

**City of Fayetteville Staff Review Form**

**City Council Agenda Items  
 and  
 Contracts, Leases or Agreements**

10/2/2012

**City Council Meeting Date  
 Agenda Items Only**

Connie Edmonston *CE*  
**Submitted By**

Parks & Recreation  
**Division**

Parks & Recreation  
**Department**

**Action Required:**

Approval of an Ordinance to Amend §97.086 Vending and Peddling of Chapter 97 Parks and Recreation of the Fayetteville Code to allow the Farmers' Market to extend their days and hours of operation to sell produce, flowers and items on Saturday, Sunday and on another day of the week year round within the area leased to the Botanical Garden Society of the Ozarks located in Lake Fayetteville Park.

|                                    |  |  |
|------------------------------------|--|--|
| <u>n/a</u><br>Cost of this request | <u>\$ -</u><br>Category / Project Budget | <u></u><br>Program Category / Project Name |
| <u></u><br>Account Number          | <u>\$ -</u><br>Funds Used to Date        | <u></u><br>Program / Project Category Name |
| <u></u><br>Project Number          | <u>\$ -</u><br>Remaining Balance         | <u></u><br>Fund Name                       |

**Budgeted Item**

**Budget Adjustment Attached**

Connie Edmonston  
 Department Director

9/14/2012  
 Date

Previous Ordinance or Resolution # 5310

§97.086 Vending & Peddling

Original Contract Date: 130-03

Lease Agreement with BGSO

Original Contract Number: 9/2/2003

[Signature]  
 City Attorney

9-17-2012  
 Date

Paul A. Baker 9-17-2012  
 Finance and Internal Services Director Date

Received in City Clerk's Office  
 09-14-12 P03:15 RCVD  
*Kim J.*

[Signature] 9-17-12  
 Chief of Staff Date

Received in Mayor's Office  
 ENTERED  
 9/17/12

[Signature] 9/18/12  
 Mayor Date

Comments:



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS  
DEPARTMENT CORRESPONDENCE

## CITY COUNCIL AGENDA MEMO

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**To:** Mayor Lioneld Jordan and City Council

**Thru:** Don Marr, Chief of Staff *DM*

**From:** Connie Edmonston, Parks and Recreation Director *C.E.*

**Date:** October 14, 2012

**Subject:** Ordinance to Amend §97.086 Vending & Peddling at Lake Fayetteville Park

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### **PROPOSAL:**

Ordinance §97.086 prohibits vending and peddling in parks. In 2010, this ordinance was amended to allow the Farmers' Market to sell produce, flowers and items allowed by Fayetteville Code §114.02 (C) on Sundays from April until October within the land leased by the Botanical Garden Society of the Ozarks (BGSO) at Lake Fayetteville Park. See attached Ordinance #5310.

The Farmers' Market is requesting to expand their market to sell goods year-round on Saturdays from 7 am to 12 pm, Sundays from 9 am to 2 pm and on another day of the week from 4 pm until 7 pm. The area requested by the Farmers' Market is within the 100 acres of Lake Fayetteville Park that has been leased to BGSO since 1997 for the purpose of operating a botanical garden. The market would be located south of BGSO, in the meadow south of Hilton Creek. The area east of the trail would remain as customer parking for the market, BGSO and the trail. See attached map.

BGSO's Board of Directors has approved the Farmers' Market request to expand their operations at Lake Fayetteville Park in the BGSO leased area upon approval of the City Council. See Ronald Cox's attached letter to Mayor Jordan. BGSO and the Farmers' Market have entered into an Operating Agreement to mutually support their partnership at Lake Fayetteville Park.

The Parks and Recreation Advisory Board at their September 10, 2012 meeting recommended approval of the amendment to Ordinance §97.086 to allow the expansion of year-round operation of the Farmers' Market at the BGSO on Saturdays, Sundays, and another day during the week. See attached meeting minutes.

If the City Council approves this proposal, the Farmers' Market would be required to modify their Conditional Use Permit from the current ordinance allowing the Farmers' Market at BGSO on Sundays from April until October to add Saturdays and another day of the week and for the time period to be year-round. The Planning Commission can not consider the Farmers' Market request for modified hours of operation until the City ordinance would allow them to operate the extended hours requested.

At a later date, the Farmers' Market has expressed interest in erecting a 48' x 135' tent to operate the market. According to the City's process, the Farmers' Market would need to submit an Administrative Item request to the Planning Commission to include the tent as part of their conditional use permit.

**RECOMMENDATION:**

BGSO and Parks and Recreation Advisory Board recommend approval of an Ordinance to Amend §97.086 Vending and Peddling to allow the Farmers' Market to extend their days and hours of operation to sell produce, flowers and items on Saturday, Sunday and on another day of the week year-round within the area leased to the Botanical Garden Society of the Ozarks located in Lake Fayetteville Park. The Farmers' Market is a very popular event in our City. BGSO's location within Lake Fayetteville Park will be an opportune site to expand the services of the Farmers' Market, as well as attract citizens to BGSO and Lake Fayetteville Park.

**BUDGET IMPACT:**

None

Attachments:

Ordinance 5310

Farmers' Market Request

Farmers' Market Site Map

BGSO Letter of Approval

PRAB Meeting Minutes September 10, 2012

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND §97.086 **VENDING AND PEDDLING** OF THE CODE OF FAYETTEVILLE TO EXPAND THE NUMBER OF DAYS PER WEEK THAT THE FARMERS' MARKET CAN OPERATE AT THE BOTANICAL GARDENS

**WHEREAS**, the Parks and Recreation Advisory Board recommends that the Farmers' Market be allowed to expand their hours of operation at the Botanical Gardens of the Ozarks (if approved by this organization) from Sundays only to Sundays, Saturdays and one weekday.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §97.086 **Vending and Peddling** (B) *Exemptions* by repealing the last sentence of (B) and enacting a replacement sentence as follows:

“The Farmers' Market and its members may sell items allowed pursuant to §114.02 (C) of the Fayetteville Code on Sundays, Saturdays and one weekday within a portion of the Lake Fayetteville Park that is licensed to the Botanical Garden Society of the Ozarks (if approved by the Society) as shown on Exhibit A.”

**PASSED and APPROVED** this 18<sup>th</sup> day of September, 2012.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

- Current law -

C. 1  
Amend §97.086 Vending and Peddling  
Page 5 of 12  
Saturday + weekday

FAYETTEVILLE CODE OF ORDINANCES  
TITLE IX GENERAL REGULATIONS

firecrackers, torpedoes, skyrocketes, roman candles or other fireworks, explosives or inflammable materials without having first obtained prior written consent pursuant to the requirements of §94.04.

(Code 1965, §§17A-24, 17A-26; Ord. No. 1594, 4-1-68; Code 1991, §97.082)

**Cross reference(s)**--Penalty, §97.999, Sale and use of fireworks, §94.04(B).

**97.083 Soliciting Alms**

No person in a park shall solicit alms or contributions for any purpose, whether public or private.

(Code 1965, §17A-25; Ord. No. 1594, 4-1-68; Code 1991, §97.083)

**Cross reference(s)**--Penalty, §97.999.

**97.084 Entering Closed Areas**

No person in a park shall enter an area posted as "Closed to the Public", nor shall any person use, or abet the use of, any area in violation of posted notices.

(Code 1965, §17A-27; Ord. No. 1594, 4-1-68; Code 1991, §97.084)

**Cross reference(s)**--Penalty, §97.999.

**97.085 Going Onto Ice**

No person in a park shall go onto the ice on any of the waters except such areas as are designated as skating fields, and provided a safety signal is displayed.

(Code 1965, §17A-28; Ord. No. 1594, 4-1-68; Code 1991, §97.085)

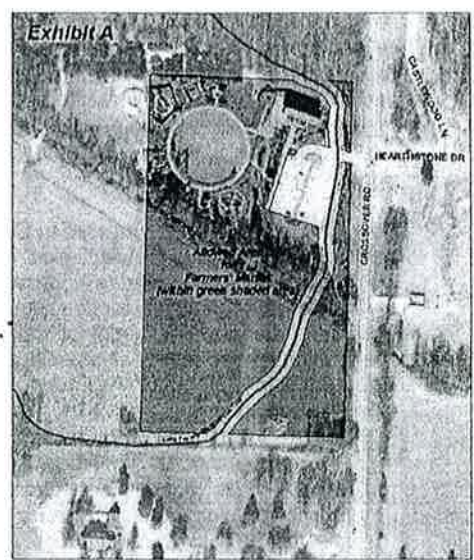
**Cross reference(s)**--Penalty, §97.999.

**97.086 Vending And Peddling**

(A) *General prohibition of selling or offering to sell items in city parks.* No person or business shall, within a city park, display, offer for sale, or sell any article, thing or service, nor place any stand, cart or vehicle for the display, sale or transportation of any such article.

(B) *Exemptions.* The City's regularly licensed concessionaires acting pursuant to the authority and regulation of the City are exempt from subsection (A). Nonprofit organizations which have obtained a special events permit may sell nonalcoholic beverages and food during an annual event. Gulley Park Concert sponsors may sell food and nonalcoholic beverages during the concerts when specifically permitted by the Parks and Recreation Department Director.

The Farmers' Market and its members may sell items allowed pursuant to §114.02 (C) of the Fayetteville Code on Sundays within a portion of Lake Fayetteville Park that is licensed to the Botanical Garden Society of the Ozarks (if approved by the Society) as shown on Exhibit 'A'.



Farmers' Market at Lake Fayetteville Park within Botanical Garden leased area  
Scale = 150 feet

(Code 1965, §17A-29; Ord. No. 1594, 4-1-68; Code 1991, §97.086, Ord. 5310, 4-6-10)

**Cross reference(s)**--Penalty, §97.999.

**97.087 Advertising Prohibited**

No person in a park shall announce, advertise, or call the public attention in any way to any article or service for sale or hire.

(Code 1965, §17A-30; Ord. No. 1594, 4-1-68; Code 1991, §97.087)

**Cross reference(s)**--Penalty, §97.999.

**97.088 Signs Prohibited**

(A) No person in a park shall paste, glue, tack, or otherwise post any sign, placards, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to a park, except as set forth hereinbelow.

(B) *Exceptions.*

(1) *Athletic Field Signage.* Signs shall be permitted on softball/baseball outfield fences and scoreboards at locations and



August 17, 2012

Mayor Lioneld Jordan  
City of Fayetteville  
Administration Building  
113 West Mountain Street  
Fayetteville, AR 72701

Dear Mayor Jordan:

The Botanical Garden of the Ozarks and the Fayetteville Farmer's Market have joined as community partners for several years to provide natural foods and crafts to the public and to bring both residents and visitors to the Botanical Garden. The Botanical Garden is very supportive of the efforts of the Fayetteville Farmer's Market. With the approval of city officials, Fayetteville Farmer's Market has the approval of the Botanical Garden of the Ozarks and its Board of Directors to operate on the grounds of the Botanical Garden on dates and times mutually agreed upon agreed upon by both parties. In addition, with the prior approval of the Botanical Garden, the Fayetteville Farmer's Market may on occasion conduct other special events and activities at the Botanical Garden.

The Botanical Garden of the Ozarks supports the efforts of the Fayetteville Farmer's Market to maximize its public exposure and maximize sales of its products.

Sincerely,

A handwritten signature in black ink that reads "Ronald Cox". The signature is written in a cursive, flowing style.

Ronald Cox  
Executive Director



Rural Mountain Producers Exchange  
PO Box 3076 Fayetteville AR 72702  
www.fayettevillefarmersmarket.org

**Mayor Jordan and City Council**

*The mission of the Rural Mountain Producers Exchange is to support the development of a healthy economy for small-scale agriculture in Northwest Arkansas primarily by establishing farmers' markets for the direct sale of local agricultural products and handcrafted items. Our further goals are to provide education on local food and growing practices to the public, and to promote sustainability and economic development in our community.*

The Fayetteville Farmers' Market requests additional days and hours of operation of the Farmers' Market at the Botanical Garden of the Ozarks. This would allow the Farmers' Market to operate Saturdays, Sundays, and one additional day or evening. With this, we would also like to operate the Market year round. We believe that this will not only provide additional opportunities to our vendors, it allows us to reach a different demographic not currently being served by the Fayetteville Farmers' Market. We do not feel that this will impact the Downtown Square Market in any way, but will instead provide our services to a different clientele.

The Fayetteville Farmers' Market (FFM) and the Botanical Garden Society of the Ozarks (BGSO) have reached an operating agreement that is acceptable to both parties. Both organizations feel that our partnership will benefit the community we serve through educational programs and accessibility to locally grown and handmade products.

Thank you for considering our request.

Respectfully,

**RMPE Board of Directors and Fayetteville Farmers' Market Management**

**Chuck Rutherford, RMPE President**

**Lori L. Boatright, FFM Coordinator**

## **FAYETTEVILLE PARKS AND RECREATION ADVISORY BOARD**

Minutes for September 10, 2012

### **Opening:**

The regular meeting of the Parks and Recreation Advisory Board was called to order by Steve Meldrum at 5:33 p.m. in Room 111 at the City Administration Building at 113 West Mountain Street in Fayetteville, Arkansas.

### **Present:**

Parks and Recreation Advisory Board members McKnight, Leonard, Meldrum, Lawson, and Proffitt were present. Waite, Paul, and Watson were absent. City Staff members present were Edmonston, Jumper, and Humphry.

- 1. Botanical Garden Society of the Ozarks and Farmers' Market request to amend Ordinance 97.086 Vending and Peddling of Chapter 97 Parks and Recreation:  
Lori Boatright, Farmers' Market and Ron Cox, Executive Director of BGSO**

Botanical Garden Society of the Ozarks and Farmers' Market are requesting to allow the Farmers' Market to sell produce, flowers, and items on Saturday, Sunday, and one additional day within the area leased to the Botanical Garden Society of the Ozarks located in Lake Fayetteville Park.

Edmonston presented the current ordinance requirements

Meldrum wanted to know if they were asking to expand from one day to three days.

Boatright said it would be open Saturday and Sunday and one evening during the week. It would still be the same members limited as to what they can do on the square. They would like an alternate shopping location for a different demographic.

Meldrum said that the Saturday market has grown. He said this is a great idea. It would open it up to Springdale.

Edmonston said the City supports growth. The only concern is the impact on Saturday's market on the square.

Boatright said entirely different clientele will be served.

McKnight asked if the records would be kept separately.

Boatright said yes, and there would be no impact on Saturday's numbers.



Leonard asked if there would be staffing adjustments for the Botanical Gardens.

Cox said no. He added that the market would be from 7 a.m. until noon, and cleared by 1 p.m.

Lawson asked if the Botanical Gardens would make money from the market.

Cox said no.

Lawson wanted to know if they charged for weddings.

Cox said yes.

Edmonston said the ordinance needs to be amended to allow vending and peddling to sell on Saturdays and weekdays and also make it year round.

Boatright added that the vendors need a winter market, since there isn't one available now.

McKnight said he had no objection.

**PRAB Motion:** Proffitt motioned to accept amended Ordinance §97.086 to include Sundays and weekdays. Meldrum seconded it. Motion passed 5-0-0 by voice vote.

**ORDINANCE NO. 5310**

**AN ORDINANCE TO AMEND §97.086 VENDING AND PEDDLING OF CHAPTER 97 PARKS AND RECREATION OF THE FAYETTEVILLE CODE TO ALLOW THE FARMERS' MARKET TO OPERATE IN LAKE FAYETTEVILLE PARK**

**WHEREAS**, The Botanic Garden Society of the Ozarks has requested to be allowed to site the Farmers' Market on its leased grounds on Sunday; and

**WHEREAS**, the Farmers' Market desires to sell produce, flowers, and items allowed by §114.02 (C) of the Fayetteville Code within the area leased to the Botanical Garden Society of the Ozarks which is within Lake Fayetteville Park; and

**WHEREAS**, allowing Farmers' Market to sell within a city park requires an amendment to the general prohibition of vending in city parks.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §97.086 **Vending and Peddling** of the Fayetteville Code and enacts a new §97.086 **Vending and Peddling** as shown below:

**“97.086 Vending and Peddling**

*“(A) General prohibition of selling or offering to sell items in city parks.* No person or business shall, within a city park, display, offer for sale, or sell any article, thing or service, nor place any stand, cart or vehicle for the display, sale or transportation of any such article.

*“(B) Exemptions.* The City's regularly licensed concessionaires acting pursuant to the authority and regulation of the City are exempt from subsection (A). Nonprofit organizations which have obtained a special events permit may sell nonalcoholic beverages and food during an annual event. Gulley Park Concert sponsors may sell food and

Page 2  
Ordinance No. 5310


nonalcoholic beverages during the concerts when specifically permitted by the Parks and Recreation Department Director. The Farmers' Market and its members may sell items allowed pursuant to §114.02 (C) of the Fayetteville Code on Sundays within a portion of Lake Fayetteville Park that is licensed to the Botanical Garden Society of the Ozarks (if approved by the Society) as shown on Exhibit 'A'."

**PASSED** and **APPROVED** this 6<sup>th</sup> day of April, 2010.


APPROVED

ATTEST:

By:

  
LIONEL JORDAN, Mayor

By:

  
SONDRA E. SMITH, City Clerk/Treasurer





***Farmers' Market at Botanical Gardens***

***Exhibit A***

1 inch = 150 feet

