

March 19, 2013

FOR: COUNCIL MEETING OF ~~APRIL 2, 2013~~


FROM:

ALDERMAN MATTHEW PETTY


ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §114.02 Farmers' Market To Transfer The Current Free Use Of The South Parking Spaces On Mountain Street To The Control Of The Rural Mountain Producers Exchange Board, To Close Mountain Street To Traffic, To Permit Sound Application During Farmers' Market And To Make Other Changes

APPROVED FOR AGENDA:


Matthew Petty, Alderman

3-12-13
Date


City Attorney
(as to form)

3-12-13
Date

Left on the first Reading at the 3/19/13 CC mtg.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §114.02 **FARMERS' MARKET** TO TRANSFER THE CURRENT FREE USE OF THE SOUTH PARKING SPACES ON MOUNTAIN STREET TO THE CONTROL OF THE RURAL MOUNTAIN PRODUCERS EXCHANGE BOARD, TO CLOSE MOUNTAIN STREET TO TRAFFIC, TO PERMIT SOUND AMPLIFICATION DURING FARMERS' MARKET AND TO MAKE OTHER CHANGES

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 §114.02 **Farmers' Market** (A) *Establishment, location and parking restrictions* of the Fayetteville Code by amending the third sentence to include "and on the south side of Mountain Street" and amending the last sentence to allow amplified music by special event permit so that §114.02(A) shall read:

"(A) Establishment, location and parking restrictions. A farmers' market is hereby established in the city. This marketplace shall be located on the interior parking spaces (those parking spaces adjoining the Old Post Office) of the Downtown Square. In addition, on Saturdays only, parking spaces on the east side of East Avenue and on the south side of Mountain Street on the Downtown Square shall be available for vendors by closing the street to through traffic. Vendors shall be permitted to park their vehicles at right angles to street curbs provided that no vehicle shall be permitted to extend into the street in such a manner as to obstruct the free flow of traffic, and no vehicle shall be parked within 15 feet of any fire plug. All public sidewalks around the Square shall remain freely available to the public with the inside two-thirds width of the sidewalks free from any tables, booths or displays. Farmers' Market vendors may occupy no more than one-third of the width of the sidewalk directly in front of their assigned parking space. As long as pedestrian traffic is not obstructed or hindered, the

corners of the Square's sidewalks and any unoccupied space around the outside third of the sidewalk can be used during the authorized hours and days of the Farmers' Market for government communication, free speech and acoustic music purposes. No sound amplification may be used unless approved by the Rural Mountain Producers Exchange Board and City through its Special Event Permit Process.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends §114.02 (C) *Articles permitted to be sold* by adding "and have all appropriate permits" to the last sentence.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends §114.02 (E) *Fee* by repealing it and relettering subsections (F) & (G) appropriately.

PASSED and APPROVED this 19th day of March, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

From: Matthew Petty - Fayetteville Ward 2 <citycouncil@matthewpetty.org>
To: Kit Williams <kwilliams@ci.fayetteville.ar.us>
Date: 3/7/2013 1:27 PM
Subject: Re: Farmers' Market Ordinance

Good afternoon, I just wanted to follow up on this. I really want the Council to have an opportunity to consider this at the next meeting before the Market season really gets going.

-M

On Mon, Mar 4, 2013 at 11:13 AM, Matthew Petty - Fayetteville Ward 2 <citycouncil@matthewpetty.org> wrote:

- > Good morning, Kit -
- >
- > I'd like bring forward an ordinance making the following four changes to
- > the existing Farmers' Market ordinance. These changes were requested by the
- > Market.
- >
- > Can we work these up in time for inclusion with the next agenda?
- >
- > Thanks,
- > M
- > * Farmers' Market Ordinance ChangesCity Ordinance XI Chapter 114.02 (A)
- >
- > - Add the south side of Mountain St to the space which shall be
- > available for vendors by closing the street to through traffic.
- > - Append to last sentence such that "No sound amplification devices
- > may be used unless aproved by City special event permit issued to the
- > Farmers' Market. No other organization or individual may apply for this
- > permit during Farmers' Market hours of operations without written approval
- > by the Farmers' Market.
- >
- > (C)
- >
- > - append "and have all appropriate permits" to the end.
- >
- > (E)
- >
- > - Remove this section.
- >
- > *
- >

Current Law

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

CHAPTER 114: FOOD SALES

114.01 Drive-In Restaurants

(A) A drive-in restaurant, within the meaning of this chapter, shall be deemed to be any restaurant where meals, sandwiches, ice cream, or other food, is served directly to or is permitted to be consumed by patrons in automobiles, motorcycles, or other vehicles parked on the premises.

(B) Prohibited Acts.

- (1) It shall be unlawful for any person, while on or adjacent to the premises of a drive-in restaurant, to race the motor of any car, to suddenly start or stop any car, or to make or cause to be made, any other loud or unseemly noise.
- (2) It shall also be unlawful for any other person parked on the premises of such restaurant, to blow or cause to be blown any automobile horn or motorcycle horn at any time while so parked.
- (3) It shall be unlawful for any patron or other person on the premises of a drive-in restaurant, whether in or out of an automobile, to drink any intoxicating beverage of any nature.
- (4) It shall be unlawful for a group of three or more persons to congregate and linger at any location on the premises of a drive-in restaurant. Persons so congregating and lingering shall be deemed guilty of loitering. No person shall drive a motor vehicle on to the premises of a drive-in restaurant and then from said premises without parking such motor vehicle, unless there is no unoccupied parking space available on said premises.
- (5) It shall be unlawful for any person to leave any unoccupied motor vehicle on any drive-in restaurant parking lot and to leave the premises thereof, except with the knowledge and consent of the operator of the restaurant.

(Code 1965, §§7A-1, 7A-3, 7A-4; Ord. No. 1706, 10-6-69; Code 1991, §114.01)

Cross reference(s)--Penalty, §114.99(A).

114.02 Farmer's Market

(A) *Establishment, location, and parking restrictions.* A farmers' market is hereby established in the city.

This marketplace shall be located on the interior parking spaces (those parking spaces adjoining the Old Post Office) of the Downtown Square. In addition, on Saturdays only, parking spaces on the east side of the East Street on the Downtown Square shall be available for vendors by closing the street to through traffic. Vendors shall be permitted to park their vehicles at right angles to street curbs provided that no vehicle shall be permitted to extend into the street in such a manner as to obstruct the free flow of traffic, and no vehicle shall be parked within 15 feet of any fire plug. All public sidewalks around the Square shall remain freely available to the public with the inside two-thirds width of the sidewalks free from any tables, booths or displays. Farmers' Market vendors may occupy no more than one-third of the width of the sidewalk directly in front of their assigned parking space. As long as pedestrian traffic is not obstructed or hindered, the corners of the Square's sidewalks and any unoccupied space around the outside third of the sidewalk can be used during the authorized hours and days of the Farmers' Market for government communication, free speech and acoustic music purposes. No sound amplification devices may be used.

Amended

(B) *Days and hours.* The Farmers' Market may be open and operating Tuesdays and Thursdays from 6:00 a.m. until 1:00 p.m. and on Saturdays from 6:00 a.m. until 2:00 p.m. from April until Thanksgiving.

(C) *Articles permitted to be sold.* The following articles may be sold at the marketplace established hereby: vegetables, honey, raw juices, molasses, fruit, and other produce grown by the vendor thereof, plants, art work, craft work, and other processed farm products produced by the vendor thereof. All products sold at the marketplace must be produced in compliance with all applicable regulations of the State Department of Health.

(D) *Sanitation.* At the close of each market day, each vendor shall be required to leave the marketplace in a clean and sanitary condition, free from debris and insects.

(E) *Fee.* The fee to be paid by each vendor for the use of the marketplace shall be \$5.00 per year plus ten percent of gross proceeds realized by the vendor from sales at the marketplace.

(F) *Use of public streets for business prohibited; exception.* It shall be unlawful for any person to use any public street, public parking place, or public

CD114:3

to be removed

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

sidewalk, as a place of business except as authorized by this section; provided, any merchant whose building is adjacent to a public sidewalk may conduct business thereon if pedestrian traffic is not obstructed thereby; provided further, the City Council may approve temporary use of a public street, place, or sidewalk as a marketplace where such use is part of an event, activity, or celebration of general public interest. The City Council may impose reasonable conditions on such use as are necessary to safeguard the public health, safety, and welfare.

- (G) *City laws and regulations prevail over Rural Mountain Producers Exchange Board policies.* If the Mayor determines that a policy of the Rural Mountain Producers Exchange Board concerning its operation of the Farmers' Market on city property violates the law or city regulations, such policy shall be revoked and no longer operative. The Rural Mountain Producers Exchange Board may appeal such revocation of any of its policies to the City Council.

(Code 1965, §13-14; Ord. 2040, 8-20-74; Ord. No. 2846, 8-17-82; Ord. No. 2862, 10-5-82; Ord. No. 2925, 6-7-83; Code 1991, §114.03; Ord. No. 4045, §1, 7-15-97; Ord. No. 4248, 6-6-00; Ord. 5309, 4-6-10)

Cross reference(s)--Penalty, §10.99.

State law reference(s)--Maintenance and regulation of markets, A.C.A. §14-140-101.

114.03 First Thursday Fayetteville

- (A) Establishment, hours and dates. First Thursday Fayetteville is hereby established. This monthly event shall run on the first Thursday of every month from April through November during the hours of 4 P.M. through 10 P.M.
- (B) *Location, parking restrictions and administration.* First Thursday Fayetteville shall be located and have control over the public parking spaces along both sides of East Avenue between Mountain Street and Center Street, along both sides of Center Street between East Avenue and Block Avenue, along both sides of Block Avenue between Center Street and Mountain Street, and along both sides of Mountain Street between East Avenue and Block Street during its hours of operation. The Fayetteville Convention and Visitors Bureau shall administer First Thursday Fayetteville and is authorized to remove or request the ticketing of vehicles parked within the allocated areas on East Avenue, Center Street, Block Avenue and Mountain Street between 4:00 P.M. and 10:00 P.M. on days of the event. The Bureau is further

authorized to close East Avenue between Mountain Street and Center Street, Center Street between East Avenue and Block Avenue, Block Avenue between Center Street and Mountain Street and Mountain Street between East Avenue and Block Street to vehicular traffic during the First Thursday Fayetteville event.

- (C) *Articles permitted to be sold.* Only objects of art or craft produced and sold by a local artist or craftsman may be sold at the First Thursday Fayetteville event. The Fayetteville Convention and Visitors Bureau is empowered to assign precise locations for any vendors wishing to display or sell their personally created art or craft work.

- (D) *Sanitation.* At the close of a vendor's operation (no later than 10:00 P.M.), the vendor shall clean the immediate area around the vendor's operation and ensure that all trash and debris are removed and properly discarded.

(Ord. 5307, 3-16-10; Ord. 5392, 3-15-10; Ord. 5487, 3-6-12)

114.04-114.98 Reserved

114.99 Penalty

Any person found guilty of violating any of the provisions of §114.01 shall be deemed guilty of a misdemeanor and shall be fined not more than \$100.00.

(Code 1965, §§7A-2, 11-5; Ord. No. 786, 9-2-35; Ord. No. 1706, 10-6-69; Code 1991, §114.99; Ord. No. 4045, 7-15-97)