

## Chapter 5.24

### FARMERS' MARKETS

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#### **5.24.010 Purposes of chapter.**

The purposes of this chapter are as follows:

- A. To establish a legal framework for the operation of a farmers' market within the city;
- B. To provide for a flexible system of management over a farmers' market that is responsive to public input and acts in the interest of all the residents of the city;
- C. To meet the need for control over space allocation and enforcement of rules for selling at a farmers' market; and
- D. To ensure that a farmers' market is successfully maintained primarily as an outlet for farmers to sell their produce directly to consumers, while allowing for some product diversity in order to better meet the needs of consumers. (Prior code § 3-170)

#### **5.24.020 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings given to them by this section, unless the context otherwise requires:

"Employee" means any person employed by a qualified seller at a regular salary, either full- or part-time, but not including any person whose compensation in whole or in part is based on, or consists of, a commission on sales.

"Family member" means a spouse, parent, child, sibling, grandparent, grandchild, or any other person regularly residing in the qualified seller's household.

"Governing board" means the board of directors or other ruling committee of the market association.

"Market" means a farmers' market, a market certified by the Napa County agricultural commissioner and location, including, where authorized, temporary use of streets and/or parkland.

"Market association" means a nonprofit association or corporation which manages and operates the market by permit from the city.

"Market manager" means a person or persons empowered by the governing board, to implement market policies and directives, and to oversee the operation of the market.

"Qualified seller" means a person selling or offering for sale at the market an item or commodity which he or she has:

1. Grown upon land which the person controls, in the case of fruits, nuts, vegetables or other plant products;
2. Bred, raised, cultivated, or caught, in the case of animals, poultry or fish products;
3. Cooked, canned, preserved, or otherwise significantly treated, in the case of processed foods; or
4. Created, sewn, constructed, or otherwise fashioned from agricultural component materials, in the case of crafts.

"Resale" means any sale other than by a qualified seller, or a family member or employee thereof. (Prior code § 3-171)

#### **5.24.030 Farmers' market permit.**

A. Upon permit approval by the city manager or his/her designee, the market association, through its governing board, may manage and operate a farmers' market, subject to the following conditions:

1. A health permit shall be applied for from the county environmental health department received prior to the first day of operation.

2. Membership in the market association shall be open to all members of the public on an equal basis.

3. Membership in the market association shall not be a pre-requisite for selling at the market.

4. At least two but no more than half, of the positions on the governing board shall be held by representatives of growers. At least half of the positions on the board shall be held by consumer representatives from the City of Napa.

5. All meetings of the market association relating to the market, except those concerning personnel or confidential legal matters, shall be open to the public, including meetings of the governing board and its committees or subgroups. Membership of governing board and market managers, and by-laws of association, will be submitted prior to the time of application.

6. The market association shall obtain a business license as the sponsor of the market, in accordance with the provisions of Chapter 5.04 of this title prior to the issuance of farmers' market permit.

7. A use permit from the city shall be obtained. In the event the proposed location is city-owned property under a lease agreement for such use only, liability insurance of at least one million dollars will be required prior to the issuance of lease.

B. Subject to the conditions in subsection A and other provisions of this chapter, the market association may:

1. Promulgate rules and regulations for the market pursuant to Section 5.24.040;

2. Issue permits and assign stall spaces for selling at the market;

3. Collect reasonable fees from sellers who utilize the market facilities; and

4. Take any other actions reasonably necessary for the efficient management and operation of the market. (Prior code § 3-172, Ord. No. O95-017, Amended, 05/16/1995)

#### **5.24.040 Rules and regulations--Limitations on selling.**

A. The market rules and regulations, when promulgated by the market association in furtherance of this chapter and not disapproved by the council after presentation thereto, shall be deemed to be adopted as part of this chapter and shall have the same force and effect as though expressly included.

B. The market rules and regulations shall incorporate the following provisions, which are made a part of this chapter:

1. All sellers must currently have and display at the market all appropriate permits, licenses and certificates, and comply with all applicable federal, state and local laws, ordinances and regulations;

2. No resale is permitted, and only qualified sellers may sell at the market, with the following exceptions:

a. A family member or employee may sell for a qualified seller, but no commissions may be paid or received in connection with such sales,

b. A certified grower may sell for one other grower who is not a relative, provided that the seller is also selling his or her own produce and displays both growers' certificates;

3. Sellers must maintain their stall spaces in a clean and sanitary condition. Each seller shall remove containers, waste, and trimmings before leaving the market. Sellers may not use city trash bins.

C. The market rules and regulations may establish general categories for types of goods sold and may allocate a specific number of stall spaces for each category, subject to the following conditions:

1. The types of goods or commodities sold within each general category shall not be restricted;

2. A priority system for assigning stall spaces may be based on seniority, with priority given to sellers who have been sellers at the market for the greatest length of time. No priority shall be

given on the basis of location of product origin, except that sales of crafts may be limited to those produced in the city or Napa County;

3. If sellers with priority have not arrived at the market or notified the market manager of their intended arrival by a cutoff time established by the market manager, all unused stall spaces shall be made available to qualified sellers on a first-come, first-served basis.

D. The market rules and regulations shall be distributed to each person who applies for a selling permit and shall be prominently displayed at the market. (Prior code § 3-173)

#### **5.24.050 Permits to sell.**

A. No person shall sell or offer to sell any item at the market except under the authority of a valid seller's permit approved by the market manager.

B. A seller's permit shall give a seller the privilege of selling at the market only if the following conditions are met:

1. The seller properly files an application for a permit to sell at the market;
2. The seller complies with all ordinances and rules relating to the use of the market facilities;
3. The seller pays the appropriate stall fees;
4. The seller grants permission for the market manager, or other market association representative to enter the seller's premises for the reasonable inspection of land, facilities and records, in order to determine whether the seller is in compliance with the seller's permit conditions.

C. The decision of the market to deny a permit to a seller may be appealed as provided in Section 5.24.070. (Prior code § 3-174)

#### **5.24.060 Violations.**

A. Whenever the market manager believes a seller has violated the provisions of Section 5.24.050(B), the market manager may immediately suspend the seller's permit for thirty days or until a hearing is held before the governing board. The market manager must inform the seller in writing of the reasons for the suspension.

B. If the governing board, after an appeal hearing, determines that the seller has violated the provisions of Section 5.24.050(B), it may extend the suspension period to a maximum of sixty days.

C. The governing board may indefinitely suspend or revoke the permit of any seller whose permit has been suspended more than twice in a two-year period.

D. The market association is authorized to take civil legal action to enforce the requirements of this chapter and the rules and regulations.

E. In addition to the provisions of subsections A through D above, any person who violates any provisions of this chapter shall be deemed guilty of an infraction.

Every day that any such violation continues shall constitute a separate offense.

F. The remedies provided herein shall not be exclusive, and violation of any provision of this chapter shall be subject to other remedies as may be provided by law. (Prior code § 3-175)

#### **5.24.070 Appeals.**

Whenever the market manager denies a sales permit to an applicant or suspends a seller's permit, the market manager shall do so in writing. The applicant may, within ten days of the action in issue, file a written request for an appeal with the governing board. The governing board shall then hold a hearing within thirty-five days of the date of filing thereof. The person who made the request shall be notified in advance of the time and place of the hearing, and shall be allowed to appear and present evidence. After such hearing, the governing board may either affirm or overrule the market manager's decision, and if appropriate impose a penalty authorized under Section 5.24.060(B). The governing board shall promptly notify the applicant or seller in writing of its decision and the findings of fact supporting that decision. (Prior code § 3-176)