

**CHAPTER 19. AGRICULTURE.**  
**ARTICLE 35. FARMERS MARKETS.**

**§19-35-1. Legislative findings.**

(a) Farmers markets are critical incubators for small farm and food businesses because they offer an inexpensive, accessible, entry-level market for reaching consumers directly, though research has shown that the average vendor makes only a nominal dollar amount in sales on any given market day;

(b) The number of farmers markets and the variety of products sold at farmers markets has increased significantly in the past ten years, adding millions of dollars to the state's economy;

(c) Encouraging locally grown and raised food is important to the health and welfare of the citizens of West Virginia;

(d) Permit fees and requirements for farmers market vendors can vary widely from county to county and from one regulatory official to the other. Current food permit categories are not designed for farmers markets and their vendors, but rather for restaurants, grocery stores or concessioners;

(e) Food permits required for farmers market vendors are currently not recognized across county lines.

**§19-35-2. Definitions.**

For purposes of this article:

(a) "Consignment farmers market" means a farmers market in which two or more vendors deliver their own farm and food products to a common location maintained by a third party that markets the vendors' products and receives a percentage share of the profits from sales, with the individual vendor retaining ownership of the farm and food product until it is sold.

(b) "Farm and food product" means any agriculture, horticulture, agroforestry, animal husbandry, dairy, livestock, cottage food, beekeeping or other similar product. Farm and food products are to be properly labeled.

(c) "Farmers market" means:

(1) A traditional farmers market in which two or more vendors gather to sell farm and food products directly to consumers at a fixed location;

(2) An on-farm market or farm stand run by an individual producer that sells farm and food products;

(3) An online farmers market in which two or more vendors collectively market farm and food products and retain ownership of those products until they are sold; or

(4) A consignment farmers market.

(d) "Farmers market vendor" or "vendor" means a person or entity that sells farm and food products at a farmers market.

**§19-35-3. Farmers market vendor permit; scope.**

(a) Vendors at a farmers market selling farm and food products that require a food establishment permit shall apply for a uniform farmers market vendor permit and pay the annual permit fee to the local health department in the jurisdiction in which the farmers market is located. The permit is valid in all counties in this state, and vendors are not required to apply to more than one local health department for a uniform farmers market vendor permit. The uniform farmers market vendor permit shall be required in lieu of the food establishment permit, notwithstanding any other provisions of code or rule that

require a food establishment permit or any other permit from a local health department.

(b) The application must include any other farmers market locations under the jurisdiction of another local health department that the vendor will sell farm and food products subject to the permit. The local health department which approves the application for the uniform farmers market vendor permit shall provide notice of the approval to any other local health departments that the vendor will be subject to, as indicated on the application.

(c) (1) The annual permit fee for the uniform farmers market vendor permit is as follows:

(A) For vendors selling farm and food products under the jurisdiction of only one local health department, the annual fee is \$15.

(B) For vendors selling farm and food products under the jurisdiction of more than one local health department, the annual fee is \$25.

(2) The annual permit fee shall be collected and deposited in accordance with subsection (6), section eleven, article two, chapter sixteen of this code.

(d) The following vendors are exempt from the requirements of the uniform farmers market vendor permit:

(1) Vendors delivering their products to a consignment farmers market; or

(2) Vendors selling fresh, uncut produce or other any other farm and food product not subject to a permit by a local health department through rule or regulation.

(e) A consignment farmers market shall obtain a food establishment permit issued by the local health department.

(f) Every uniform farmers market vendor permit shall be displayed in a conspicuous manner.

(g) Notwithstanding the provisions of article two, chapter sixteen of this code, a local health department has the right to inspect and suspend the uniform farmers market vendor permit for violation of rules or the local health department regulations of a vendor at any farmers market in its jurisdiction, or at the vendor's home or business address, if it is in the inspecting local health department's jurisdiction, regardless of what local health department issued the uniform farmers market vendor permit.

(h) Nothing in this article eliminates or limits other state and federal rules and regulations that apply to certain farm and food products sold at a farmers market or a consignment farmers market.

#### **§19-35-4. Legislative rules.**

(a) The West Virginia Department of Health and Human Resources shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the purposes of implementing this article.

(b) The West Virginia Department of Health and Human Resources shall consult with the West Virginia Department of Agriculture and shall consider the guidelines established in the Farmers Market Vendor Guide and Memorandum F-16, Food Permits at Farmers Markets in promulgating the rules.