

CITY OF DRIPPING SPRINGS

ORDINANCE No. 2024-_____

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS, AMENDING THE CODE OF ORDINANCES BY REPEALING AND REPLACING ARTICLE 6.05 CONSTITUTING THE FARMERS MARKET COMMITTEE; PROVIDING FOR OPERATIONAL AUTONOMY; ESTABLISHING RULES FOR VENDOR APPLICATION APPROVAL, REJECTION, SUSPENSION, AND TERMINATION; EMPOWERING THE MARKET MANAGER TO ISSUE DIRECTIVES; ESTABLISHING PENALTY PROVISIONS; REPEALING AND REPLACING SECTION 16.02.065(C) COMPRISING THE FARMERS MARKET RULES; AND PROVIDING FOR A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Dripping Springs recognizes the need for the Farmers Market Committee and Market manager to have greater operational autonomy to efficiently manage vendor applications and ensure the health and safety of the market; and

WHEREAS, the City Council of the City of Dripping Springs seeks to establish clear guidelines for the approval, rejection, suspension, and termination of vendor applications to maintain the quality and safety of the Farmers Market; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City;

NOW, THEREFORE, BE IT ORDAINED by the Dripping Springs City Council:

FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

AMENDMENT

The Code of Ordinances, City of Dripping Springs, Texas, is hereby amended by repealing and replacing Article 6.05 and Section 16.02.065(c) and to read in accordance with Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations, and policies in the City’s Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the ___ day of _____, 2024, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions/recusals) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

Bill Foulds, Jr., Mayor

ATTEST:

Diana Boone, City Secretary

CHAPTER 6 – BUSINESS REGULATIONS

Article 6.05. - Farmers Market-~~Committee~~

Division 1. General Provisions

Sec. 6.05.001. Title.

This article shall be commonly cited as the ~~farmers market committee ordinance~~ Farmers Market Ordinance.

Sec. 6.05.003~~2~~. Mission-of the market.

The mission of the Dripping Springs Farmers Market is to provide a community gathering place where local food producers, artisans, and related community organizations educate and sell directly to consumers.

Sec. 6.05.004~~3~~. Definitions.

- (a) Rules of interpretation. Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the code of ordinances, shall be given the meanings set forth in the code. Words and phrases not defined in the code of ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

- (b) Specific.

~~Agricultural facilities: A farm, garden, ranch, or greenhouse where produce is grown.~~

Agricultural producer: Producer who raises and grows food products.

City administrator: The employee appointed by the city council to serve as the chief administrative officer of the city. The term also includes the deputy city administrator or the city administrator's designee.

City limits: The incorporated municipal boundary of the city.

Committee: The farmers market committee created herein.

Director: The city employee serving as director of parks and community services for the city.

ETJ: The extraterritorial jurisdiction of the city.

Market: Dripping Springs Farmers Market.

Market manager: The city employee designated by the city administrator to supervise the operations of the Mmarket and serves under the direction of the ~~parcs and community services~~ director or designee.

Market rules: The rules applying to Participants to facilitate the efficient, safe, and timely operation of the Market.

Market pParticipants: Participants in the Mmarket include vendors, agents, and any other individual who has applied and received approval to participate in the Mmarket.

Permit: Permission for a Participant to participate in the market as documented in the records of the Market manager and communicated in writing to the Participant.

Division 2. Farmers Market Committee

Sec. 6.05.0024. Committee Purpose.

~~The purpose of the Dripping Springs Farmers Market Committee (the "committee") is to:-~~

- ~~(1) — Fulfill the mission of the market;~~
- ~~(2) — Provide oversight of the market in order to make recommendations related to the market; and~~
- ~~(3) — Serve as an advisory body for the city council.~~

The purpose of the Farmers Market Committee is to advise the Market manager regarding the operation of the Dripping Springs Farmers Market, ensuring its smooth functioning, maintaining vendor compliance with Market rules, and safeguarding public health and safety.

Sec. 6.05.005. Committee Membership, meetings.

- (a) Number of members. The committee shall have up to eight members.
- (b) Terms of members. Committee members will serve two-year terms. Members may be reappointed with no limitation on the number of terms one member may serve.
- (c) Member selection.
 - (1) Every year, city staff will prepare a slate of nominees for city council consideration.
 - (2) Committee members shall be appointed by majority vote of the city council.

- (3) Committee members ~~may~~ must be residents or business owners in the city limits or ETJ or within 150 miles of the city limits. At least two committee members must be market vendors of which one shall be an agricultural producer.
- (4) Although not strictly required, preference for committee membership shall be given to persons who raise, grow or make food products, or artists who make crafts from agricultural products.
- (d) Officers. The chair shall be appointed by the city council from among the membership. A vice-chair shall be selected by the committee members. In the absence of the chair or vice-chair, the remaining committee members may select a person among themselves to preside over a meeting.
- (e) Member removal. The city council may remove committee members by majority vote, with or without cause.
- (f) Resignation; vacancies. A committee member may resign by providing the city secretary written intent to resign. A failure to attend three or more sequential, regular committee meetings will constitute automatic notification of intent to resign. The committee may provide recommendations to the city council related to the removal or appointment of committee members. The city council may fill vacancies by majority vote. Committee members appointed to fill a vacancy will complete the unexpired portion of the term.
- (g) Committee Meetings.
 - (1) The committee will meet monthly in person or by electronic means as coordinated with and arranged by city staff. Agendas will be drafted by the ~~chair~~ with the support of city staff Market manager.
 - (2) A ~~quorum~~ minimum of four ~~or more~~ committee members shall constitute a quorum. The chair shall count toward the establishment of a quorum. Abstentions shall not affect the establishment of a quorum. A quorum is required to take action as the Dripping Springs Farmers Market Committee.
 - (3) The committee is not subject to the Texas Open Meetings Act.
 - (4) The committee's work and work product will be subject to the Public Information Act, Texas Government Code chapter 552.

Sec. 6.05.006. Committee Authority.

~~The committee is advisory only. They have no authority to make decisions binding on the city. The authority of the committee will include:-~~

- ~~(1) — To make recommendations to the city council regarding market operations.—~~
- ~~(2) — To evaluate the market to identify means of making improvements.—~~

- ~~(3) — To make recommendations related to the drafting and implementation of all rules and procedures for the market to the city council.~~
- ~~(4) — To assist city staff with the operations of the market, in addition to preparations and post event recovery of the site.~~
- ~~(5) — To make recommendations to city council regarding budget for the farmers market and expenditures related to appropriated funds.~~
- ~~(6) — To perform other duties as established in the rules and regulations for market operations, as enacted by the city council.~~
- ~~(7) — The committee's work and work product will be subject to the Public Information Act, Texas Government Code chapter 552.~~

The Committee shall, subject to the provisions outlined herein, have the authority to:

- (a) make recommendations to the Market manager regarding the approval, rejection, suspension, and termination of vendor applications.
- (b) advise the Market manager regarding means of making improvements.
- (c) assist city staff with the development and implementation of special events.
- (d) make recommendations to city council regarding the budget prepared and presented by the Market manager for the farmers market, and
- (e) perform other duties in relation to market operations as established by the city council.

Sec. 6.05.007. – Committee Support.

- (a) City staff shall provide logistical support to the committee and its subcommittees, as defined by access to city facilities for purposes of public meetings; drafting meeting agendas; access to city resources for purposes of copies and communications; and a designated ~~market~~ Market manager to serve as staff liaison to coordinate and direct such support.
- (b) One or more ~~market~~ Market managers shall be designated by the city administrator. A ~~market~~ Market manager shall be a city staff member (employee or contract professional services).
- (c) The city shall provide and support an online presence, including but not limited to information on the city website, assistance with an electronic newsletter, and social media for farmers market related information and activities and will provide a page via the market manager upon which the committee may request that the city post additional information related to committee meetings and farmers market information.

- (d) City staff shall inform the committee of changes to personnel, logistical support, and other matters related to the operation of the farmers market in a timely manner.

Division 3. Market Operations

Sec. 6.05.008. Vendor Application Approval and Rejection.

- (a) Producers, prepared-food producers, artists and craftspeople, service providers, entertainers, and community organizations that fulfill the mission of the market as listed in section 6.05.002 of this code, may be approved to participate in the market.
- (b) Community organizations that fulfill the mission of the Market and seek to fundraise or educate at the market can submit an application to the Market manager for approval to perform such activities.
- (c) All Market Participants must complete the appropriate application, pay the applicable fees, and be approved by the market manager prior to participation in the Market.
- (d) The Market manager may, in consultation with the committee, approve or reject vendor applications based on compliance with market rules, quality of products, and overall market needs.
- (e) Decisions regarding approval or rejection of applications shall be communicated to the applicant in writing by the Market manager, stating the reasons for rejection, if applicable.

Sec. 6.05.008A. Vendor Requirements.

- (a) Market booth fees will be determined annually by the Market manager and approved by the city council. Fees will be assessed to Participants weekly.
- (b) All vendors must agree to and assist in the inspection of their operation by representative of the market at any time to ensure compliance with Market rules and state health rules, as applicable.
- (c) Each vendor is responsible for the vendor's own sales tax collections and payments.
- (d) A scale certified by the Texas Department of Agriculture must be used at the market for all products sold by weight.
- (e) Food samples must be distributed in accordance with the rules set forth by the city's farmers market food sampling rules and Texas Department of State and Health Services.
- (f) Home-canned processed foods and baked goods can be sold but must comply with the Texas Cottage Food Laws as defined by the Texas Department of State Health Services and Texas Health and Safety Code.

- (g) All vendors must obtain any and all permits and licenses required by the state and the county as applicable to sell each product.

Sec. 6.05.009. Suspension and Termination of Vendor Permits.

- (a) The Market manager may temporarily suspend a vendor's permit, or, subject to the due process requirements of this section, terminate a vendor's permit indefinitely, for violations of market rules, ordinance provisions, or applicable laws.
- (b) In cases of non-compliance that pose an immediate threat to public health or safety, the Market manager is empowered to temporarily suspend a vendor's permit until the next committee meeting. At this meeting, the vendor must show cause to the committee why the vendor's permit should not be terminated indefinitely or further suspended temporarily by the Market manager.
- (c) Prior to any decision by the Market manager to terminate a vendor's permit, the vendor shall be provided with an opportunity to be heard before the committee.

Sec. 6.05.010. Authority of Market Manager.

- (a) The Market manager is authorized to issue directives to vendors to facilitate the efficient operation of the market, provided such directives are not inconsistent with market rules or applicable laws.

Sec. 6.05.011. General Market Rules.

- (a) No vendor, attendee, or participant in the market may impede pedestrian or vehicular traffic or interfere or disrupt normal market operations.
- (b) The farmers market and all vendors must comply with the Americans with Disabilities Act and with state accessibility requirements. All common areas and vendor booths must be accessible to individuals with disabilities whenever the booth is open to the public.
- (c) Public dissemination of information is regulated on market days during market hours. Those seeking to disseminate information must do so only in the area designated by the market manager. Disseminators may not impede pedestrian or vehicular traffic or interfere or disrupt normal market operations.
- (d) The Market manager is authorized to adopt or amend market rules, in consultation with the committee and approved by the city administrator and either the director or city attorney, not inconsistent with applicable laws, ordinances, and resolutions of the city council.
- (e) The Market manager shall notify the city council and vendors of all amendments to the Market rules in writing.
- (f) An amendment to the Market rules take effect on the later of:

- (1) the commencement of the Market that is held no earlier than seventy-two (72) hours before the Market manager notifies vendors of the amendment, and
 - (2) such later date as may be determined by the Market manager and specified in the notification to vendors of the amendment.
- (g) The Market manager shall ensure that all Market rules are made available to vendors and are enforced equitably.

Sec. 6.05.012. – Appeal to City Administrator.

- (a) If any person believes that a determination made under this article is in error, the person shall have the right to appeal such determination to the city administrator.
- (b) To be actionable, an appeal must be filed with the city administrator in writing within 14 business days of the date of the determination. The written request for an appeal must:
 - (1) Include a statement that the appellant has requested reconsideration by the Market manager, and that the request for reconsideration was denied or not responded to within 30 calendar days of having been requested; and
 - (2) Include a statement of the reasons why the determination should be reversed or modified; and
 - (3) Include an explanation of the legal and factual grounds of the appeal; and
 - (4) Be accompanied by payment of the appeal fee established by the city council, as codified in the city's fee schedule.
- (c) The city administrator shall act upon an appeal within 30 days of receipt of a written request for appeal that conforms to this section.

Sec. 6.05.013. – Non-compliance; penalties.

- (a) All Market complaints should be sent to the Market manager for review.
- (b) It is a misdemeanor offense for a person to offer for sale any product at the Market except such items approved as part of their application in accordance with a valid permit approved by the Market manager, or in violation of market rules, this ordinance, or applicable laws..
- (c) Violation of Market rules or Park rules may result in verbal warning, written warning, suspension or expulsion from the market. The Market manager shall have discretion to enact any or all of the above options based on the severity of the violation.
- (d) In addition to the criminal and civil remedies set out in this section, and subject to

the appeal procedure set out in section 6.05.012, the Market manager will have authority to summarily issue administrative penalties to vendors who have violated market rules.

- (e) Enforcement. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. The Market manager has the authority to control the use of the Market premises for purposes of Texas Penal Code section 42.03 (obstruction of passageways), issue warnings, provide notice per Texas Penal Code section 30.05 (criminal trespass), and take appropriate action against any person who violates the rules and regulation for Market operations, any section of this division, and any other regulation or law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance.

- (f) Criminal penalty. Except under (f)(2), each violation of this article is a strict liability offense and shall be punishable by a fine not to exceed \$500.00 per offense.
 - (1) Violations of this article or Market rules that govern public health or sanitation, other than the dumping of refuse, are subject to a fine not to exceed \$2,000, in accordance with Texas Local Government Code Section 54.001 if the offense is committed intentionally, knowingly, recklessly, or with criminal negligence.
 - (2) Each day that a provision of this article is violated shall constitute a separate offense.

- (g) Civil remedies. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including, but not limited to the following:
 - (1) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article; and
 - (2) A civil penalty up to \$100.00 a day when it is shown that the defendant was actually notified of the provisions of the article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and
 - (3) Other available relief.

CHAPTER 16 - PUBLIC WAYS AND PLACES

Article 16.02. - Parks and Recreation

Division 2. - Park Rules

Sec. 16.02.065. Special rules for specific park facilities.

- ~~(a) — Farmers market. The following This section applies to farmers market operations. The market manager has the authority to control the use of the park premises for purposes of Texas Penal Code section 42.03 (obstruction of passageways), issue warnings, provide notice per Texas Penal Code section 30.05 (criminal trespass), and take appropriate action against any person who violates the rules and regulation for market operations, any section of this division, and any other regulation or law. Additional regulation related to the farmers market is in article 6.05 of this code. Farmers market rules include:~~
- ~~(1) — All market participants must complete the appropriate application, pay the applicable fees, and be approved by the market manager or the farmers market committee prior to participation.~~
 - ~~(2) — Producers, prepared food producers, artists and craftspeople, service providers, entertainers, and community organizations that fulfill the mission of the market as listed in section 6.05.003 of this code, may be approved to participate in the market.~~
 - ~~(3) — The farmers market and all vendors must comply with the Americans with Disabilities Act and with state accessibility requirements. All common areas and vendor booths must be accessible to individuals with disabilities whenever the booth is open to the public.~~
 - ~~(4) — All vendors must agree to and assist in the inspection of their operation by representative of the market at any time to ensure compliance with these rules and state health rules, as applicable.~~
 - ~~(5) — Market booth fees will be determined annually by the farmers market manager and approved by the city council. Fees will be assessed to participants weekly.~~
 - ~~(6) — All selling and promotion must be contained within the ten feet wide by ten feet deep booth space.~~
 - ~~(7) — Any vendor cancellations must be communicated with the market manager by 2:00 p.m. on day prior to the market or late notice fees will be assessed.~~
 - ~~(8) — Smoking or other tobacco use, including vaping or electronic cigarettes, is not allowed in market area.~~

- ~~(9) — All market complaints should be sent to the market manager for review by the farmers market committee.~~
- ~~(10) — Violation of farmers market or park rules may result in verbal warning, written warning, suspension or expulsion from the market. The market manager shall have discretion to enact any or all of the above options based on the severity of the violation.~~
- ~~(11) — Community organizations that fulfill the mission of the market and seek to fundraise or educate at the market can submit an application to the farmers market manager for approval to perform such activities.~~
- ~~(12) — All vendors must wait for the sound of the opening bell to commence sales to the public.~~
- ~~(13) — Public dissemination of information is regulated on market days during market hours. Those seeking to disseminate information must do so only in the area designated by the market manager.~~
- ~~(14) — Each vendor is responsible for his or her own sales tax collections and payments.~~
- ~~(15) — A scale certified by the Texas Department of Agriculture must be used at the market for all products sold by weight.~~
- ~~(16) — Food samples must be distributed in accordance with the rules set forth by the city's farmers market food sampling rules and Texas Department of State and Health Services.~~
- ~~(17) — Home-canned processed foods and baked goods can be sold but must comply with the Texas Cottage Food Laws as defined by the Texas Department of State Health Services and Texas Health and Safety Code.~~
- ~~(18) — All vendors must obtain any and all permits and licenses required by the state and the county as applicable to sell each product.~~
- ~~(19) — All items sold at the market must be raised, prepared, processed, or crafted by the vendor within a 150-mile radius of the city and meet the mission of the market.~~
- ~~(20) — No live animals may be sold or given away at the market.~~
- ~~(21) — No vendor, attendee, or participant in the market may impede pedestrian or vehicular traffic or interfere or disrupt normal market operations.~~