

March 19, 2013

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

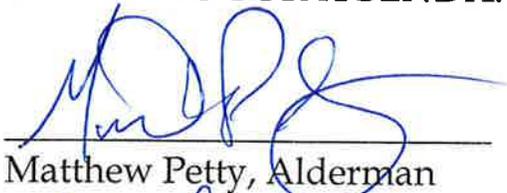
FROM:

ALDERMAN MATTHEW PETTY

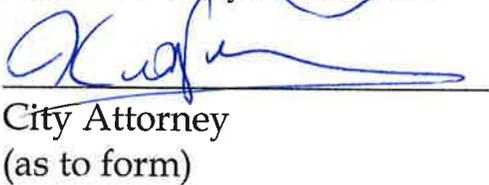
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

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 Third Reading and Tabled to the 5/7/13 CC mtg at the 4/16/13 CC mtg
Left on the Second Reading at the 4/2/13 CC mtg. + Sent to Ordinance Review
Committee
Left on the First Reading at the 3/19/13 CC mtg.

Handed out at the 4-16-13 City Council meeting. Amend §114.02 Farmers' Market Page 2 of 18 4:45 p.m.
amendment at the City Council meeting 4-16-13

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §114.02 FARMERS' MARKET TO AMEND THE USE OF PARKING SPACES ON THE SQUARE ON SATURDAYS, TO PERMIT SOUND AMPLIFICATION DURING FARMERS' MARKET WITH A SPECIAL EVENT PERMIT 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 repealing it in its entirety and enacting a replacement (A) as shown below:

“(A) *Operation of the Farmers' Market on the Square.* The nonprofit Rural Mountain Producers Exchange is authorized to continue to operate the Farmers' Market on the Fayetteville Square in conformance with the following conditions. This marketplace shall be located on the interior parking spaces (those parking spaces adjoining the Old Post Office) of the Downtown Square. 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 governmental communications, free speech and acoustic music purposes. No sound amplification may be used unless approved by the City through its Special Event Permit Process.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby moves and renames Section 114.02 (B) to (C), moves and renames Subsection (C) to (D), moves and renames Subsection (D) to (E), and repeals Subsection (E) in its entirety.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby enacts a replacement subsection (B) as follows:

“(B) Expanded Saturday use of the Square.

(1) All streets closed. The exterior parking spaces for all streets around the Square: East, Center, Block and Mountain shall be available for vendors as assigned by the Rural Mountain Producers' Exchange management by closing all four streets to non-vendor vehicular traffic. Vendors using large commercial delivery vehicles, such as box trucks, shall either be located on the interior parking spaces around the Old Post Office Building or park their vehicles outside the designated market area to maintain storefront visibility. The Rural Mountain Producers Exchange management may leave Center Street or Block Avenue open to through traffic if there is an insufficient number of vendors to fill the north side parking spaces of Center Street or the west side of Block Avenue. The requirements of this subsection shall not apply to Center Street when it remains open to through traffic. No vendor parking is allowed on the west side of Block Avenue, except for food trucks which shall be limited to the southern most and northern most parking spaces.

(2) Pedestrian aisles. To facilitate the flow of pedestrians between storefronts and the streets, midblock pedestrian aisles of at least five feet in width shall be maintained on both sides of each closed street. On the west side of East Avenue, the Old Post Office access easement shall be such an aisle. On the south side of Mountain Street, the opening into the Town Center Plaza shall be used for the aisle.

(3) Exhibition spaces. A minimum of twenty eight (28) feet on either side of each closed street shall be set aside and managed by the Rural Mountain Producers Exchange management as exhibition space for nonprofit entities. The Exchange management shall make available an online form for the reservation of exhibition space on a first-come, first-served basis. No vehicles may be parked within exhibit spaces. Unclaimed exhibition space shall be managed by the Rural Mountain Producers Exchange management and may be used by store owners for sidewalk sales, as temporary seating or by market vendors.

(4) Prepared food vendors. Vendors serving prepared food for consumption at the Farmers' Market shall not be located directly in front of any restaurant storefront without the written permission of the restaurant owner.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends section 114.02 (C) *Articles permitted to be sold* by adding “and have all appropriate permits” to the last sentence.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (H) *Dogs on the Square during the Farmers' Market* as follows:

(H) Dogs on the Square during Farmers' Market. The presence of properly leashed and socialized dogs shall be allowed on the Square during Farmers' Market. Each person with a leashed dog shall have on their person a plastic bag which must be used immediately by the dog's handler or owner to remove any and all feces from their dog. Such bag must be immediately shown to any Fayetteville Animal Control Officer or Police Officer when requested. If a dog damages any vendor's produce or product, the owner or handler shall immediately pay the full value to the vendor for such damaged produce or product. Any unprovoked dog that acts aggressively toward other dogs or provokes other dogs, and any dog that growls or acts aggressively toward any person shall immediately be removed from the entire Square area by its owner or handler and never returned until properly socialized not to be aggressive to humans, dogs or other animals. A Fayetteville Animal Control Officer or Police Officer can order any owner or handler to immediately remove a dog from the Farmers' Market area if in their opinion the dog is not properly socialized or is otherwise a safety or other type of problem. Failure to obey such lawful orders or any other violation of any provision of this subsection can be punished by a fine of up to \$250.00.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (I) *Annual Report to City Council* as follows:

“(I) Annual report to City Council. The Rural Mountain Producers Exchange shall present its annual written report and answer questions about the operation and revenues received and expended in the Rural Mountain Producers Exchange to the City Council during its first meeting in March of each year. This written report shall include year-to-year changes in gross revenues and expenditures and the portion of revenue that is used for administrative overhead, and not actual sales numbers. It shall also provide this same information relative to its operation on any other City property such as the Botanical Gardens at the Lake Fayetteville Park. This information will not be combined, but differentiated between the Square and other locations. The Rural Mountain Producers Exchange shall publish a map of the Square showing the locations of vendor and nonprofit exhibit spaces and provide for online reservation for nonprofits.

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (J) *Fees* as follows:

“(J) *Vendor Fees.* The Rural Mountain Producers Exchange shall not adjust the fees it charges to vendors except with a vote of its full membership.

PASSED and **APPROVED** this 16th day of April, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Summary re: Farmers' Market expansion

For safety

- Block Ave will be closed to traffic this season. Center St probably closed in 2014.
 - Right-turns would still be allowed at each corner of the square.
 - When a street closes, the Market can use the parking spaces on both sides of the street.

More space for everyone

- Vendors and nonprofit/social groups both get more space (about 37% more each).
- Today, about 11% of all space is reserved for nonprofits/social groups. That ratio is maintained.
 - I call that space *exhibition space*.
- Exhibition space is allocated equally to each street that is closed to traffic.
- More space for guest vendors (face painting, weaving, etc), musicians, and performance troupes.

For the brick and mortar businesses

- Sidewalk sales are allowed, and the Farmers' Market will do cross-promotion for the businesses.
- Lines of sight from the street to the stores are maintained by limiting vehicle locations. On Block Ave, no vehicles will be parked in front of storefronts.
 - Tents are raised high enough so that passersby can see underneath them from the street and observe the activity on the sidewalk, drawing them closer to storefronts and sidewalk sales.
- Midblock pedestrian aisles facilitate pedestrian flow between sidewalks and the streets.

Dogs

- Dog lovers will have a right to bring their dogs.
- Owners must carry plastic bags and are responsible for their dogs' actions (they have to pay the vendor if their dog damages merchandise).

Annual reporting and other information

- A map shall be published online which shows the location of vendor and exhibition spaces.
- The Farmers' Market will put a form for reserving exhibition spaces on their website.
- The Farmers' Market must give an annual report on changes in revenue/expenses, growth plans, etc to the City Council at their first March meeting of each year, for each of the markets located on City property.

City Council control of vendor fees

- The City Council repeals the government-mandated level of vendor fees but makes it law

that vendor fees can only be adjusted by a membership vote of the Rural Mountain Producers Exchange Board. Note: Any future City Council may reimpose a vendor fee with a new ordinance.

- The annual reports will give the Council an opportunity to review the management practices of the Market, have input on growth plans, and ample time to consider attendant legislation, if any.

For illustrative purposes only



ORDINANCE NO. _____

AN ORDINANCE TO AMEND §114.02 **FARMERS' MARKET** TO AMEND THE USE OF PARKING SPACES ON THE SQUARE ON SATURDAYS, TO PERMIT SOUND AMPLIFICATION DURING FARMERS' MARKET WITH A SPECIAL EVENT PERMIT 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 repealing it in its entirety and enacting a replacement (A) as shown below:

“(A) Operation of the Farmers' Market on the Square. The nonprofit Rural Mountain Producers Exchange is authorized to continue to operate the Farmers' Market on the Fayetteville Square in conformance with the following conditions. This marketplace shall be located on the interior parking spaces (those parking spaces adjoining the Old Post Office) of the Downtown Square. 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 governmental communications, free speech and acoustic music purposes. No sound amplification may be used unless approved by the City through its Special Event Permit Process.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby moves and renames Section 114.02 (B) to (C), moves and renames Subsection (C) to (D), moves and renames Subsection (D) to (E), and repeals Subsection (E) in its entirety.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby enacts a replacement subsection (B) as follows:

“(B) Expanded Saturday use of the Square.

(1) All streets closed. The exterior parking spaces for all streets around the Square: East, Center, Block and Mountain shall be available for vendors as assigned by the Rural Mountain Producers' Exchange management by closing all four streets to non-vendor vehicular traffic. Vendors using large commercial delivery vehicles, such as box trucks, shall either be located on the interior parking spaces around the Old Post Office Building or park their vehicles outside the designated market area to maintain storefront visibility. The Rural Mountain Producers Exchange management may leave Center Street open to through traffic if there is an insufficient number of vendors to fill the north side parking spaces. The requirements of this subsection shall not apply to Center Street when it remains open to through traffic. No vendor parking is allowed on the west side of Block Avenue, except for food trucks which shall be limited to the southern most and northern most parking spaces.

(2) Pedestrian aisles. To facilitate the flow of pedestrians between storefronts and the streets, midblock pedestrian aisles of at least five feet in width shall be maintained on both sides of each closed street. On the west side of East Avenue, the Old Post Office access easement shall be such an aisle. On the south side of Mountain Street, the opening into the Town Center Plaza shall be used for the aisle.

(3) Exhibition spaces. A minimum of twenty eight (28) feet on either side of each closed street shall be set aside and managed by the Rural Mountain Producers Exchange management as exhibition space for nonprofit entities. The Exchange management shall make available an online form for the reservation of exhibition space on a first-come, first-served basis. No vehicles may be parked within exhibit spaces. Unclaimed exhibition space shall be managed by the Rural Mountain Producers Exchange management and may be used by store owners for sidewalk sales, as temporary seating or by market vendors.

(4) Prepared food vendors. Vendors serving prepared food for consumption at the Farmers' Market shall not be located directly in front of any restaurant storefront without the written permission of the restaurant owner.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends section 114.02 (C) *Articles permitted to be sold* by adding "and have all appropriate permits" to the last sentence.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (H) *Dogs on the Square during the Farmers' Market* as follows:

(H) Dogs on the Square during Farmers' Market. The presence of properly leashed and socialized dogs shall be allowed on the Square during Farmers' Market. Each person with a leashed dog shall have on their person a plastic bag which must be used immediately by the dog's handler or owner to remove any and all feces from their dog. Such bag must be immediately shown to any Fayetteville Animal Control Officer or Police Officer when requested. If a dog damages any vendor's produce or product, the owner or handler shall immediately pay the full value to the vendor for such damaged produce or product. Any unprovoked dog that acts aggressively toward other dogs or provokes other dogs, and any dog that growls or acts aggressively toward any person shall immediately be removed from the entire Square area by its owner or handler and never returned until properly socialized not to be aggressive to humans, dogs or other animals. A Fayetteville Animal Control Officer or Police Officer can order any owner or handler to immediately remove a dog from the Farmers' Market area if in their opinion the dog is not properly socialized or is otherwise a safety or other type of problem. Failure to obey such lawful orders or any other violation of any provision of this subsection can be punished by a fine of up to \$250.00.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (I) *Annual Report to City Council* as follows:

"(I) Annual report to City Council. The Rural Mountain Producers Exchange shall present its annual written report and answer questions about the operation and revenues received and expended in the Rural Mountain Producers Exchange to the City Council during its first meeting in March of each year. This written report shall include year-to-year changes in gross revenues and expenditures and the portion of revenue that is used for administrative overhead. It shall also provide this same information relative to its operation on any other City property such as the Botanical Gardens at the Lake Fayetteville Park. This information will not be combined, but differentiated between the Square and other locations. The Rural Mountain Producers Exchange shall publish a map of the Square showing the locations of vendor and nonprofit exhibit spaces and provide for online reservation for nonprofits.

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (J) *Fees* as follows:

“(J) Vendor Fees. The Rural Mountain Producers Exchange shall not adjust the fees it charges to vendors except with a vote of its full membership.

PASSED and APPROVED this 16th day of April, 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)

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



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

**TO: Chairman of the Ordinance Review Committee Alan Long
Council Member Sarah Marsh
Alderman Matthew Petty
Alderman Martin Schoppmeyer**

**CC: Mayor Lioneld Jordan
Alderman Justin Tennant
Alderman Adella Gray
Alderman Mark Kinion
Alderman Rhonda Adams**

FROM: Kit Williams, City Attorney

A handwritten signature in blue ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: May 1, 2013

**RE: Farmers' Market Ordinance as amended by Ordinance Review
Committee on April 30, 2013**

I want to thank everyone for their long and careful consideration and discussion of the proposed amendment to the Farmers' Market Ordinance last night at the Ordinance Review Committee meeting. I have prepared and attached to this memo what should be the final revisions agreed to last night as well as some minor clarifications such as referring to the Rural Mountain Producers Exchange as a "not for profit" rather than a "nonprofit" organization. Of course the major change agreed to last night was the closure of Block, Mountain and East streets around the Square (but not Center) and the allocation of the outside parking spaces to the Rural Mountain Producers Exchange. All of the ordinance language changes needed to accomplish this are in Section 3.

I also needed to include the closure of the three streets in the title of the ordinance which is slightly longer now. I added ""available" before "plastic bag" in section 5 for clarity.

Please review this possibly final revised ordinance and let me know if any further changes are needed. If I do not hear about needed changes, this will go out in the final Agenda Packet tomorrow.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §114.02 **FARMERS' MARKET** TO AMEND THE USE OF PARKING SPACES ON THE SQUARE ON SATURDAYS, TO CLOSE MOUNTAIN, BLOCK AND EAST STREETS TO VEHICULAR TRAFFIC, TO PERMIT SOUND AMPLIFICATION DURING FARMERS' MARKET WITH SPECIAL EVENTS PERMIT 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 repealing it in its entirety and enacting a replacement (A) as shown below:

“(A) Operation of the Farmers' Market on the Square. The not for profit Rural Mountain Producers Exchange is authorized to continue to operate the Farmers' Market on the Fayetteville Square in conformance with the following conditions. This marketplace shall be located on the interior parking spaces (those parking spaces adjoining the Old Post Office) of the Downtown Square. 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 governmental communications, free speech and acoustic music purposes. No sound amplification may be used unless approved by the City through its Special Event Permit Process.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby moves and renames Section 114.02 (C) to (D), moves and renames Subsection (D) to (E) and repeals Subsection (E) in its entirety.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby enacts a replacement subsection (B) as follows:

“(B) Expanded Saturday use of the Square.

(1) Three streets around the Square: East, Mountain and Block shall be closed to vehicular traffic. The exterior parking spaces for these three streets around the Square shall be available for vendors and exhibitors pursuant to subsection (3) below as assigned by the Rural Mountain Producers' Exchange management by closing these streets and parking spaces to non-vendor vehicular traffic. Vendors using large commercial delivery vehicles, such as box trucks, shall either be located on the interior parking spaces around the Old Post Office Building or outside the designated market area to maintain storefront visibility. No vendor parking is allowed on the west side of Block Avenue, except for food trucks which shall be limited to the southernmost and northernmost parking spaces.

(2) Pedestrian aisles. To facilitate the flow of pedestrians between storefront and the streets, midblock pedestrian aisles of at least five feet in width shall be maintained on both sides of each closed street (as further shown on Exhibit A which shall remain attached to this ordinance for future reference, but not codified). On the west side of East Avenue, the Old Post Office access easement shall be such an aisle. On the south side of Mountain Street, the opening into the Town Center Plaza shall be used for the aisle.

(3) Exhibition spaces. A minimum of twenty eight (28) feet on either side of all three closed streets shall be set aside and managed by the Rural Mountain Producers Exchange management as exhibition space for nonprofit entities. The Exchange management shall make available an online form for the reservation of exhibition space on a first-come, first-served basis. No vehicles may be parked within exhibit spaces. Unclaimed exhibition space shall be managed by the Rural Mountain Producers Exchange management and may be used by store owners for sidewalk sales, as temporary seating or by market vendors.

(4) Prepared food vendors. Vendors serving prepared food for consumption at the Farmers' Market shall not be located directly in front of any restaurant storefront without the written permission of the restaurant owner.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends section 114.02 (C) *Articles permitted to be sold* by adding “and have all appropriate permits” to the last sentence.

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (H) *Dogs on the Square during the Farmers' Market* as follows:

(H) Dogs on the Square during Farmers' Market. The presence of properly leashed and socialized dogs shall be allowed on the Square during Farmers' Market. Each person with as leashed dog shall have on their person a plastic bag which must be used immediately by the dog's handler or owner to remove any and all feces from their dog. The available plastic bag must be immediately shown to any Fayetteville Animal Control Officer or Police Officer when requested. If a dog damages any vendor's produce or product, the owner or handler shall immediately pay the full value to the vendor for such damaged produce or product. Any unprovoked dog that acts aggressively toward other dogs or provokes other dogs, and any dog that growls or acts aggressively toward any person shall immediately be removed from the entire Square area by its owner or handler and never returned until properly socialized not to be aggressive to humans, dogs or other animals. A Fayetteville Animal Control Officer or Police Officer can order any owner or handler to immediately remove a dog from the Farmers' Market area if in their opinion the dog is not properly socialized or is otherwise a safety or other type of problem. Failure to obey such lawful orders or any other violation of any provision of this subsection can be punished by a fine of up to \$250.00.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (I) *Annual Report to City Council* as follows:

“(I) Annual report to City Council. The Rural Mountain Producers Exchange shall present its annual written report and answer questions about the operation and revenues received and expended in the Rural Mountain Producers Exchange to the City Council during its first meeting in March of each year. This written report shall include year-to-year changes in gross revenues and expenditures and the portion of revenue that is used for administrative overhead, and not actual sales numbers. It shall also provide this same information relative to its operation on any other City property such as the Botanical Gardens at the Lake Fayetteville Park. This information will not be combined, but differentiated between the Square and other locations. The Rural Mountain Producers Exchange shall publish a map of the Square showing the locations of vendor and nonprofit exhibit spaces and provide for online reservation for nonprofits.

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby enacts section 114.02 (J) *Vendor fees* as follows:

“(J) *Vendor fees.* The Rural Mountain Producers Exchange shall not adjust the fees it charges to vendors except by a vote of its full membership.”

PASSED and **APPROVED** this 7th day of May, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

For illustrative purposes only

