

**ORDINANCE NO. 2012-4**

**AN ORDINANCE SETTING FORTH DEFINITIONS AND REGULATIONS RELATING TO THE “FARMER’S MARKET”. REPEALING ORDINANCE NUMBERS 659, 95-040, 97-041, 2003-26 AND 2007-12.**

**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 our 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 by-product of producer-grown items, as set forth in A.C.A. 14-140-101 and 14-140-102.

**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 sundown. No vendor shall be allowed to occupy a site earlier than one hour prior to the designated start time for the 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**

Vendors only shall utilize the 32 spaces depicted on Exhibit “A” attached hereto and incorporated herein by reference. Vendors shall keep, at all times, not less than 14’ of clearance through the vendor’s driveway.

Customers only shall utilize the 34 customers parking spaces depicted on Exhibit “A”. Only customers with current, valid, properly displayed “handicap” license plate or permit may utilize parking spaces with “handicap” marking.

**Section 5. APPLICATION AND PERMIT PROCEDURE TO OCCUPY AN UNASSIGNED SPACE AND PARTICPATE AS A VENDOR AT THE “FARMER’S MARKET”.**

A. Each vendor shall obtain a permit application in the form and content specified by the Licensing Office. Applications shall contain pertinent information such as: name of

vendor; name of agent (if applicable); address; telephone number; whether vendor is a “Grower”, “Reseller” or “Miscellaneous”.

- B. Any vendor other than a producer/grower shall be required to apply for and obtain a Business License from the Licensing Office in accordance with Section 8 of Ordinance 2005-41 pertaining to “Itinerate Sales”.
- C. Qualified vendors will apply for and obtain a permit from the City Clerk to occupy a space(s). Permits will be issued on a first come, first serve 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.
- 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 Licensing Office. 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.

G. DEFINITIONS:

Producer/Vendor: Any entity offering any item for sell at the Mountain Home Farmer’s Market.

Producer/Grower: Any entity offering food items which he, she, they, it have personally grown where said food item is intended and is commonly used for human consumption for sell at the Mountain Home Farmer’s Market.

Reseller: Any entity offering for sale any item(s) purchased from any other entity.

Miscellaneous: Item which is not intended for human consumption, e.g. rocks, cutting boards, bird houses, rain gauges, wind chimes, wind mills, etc.

Processed Food: Any item which is commonly intended for human consumption which is a blending of two or more items which cannot be easily separated, e.g. salsa, jelly, jam, cider, vinegar, pickles, molasses, bread, cakes, pies, etc.

**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. 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 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. The sale of craft type items shall be allowed.

Milk, Dairy and Cheese Products may be sold as long as fresh milk is 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 available for review and inspection at the vendor's sale location.

The sale of live species of any type, e.g., animals, fowl, reptiles, fish, shall be prohibited.

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 Licensing Office prior to selling at the "Farmer's Market". Resellers may bring only fresh fruits and vegetables and must maintain on file the source of produce by date sold and furnish that information to any consumer or their designated representative, who requests such information.

#### **Section 8. SAMPLING PRODUCTS.**

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

#### **Section 9. 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 10. 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 11. SALES TAX AND PERMITS**

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

#### **Section 12. 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 any 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 13. HOLDING THE CITY OF MOUNTAIN HOME HARMLESS**

The City of Mountain Home shall not be responsible for any accidents, injuries or other occurrences in relation to the operations or activities associated with the "Farmer's Market".

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

**Section 14. 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 15. 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 16. 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 17. PENALTIES FOR VIOLATION**

Any person deemed of violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be fined no less than \$100.00 nor more than \$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 violation.

**Section 18. REPEALER**

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

**PASSED AND APPROVED THIS 1<sup>st</sup> DAY OF MARCH, 2012**

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**DAVID L. OSMON, MAYOR**

**ATTEST:**

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**BRIAN A. PLUMLEE, CITY CLERK**