

ORDINANCE NO. 2422

AN ORDINANCE TO AMEND THE GATLINBURG ZONING ORDINANCE, BEING ORDINANCE NO. 830, AS PREVIOUSLY AMENDED, AND FURTHER BEING AN ORDINANCE TO REPEAL SECTION 405 OF SAID ORDINANCE, AND ADOPTING A NEW SECTION 405; ADDING SECTION 706.10; AMENDING SECTIONS 708 AND 710 THEREOF, AND FURTHER BEING AN ORDINANCE TO REGULATE TEMPORARY USES AND FARMERS MARKETS.

WHEREAS, the City of Gatlinburg currently has temporary use provisions in Ordinance No. 830, the Zoning Ordinance of the City of Gatlinburg, and wishes to modify and add additional provisions dealing with temporary uses and exemptions thereto; and

WHEREAS, the City of Gatlinburg does not currently have provisions classifying and authorizing farmers markets and the regulation thereof; and

WHEREAS, the provisions incorporated within this ordinance have been reviewed and approved by the Gatlinburg Municipal Planning Commission; and

WHEREAS, the adoption of this ordinance would be in the best interests of the health, safety and welfare of the citizens, residents and visitors of the City of Gatlinburg.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GATLINBURG, TENNESSEE:

Section 1. Ordinance No. 830, being the Zoning Ordinance of the City of Gatlinburg, Tennessee, as amended, is hereby further amended by repealing Section 405 thereof, and adopting a new Section 405 in lieu thereof as follows:

“405. TEMPORARY USES.

405.1 PURPOSE. Temporary uses are allowed in commercial districts of the City as provided in the provisions established herein. Temporary uses shall be allowed for certain uses for a limited duration and which are generally associated with the tourist industry. For the purpose of this section, temporary use is defined as activities conducted by the principal occupant of the property, including the placement of merchandise or products. In properties that function as a mall (indoor and/or outdoor), multi-tenant structure, shopping center, and/or similar structures, the principal occupant shall be the mall, multi-tenant structure, shopping center and/or similar structure and not the individual tenants located within said mall unless designated as the principal occupant by the mall. In these instances, a notarized document shall be supplied to the City from the principal occupant designating said tenant and acknowledging that the herein time limitations are not based on a per tenant basis, but for the entire property. A temporary use permit shall be limited to a maximum duration of 14 days and no more than two (2) temporary use permits shall be issued within a 12-month period on any given parcel of property.

405.2 PERMITTED USE. Temporary use activities may be conducted by the principal occupant of the property, and/or as limited access shows/events as per Section 405.4; however, they cannot be conducted in the front yard setback. The principal occupant

shall be defined as the person or persons, who by the authority of a legally recorded deed or lease agreement, occupies a building on any given parcel of property. In properties that function as malls (indoor & outdoor), multi-tenant structures, shopping centers, and/or similar structures, the principal occupant shall be the mall, multi-tenant structure, shopping center and/or similar structure and not the individual tenants located within said mall unless designated by the mall. For the purposes of this section, a building shall be defined as a fully enclosed structure intended for the shelter and/or housing of persons, animals, or chattels associated with the occupancy of the building. In addition, cultural exhibits, arts and crafts exhibits, and music activities approved by the Board of Commissioners of the City shall be permitted provided these activities are for exhibition or demonstration purposes only.

405.3 CERTAIN PUBLIC USES EXEMPTED. The following public properties and uses shall be exempt from the provisions of the Gatlinburg Zoning Ordinance and the Temporary Use Regulations of the City provided however, such uses shall be in compliance with the use policies of the Gatlinburg Convention Center or Recreation Department or the Parking Department, whichever is applicable:

405.3.1. Gatlinburg Convention Center.

405.3.2. City owned public parks and parking garage facilities.

405.3.3. Pi Beta Phi Elementary School and Gatlinburg-Pittman High School.

405.3.4 City Sponsored Special Events.

405.4 Other Exempted Uses. The following uses shall be exempted from the Temporary Use Regulations of this Ordinance provided the use is compliant with all other applicable Zoning Ordinance Requirements.

405.4.1. Farmers Markets. Farmers Markets as defined under Article VII, Section 706.10 provided that the principal occupant of the property or in the case of a vacant property, the property owner, provides a consent form for the use of the property as a Farmers Market to the City of Gatlinburg. In addition, the market must comply with all the provisions established in Section 706.10.

405.5 LIMITED ACCESS SHOWS/EVENTS. Limited access shows/events may be conducted by applicants other than the principal occupant of the property under the following conditions:

- a) The event shall be limited access (i.e. access by invitation only);
- b) The event shall not exceed 14 days;
- c) All temporary structures associated with the event may be erected no more than 7 days prior to the event and must be removed no later than 7 days following the event;
- d) No more than two (2) temporary use permits shall be issued for limited access shows/events for any given parcel or parcels occupied by a single business within a 12 month period;
- e) Limited access shows/events shall not be permitted within required setback areas.

405.6 PERMIT REQUIRED. A temporary use or limited access show/event is required to obtain a permit prior to such use or event. Application shall be made to the City at least 14 days prior to such use or event.”

**Section 2.** Ordinance No. 830 is hereby amended by adding the following new section, being Section 706.10 dealing with farmers markets, as follows:

706.10. Farmers Markets. For the purposes of this ordinance a “Farmers Market” shall be defined as: A cultural activity where a common facility or area is utilized and local farmers/growers gather on a regular, recurring basis to sell a variety of fresh fruits, vegetables, produce, baked goods, fresh-cut flowers, and plants from

independent stands directly to consumers, and consisting of no less than six (6) individual vendors. The term "local" farmers/growers shall consist of only farmers/growers who are residents of Sevier County and/or surrounding counties.

1. Accessory Uses for Farmers Markets shall include: Live acoustical music, educational programs and demonstrations, arts and crafts exhibitions where no goods are for sale, children's programs and activities. A single kiosk/booth, operated by the farmer's market managing agency, in which community and area information is distributed and where consumable food items can be purchased by patrons provided said kiosk/booth is approved by the Sevier County Health Department.

Farmers Markets and their accessory uses shall be permitted provided the following provisions and conditions are met:

#### A. Permit Requirements

1. All market locations shall be approved by the Municipal Planning Commission. An application for approval shall be submitted to the Planning Commission 15 days prior to a regular scheduled Planning Commission Meeting date. All applications must be submitted and approved a minimum of one (1) month preceding the proposed opening date of the market.
2. No farmers market shall be permitted to operate without the approval of the Municipal Planning Commission and an annual Farmers Market permit from the Planning and Building Inspections Department of the City. Farmer's market permits shall be non-transferable and will be required on an annual basis for each farmer's market location.
3. A permit fee of \$100 will be required for each market location and will be required annually with each permit request. An approval covers one harvest season, running from April 1st through November 30th. The approval is issued based on the location of the market. If a market chooses to move locations, a new application and approval fee shall apply. Fees are subject to change.

#### B. Location

1. Farmers markets and their accessory uses shall only be located in commercial districts which specifically allow such uses as established in the Municipal Zoning Ordinance.
2. The market shall not block any drive aisle extending from a major or collector street. Vendors and/or market managers must take every reasonable precaution to protect the safety of the customers from traffic and other hazards.
3. There shall be a minimum separation of 3,000 feet between permitted farmers markets.

#### C. Site Plan Requirements

1. A Site Plan must be submitted to Municipal Planning Commission for review and approval. The Site Plan shall include the following: Vicinity Map, location of all facilities (such as tents, canopies, vendor displays, etc.) and accessory uses, parking areas for vendor cars and trucks, public walkways, parking areas (including any off-site parking) for customers including handicap parking, toilet facilities, temporary water and electric utilities (if any), garbage container locations, signs and sign locations, a emergency access plan which also depicts fire hydrant locations. The site plan shall also contain all necessary signatures of approval from Utility Department, Fire Department, and Sevier County Health Department (if applicable). All aspects of the Site Plan must be in compliance with all applicable building codes including ADA. Access to existing fire hydrants must be maintained and shown on the Site Plan.

If the farmer's market site is to contain any type of permanent structure(s) then the Site Plan shall be designed by a licensed professional architect, engineer and/or surveyor. However, if the farmers market site is to remain temporary in nature and contain no permanent structures then the Site Plan may be designed without the seal of a professional architect, engineer and/or surveyor as long as the Site Plan is drawn to scale. This provision shall be administered at the discretion of the Planning Department Staff.

2. A copy of the farmer's markets by-laws and any liability insurance policy that may be required by the property owner shall be provided to the City upon application for review and a farmers market permit. All City sponsored farmers market shall be required to obtain liability insurance with the City as an additional named insured and provide a copy of same to the City.

#### D. Parking

1. Two (2) parking spaces consisting of no less than 9' by 18' in size shall be required per vendor stall. This parking recommendation is in addition to any existing parking requirements for a shopping center or business, depending on where the market location is proposed.
2. Parking shall be located on the same site of the farmers market or maybe located off-site provided it is located within 500 feet of the main entrance and provided a copy of the parking agreement between the farmers market management agency and the off-site property owner is provided to the City. Adequate and safe ingress and egress from the off-site parking area to the farmer's market location shall be provided by the farmer's market management agency.
3. Delivery trucks shall not occupy more than one parking space. Delivery trucks shall only be parked on the premises on the day of the market.
4. No handicap parking spaces or handicap access ramps shall be blocked by the operation of the market.
5. No parking shall occur on unapproved parking surfaces, such as, but not limited to, parking islands, medians, common open spaces, parkland, etc. All parking must occur on designated surfaces and areas.

#### E. Infrastructure

1. The markets shall consist of temporary, removable structures in specific areas designated on the approved site plan. Market set-up and removal must occur on the day of the operation.
2. Lighting shall only be utilized within the market if an overhead covering is installed, to light only vendor spaces and customer aisles. No lighting shall flood adjacent properties, or be utilized to light event signage.
3. Applicants shall contact the Gatlinburg Fire Department and Building Inspection Services Department to ensure site layout accommodates adequate Fire Department access and request an inspection of the premises if the structure warrants an inspection. The inspection and approval shall take place prior to the opening of the market.
4. Applicants shall be required to contact the Sevier County Health Department to gain all necessary inspections and approvals prior to the opening of the market if required by the Health Department.
5. The applicant shall be responsible for contacting the Tennessee Department of Revenue regarding market and vendor tax and business licensing requirements. All

markets and vendors shall be responsible for ensuring compliance with all local, state and federal requirements associated with the farmer's markets use and establishment.

6. Copies of the applicable business license, permits and inspections shall be displayed in a conspicuous place on the day of the market.

#### F. Signage

1. Each market shall be allowed one (1) temporary banner sign at each entrance to the premises from the adjacent street giving access to the market. The banner shall be no larger than 32 square feet and may contain only pertinent market information such as the management company and sponsorship information, hours of operation and contact information. All banners shall be subject to setback and height restrictions, and permitting requirements of Sign Ordinance Provisions of the Municipal Zoning Ordinance, Article IV, Section 411.
2. The market entrance banners shall be permitted to be erected no more than 14 days prior to the initial opening date of the market. After the initial opening date, all market entrance banners shall then be temporary in nature and displayed only during the hours of operation. No signs shall be displayed on vehicles.
3. No sign shall impede the view of vehicular or pedestrian traffic.
4. Additional internal vendor signs shall be permitted at each vendor location within the farmers market provided the signs are no larger than four (4) square feet and only one sign is permitted per vendor. The vendor is also permitted product rate and price signs provided that all signs are displayed internally to market patrons, not visible to the adjacent public right-of-way areas, and do not exceed one (1) square foot in size.

#### G. Operation

1. Each market shall be permitted to operate from April 1st through November 30th.
2. Each market may only operate Saturdays between 7 a.m. and 12 noon. Market set-up shall not begin prior to 6 a.m. and market break down and clean-up shall be completed by 1 p.m.
3. If a market location is proposed for the parking lot of an existing business, written permission must be submitted by the property owner with the application. In that letter, the market management and the property owner must supply an official copy of the necessary insurance, if required, to operate a market on the premises.
4. Property owners are ultimately responsible for the clean-up of the market after closing.
5. The applicant is ultimately responsible for ensuring that all vendors have the appropriate documents to permit the vendor activity of a farmers market, as well as being responsible to ensure that all applicable guidelines are followed from the City of Gatlinburg, Sevier County Health Department and the State of Tennessee.

#### H. Enforcement

1. The City of Gatlinburg reserves the right to inspect all markets. If a market is found to be in violation of the terms of the permit and/or the guidelines above, a fine may be levied on the property owner and/or market management agency, after proper notice has been issued.
2. All violations must be corrected within the same day when practical but no less than by the next market open date. Multiple or reoccurring violations, of which previous notice of violation has been given by the City, will result in revocation of the farmers market permit based on the sole discretion of the City.

3. A revoked permit shall not be reissued for a farmers market agency within the same calendar year.”

**Section 3.** Ordinance No. 830 is hereby amended by adding a new subsection 708.6 as follows:

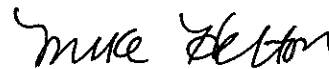
“708.6 Farmers Markets as per Section 706.10.”

**Section 4.** Ordinance No. 830 is hereby amended by adding a new subsection 710.8 as follows:

“710.8 Farmers Markets as per Section 706.10.”

**Section 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

THIS ORDINANCE MADE AND ADOPTED THIS 6<sup>th</sup> DAY OF JULY, 2010.



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MAYOR

ATTEST:

  
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CITY RECORDER

Approved by the Gatlinburg Municipal  
Planning Commission on April 15, 2010

Passed first reading: May 4, 2010

Passed second reading  
And Public Hearing: June 22, 2010

Passed third reading: 7/6/10

APPROVED AS TO FORM:

  
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RONALD E. SHARP, CITY ATTORNEY