\text{F}$ or $\leq 41^{\circ}\text{F}$.
 - (b) An hourly temperature log must be maintained during the products transportation, display and service. This temperature log must be maintained by the vendor for a minimum of 30 days.
 - (c) There can be no bare hand contact with ready to eat food products.
 - (13) The holder of a Farmers' Market Limited Food Service Permit will be permitted sell pre-packaged products (value added products), in compliance with this code, without the need of a separate Farmers' Market Retail Food Permit.
- d. **Food Demonstrations:** If no food samples are going to be provided to the public, a farmers' market authorized vendor may, with Board of Health approval, conduct a food preparation demonstration at the farmers' market. A vendor may offer samples to the public, only after the vendor has provided the Board of Health in writing, the proposed sampling process designated to allow the public to safely sample their product, using single serve methods. The sampling protocol must be approved by the Board of Health and a Farmers' Market Limited Food Service Permit must be obtained.
- e. **Sale of Beer and Wine:** The sale of wine or other alcoholic beverages is subject to the approval of the Orleans Board of Selectmen, the Massachusetts Department of Agricultural Resources, and the Alcoholic Beverage Control Commission.

- f. **Shellfish, Finfish, and Crustaceans:** Vendors selling shellfish must have shellfish tags available on site and maintained for a minimum of 90 days. Must have copies of all proper permits including DMF Retail Seafood Dealer Permit and must obtain a Farmers' Market Limited Food Service Permit.

SECTION VI – PROHIBITIONS

1. The sale of certain food items if in the Board's opinion cannot be prepared, transported, displayed and sold in a manner that meets regulatory standards and/or maintains product quality is prohibited.
2. The sale of live animals, other than lobsters and shellfish (as noted above) is prohibited at farmers' markets.
3. The sale of any smoking blend, nicotine delivery device, or any smoking product is prohibited at the farmers' market.
4. Raw (unpasteurized) milk is not allowed for sale at farmers' markets in accordance with 105 CMR 590.000.
5. Potentially hazardous foods cannot be prepared in a residential kitchen and must be prepared in a licensed commercial kitchen.
6. Any item, which by its presence at the farmers' market creates a conflict with the safe storage, display and sale of food products is prohibited.

SECTION VII – FEES

All permits and registrations as required by these regulations are subject to fees as established by the Board of Health.

SECTION VIII - VARIANCES

1. The Board of Health may vary the application of any provision of this regulation with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and provided that the decision of the Board of Health shall not compromise the protection to the public by forfeiting sound public health principles including, but not limited to, proper food sanitation practices and adequate storage and display of food.
2. Every request for a variance shall be made in writing and shall state the specific variance requested and the reasons therefore. Any variance granted by the Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall state the reasons for the denial. A copy of any variance granted shall be available to the public at all reasonable hours in the office of the town clerk or the Board of Health, while it is in effect.

3. Any variance or other modification, authorized to be made by these regulations, may be subject to such qualification, revocation, suspension or expiration, as the Board of Health expresses in its grant. A variance or modification, authorized to be made by these regulations, may otherwise be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified, in writing.

SECTION IX – SUSPENSION AND REVOCATION

1. The Board of Health shall enforce the provisions of the State and Federal Food Codes for all matters regarding Suspension &/or Revocation of any permit authorized by this regulation.

ORLEANS BOARD OF HEALTH

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