

ORDINANCE NO. 2007-12

AN ORDINANCE SETTING FORTH DEFINITIONS AND REGULATIONS RELATING TO THE “FARMER’S MARKET”. REPEALING ORDINANCE NUMBERS 659, 95-040, 97-041 AND 2003-26.

WHEREAS, Pursuant to the Act of the State Legislature of March 9, 1875, permitting the City to “establish and regulate the markets and market places for the sale of vegetables and fruits for sustenance, convenience and comfort of the City and the inhabitants thereof”; and

WHEREAS, the “Farmer’s Market” enhances the quality of life in the City of Mountain Home and surrounding communities by providing a community activity which fosters social gathering and provides a market for home growers and resellers a source for fresh produce for out inhabitants; and

WHEREAS, it is necessary to adopt rules and regulations in order to preserve order and protect the safety and welfare of the City of Mountain Home.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF MOUNTAIN HOME, ARKANSAS:

Section 1.

The Ordinance shall be known as “The Farmer’s Market Regulation Ordinance”.

Section 2. EXEMPTION

An occupation or privilege license as required by Ordinance 2005-41 shall not be applicable to those persons who produce and offer for sale at the Farmer’s Market, either in person or through a legally authorized agent, any fruits, vegetables, nuts, honey, eggs, flowers or a by-product of producer-grown items, as set forth in A.C.A. 14-140-101 and 14-140-102.

Any person reselling a product or by-product shall not be exempt from Ordinance 2005-41. Each individual stand shall have a separate license, and all applicable permits.

Section 3. MONTHS, DAYS AND HOURS OF OPERATION

The “Farmer’s Market” may be held on Wednesdays and Saturdays only. Hours of operation shall be from 6:00 a.m. until 1:00 p.m. No vendor shall be allowed to occupy a site earlier than one hour prior to the designated start time for purposes of set-up, and shall occupy the site no longer than one hour after the designated closing time for clean-up. The hours of operation strictly prohibit forestalling by vendors or their agents.

Section 4. LOCATION AND PARKING RESTRICTIONS

The 36 inner square parking spaces, located adjacent to the Baxter County Courthouse on the north, east, and south side of the Courthouse building, will be available to qualified vendors other than herein specifically excepted. Resellers are restricted to the north side of the Courthouse building; Processors are restricted to the east side of the Courthouse; and Growers may locate on either the north, south or east side of Court House. However, from October 1st to April 30th each year, neither Growers, Processors, nor Resellers shall be restricted to their assigned spaces but may occupy any space that is

otherwise unrestricted. Vendors are prohibited from utilizing the 6 spaces designated for handicap parking, and the 2 spaces on the east side of the square reserved for the County Judge and County Clerk's offices. Vendors shall be permitted to back their vehicles into the marked spaces with the backs of the vehicles facing the curbs, provided no vehicle extends into the street thereby obstructing traffic in any manner. No vehicle shall be parked within 15 feet of any fire hydrant. In addition, no one shall park a produce trailer or carry on any vending operation on the west side of the Baxter County Courthouse (Highway 62B)

Section 5. APPLICATION AND PERMIT PROCEDURE TO OCCUPY AN UNASSIGNED SPACE AND PARTICIPATE AS A VENDOR AT THE "FARMERS MARKET".

A. Each vendor shall obtain a permit application in the form and content specified by the City Clerk, along with a copy of this Ordinance. Applications will contain pertinent information such as: name of vendor, physical address, telephone number, and a product list of items to be sold. A duly authorized agent shall present a written, signed letter stating the authorization to represent the Vendor/Permitee.

B. Resellers will be required to apply for and obtain a Business License from the Mountain Home City Clerk in accordance with Section 8 of Ordinance No. 2005-41 pertaining to "Itinerate Sales".

C. Qualified vendors, other than resellers will apply for and obtain a non-fee permit from the City Clerk to occupy a space (s) on the east and south side. Permits will be issued on a first come, first served basis. Permits are non-transferable. No vendor may hold a permit for more than 2 spaces. Each space must have a separate permit. Each permitted space must be supervised by a permittee or a permittee's legally authorized agent. No permittee or permittee's legally authorized agent may supervise more than one space.

D. Vendors who obtain permits and do not attend the "Farmer's Market" on a regular basis, or no longer wish to utilize the space are required to contact the City Clerk. This will provide other qualified vendors the opportunity to participate. In the case that all spaces are occupied, a waiting list will be compiled.

E. Any space, for which a permit has been issued which is not occupied by the permit holder by 7:00 a.m. may be occupied by another permit holder on a first come first serve basis.

F. Each permit shall be valid for the calendar year in which such permit is issued.

Section 6. SIGNAGE

All vendors, whether growers or resellers, shall display on their stand a sign which shall be a minimum of 8 ½ inches by 11 inches, which includes their name, physical address and phone number, and whether the vendor is a "grower" or a "reseller".

Section 7. DEFINITIONS

Vendor/Permitee— A farmer or other person designated as having the right to participate in the "Farmer's Market".

Agent — Any person legally authorized by the Vendor/Permitee to represent and sell their product(s).

Itinereate/Peddler – Vendors who buy fruits or vegetables for reselling at the “Farmers Market”.

Producer – A farmer who raised and sells his/her own product.

Processed Food – Products such as jam, jelly, cider, vinegar, pickles, salsa, vegetable and or herbal spreads, and bread items; which must be made in a licensed kitchen and comply with Arkansas State Health Department Regulations.

High Value Products – Meat, poultry, eggs, milk and cheese.

Product List – List of products the vendor plans to sell.

Reseller – A person or entity that purchases a farm-grown commodity from a grower or supplier or distributor and offers it for sale to the public.

Grower – A person or entity that plants, raises and harvests a farm-grown commodity and offers it for sale to the public.

Processor – A person or entity that incorporates farm-grown products, e.g. tomatoes, peppers, peaches into a processed product, e.g. salsa, pies, bread for sale to the public for human consumption.

Section 8. PERMITTED ITEMS FOR SALE

Every attempt has been made to provide and promote the widest variety and selection to consumers, while maintaining the original spirit and intention of the “Farmer’s Market”. The following items, and no others shall be permitted for sale:

Raw vegetables and fruits, edible plants, honey, molasses, sorghum, shelled peas and beans, cut, washed and unwashed bagged vegetables, dried fruits and vegetables, nuts, garlic, spices, grains, herbs, bedding plants, cut flowers, dried flowers, herbal vinegars, fruit syrups, jellies, jams, preserves, herbal and vegetable spreads, fresh fruit and vegetable juices, cider, canned and pickled products, relishes, salsa and bread products. **High value products** such as meat, poultry, eggs, milk and cheese. Craft type items are limited to those locally grown and produced by the vendor, such as beeswax candles, wood carvings and dried flower arrangements.

1. Processed foods shall comply with Arkansas State Health Department Regulations. A certificate of approval must be presented prior to issuance of a City permit to participate as a vendor.

2. High value products as listed above, shall meet the following criteria:

A. **Meat Products** – All meat products must be 100% from animals raised from weaning by the farmer/producer. Animals may be butchered or processed off-farm. Processing must comply with all Arkansas State Health Department Regulations. Farmers/producers shall supply documentation of such compliance prior to issuance of a City permit to participate as a Vendor.

B. **Milk, Dairy and Cheese** - Fresh milk must be 100% from the farmer/producer’s own herd. Cheese and other dairy products must be made by the farmer/producer. At least 60% of the milk used for cheese dairy products must be from the farmer/producers own herd. Production and

preparation must comply with all Arkansas State Health Department Regulations. Documentation of such compliance must be submitted prior to issuance of a City permit to participate as a vendor.

Individual vendors are responsible for obtaining all licenses and/or permits required by the Arkansas State Health Department. Copies of all licenses/permits must be on file with the Mountain Home City Clerk prior to selling at the “Farmer’s Market”. Resellers may bring only fresh fruits and vegetables and must maintain on file the source of the produce by date sold and furnish that information to any consumer or their designated representative, who requests such information.

Section 9. SAMPLING OF PRODUCTS

It is the sole responsibility of the vendor to contact the Arkansas State Health Department with regard to providing samples of their product(s) to consumers. The vendor/permittee must comply with all applicable regulations.

Section 10. SET UP

Items for sale, canopies and umbrellas must be placed in a manner that will not obstruct sidewalks, allowing pedestrians ample room to move freely.

Section 11. SANITATION / CLEAN UP

Vendors shall be responsible for cleanliness and sanitation of their selling areas at the close of each market day. All vendors agree to bring a broom and trashcan and keep the market area free of any debris generated by market activity. Vendors shall not use public trash receptacles for disposal of product boxes and unsold product.

Section 12. SALES TAX AND PERMITS

Each vendor is responsible for collecting his/her own sales taxes, where it is applicable.

Section 13. USE OF PUBLIC STREET FOR BUSINESS PROHIBITED: EXCEPTION

It shall be unlawful for any person to use any public street, public parking place or public sidewalk, as a place of business except as authorized by this Ordinance; provided further, the City Council may approve temporary use of a public street, place or sidewalk as a marketplace where such use is a part of an event, activity, or celebration of general public interest. The City Council may impose reasonable conditions on such use as is necessary to safeguard the public health, safety and welfare.

Section 14. HOLDING THE CITY OF MOUNTAIN HOME HARMLESS

The City of Mountain Home shall be held harmless for any accidents, injuries or other occurrences in relation to the “Farmer’s Market”.

Vendors/Permittees or their agents shall be held responsible for any damage to City or County property due to negligence.

Section 15. DISPUTES

Vendors should make every attempt to resolve minor disputes between themselves; especially if it clearly does not involve violation of this Ordinance; which is designed to set-forth rules, regulations and guidelines pertaining to the safety and welfare of the City of Mountain Home and its inhabitants.

Section 16. SEVERABILITY

The provisions of the Ordinance shall be deemed severable, and the invalidity, unenforceability, or unconstitutionality of any clause, phrase, sentence or part thereof of any section or provision of this Ordinance shall not invalidate any other section or provision of this Ordinance; and such other sections and provisions shall remain in full force and effect.

Section 17. CONSTITUTIONALITY

If any part of this Ordinance should be held unconstitutional, such ruling shall in no way impair the validity of the remaining parts of this Ordinance.

Section 18. PENALTIES FOR VIOLATION

Any person deemed of violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be fined not less than \$100.00 nor more that \$250.00 and each day will be deemed a separate offense. In addition, the vendors permit may be revoked or suspended depending on the severity of the violation.

Section 19. REPEALER

Ordinance No. 659, 95-040, 97-041 and 2003-26 are hereby repealed.

PASSED AND APPROVED THIS 15th DAY OF MARCH 2007

DAVID L. OSMON, MAYOR

ATTEST:

CYNTHIA A. WYNN, CITY CLERK