

STATE OF GEORGIA  
COUNTY OF FULTON

First Reading: March 12, 2012  
Second Reading: April 9, 2012

**AN ORDINANCE TO AMEND SECTIONS OF THE CITY OF ROSWELL ZONING ORDINANCE REGARDING THE USE OF FARMERS' MARKET, CREATING A DEFINITION OF FARMERS' MARKET, TO ALLOW THE USE OF A FARMERS' MARKETS TO BE LOCATED AS A PERMITTED USE IN THE CITY OF ROSWELL ZONING DISTRICTS H-R, MPMUD, C-1, C-2 AND C-3 CREATING A FARMERS' MARKET PERMIT REQUIREMENTS TO ALLOW FOR THE APPROVAL OF A FARMERS' MARKET PERMIT BY THE ZONING DIRECTOR.**

WHEREAS, the City of Roswell now desires to amend its Zoning Ordinance for specific provisions and a definition of a farmers' market; and

WHEREAS, the Mayor and City Council have determined that regulations for the location of a farmers' market are needed to protect the health, safety and welfare of the residents of Roswell; and

WHEREAS, the Mayor and City Council have determined that a farmers' market in commercial zoning districts should be allowed as a permitted use and granted a farmers' market permit issued by the Zoning Director; and

NOW, THEREFORE, pursuant to their authority, the Mayor and City Council adopt the following ordinance:

1.

The City of Roswell is hereby amending Article 3 of the *City of Roswell Zoning Ordinance*, Chapter 3.2 *Definitions*, by adding the following definitions dealing with Farmers' Market:

**Farmers' Market:** An outdoor market open to the public:

- (a) At least 75 percent of the displayed inventory of the products sold in each Farmers' Market is Farm Products or Value-Added Farm Products.
- (b) At least 75 percent of the booths open during the market's hours of operation are Producers, or family members or employees or agents of Producers; and
- (c) If a booth sells Farm Products or Value-Added Farm Products that are not produced by the vendor, said booth must explicitly disclose the producer's name and location in writing with lettering that is at least 2 inches tall and visible to the consumer.

**Producer:** means (a) a person or entity that raises farms products on land that the person or entity farms and owns, rents or leases or (b) a person or entity that creates (by cooking, canning, baking, preserving, roasting, etc.) Value-added Farm Products.

**Farm Products:** means fruits, vegetables, mushrooms, herbs, grains, legumes, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, yogurt, cheese and other dairy products), and seafood.

**Value-Added Farm Product:** means any product processed by a Producer from a Farm Product, such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, tea, smoked or canned meats or fish, sausages, or prepared foods.

**2.**

The City of Roswell is hereby amending Article 6 of the *City of Roswell Zoning Ordinance*, Table 6.1 *Permitted uses in Office and Commercial Zoning Districts*, as follows:

TABLE 6.1  
PERMITTED USES IN OFFICE AND COMMERCIAL ZONING DISTRICTS

USE	O-P	C-1	C-2	C-3	I-1
Farmers' market	X	P	P	P	X

(C-Conditional Approval Required, X-Not Permitted, P-Permitted)

**3.**

The City of Roswell is hereby amending Article 7 of the *City of Roswell Zoning Ordinance*, Table 7.1 *Permitted uses in Mixed-use Zoning Districts* as follows:

TABLE 7.1  
PERMITTED USES IN MIXED-USE ZONING DISTRICTS

USE	H-R	OCMS	MPMUD
Farmers' market	<u>P</u>	<u>X</u>	<u>P</u>

(C-Conditional Approval Required, X-Not Permitted, P-Permitted)

**4.**

The City of Roswell is hereby amending Article 10 of the *City of Roswell Zoning Ordinance*, amending the title Chapter 10.19.5 *Farm Produce Market*, to read Chapter 10.19.5 *Farmers' Market* and by adding language which reads as follows:

A farmers' market permit is required to operate a Farmers' Market. Said permit shall expire twelve months from issuance and such use shall thereafter only operate upon issuance of a new farmers' market permit in the manner prescribed in Section 31. In addition to the requirements set forth in this Section of the Zoning Ordinance, as part of the application for farmers' market permit a Farmers' Market shall submit documentation showing (as opposed to merely stating) that it will comply with the following standards:

- (a) *Farmers' market temporary:* After the approval of a Farmers' market Permit a person(s) may sell or offer to sell farm products and value-added farm products at approved

commercially zoned locations as a temporary use under the requirements as set forth in this Section and article 10.31.

- (b) *Farmers' market permanent*: A permanent facility for a farmers' market may be permitted in the historic district under the requirements as set forth in this Section with final design approval by the historic preservation commission according to the standards of Chapter 10.26 "Outside Storage" provided approved fencing may be temporarily opened or removed and must be closed or reinstalled nightly.
- (c) *Removal of temporary displays*: Temporary appurtenances such as umbrellas, tables, and displays shall be removed when not in use or may be stored within the screened storage area.
- (d) *Removal of waste product*: All waste containing putrescible products shall be removed from the site each day.
- (e) *Delivery*: Nothing in this section shall be construed to prohibit delivery of farm produce to customers provided orders are placed in advance.
- (f) *Market Manager*: On site presence of a Market Manager during all hours of operation who shall direct the operations of all vendors participating in the market and verify that the requisite number of individual booths are operated by Producers.
- (g) *Booths*: Assignment of booths and registration of Producers.
- (h) *Rules*: An established set of operating rules addressing the governance structure of the market, hours of operation, maintenance, security requirements, and the appointment of a Market Manager.
- (i) *Recycling*: Provision for recycling in accordance with all applicable codes.
- (j) *Hours of Operation*: Hours of operation shall be during a window between 7 a.m. and 9 p.m. but in no event may a market operate more than two (2) days per week and for more than six (6) hours per day. Set-up of market operations shall begin no earlier than 6 a.m. and take-down shall end no later than 10 p.m.
- (k) *Parking Requirements*: During the hours of operation, dedicated and exclusive parking shall be provided at the rate of a minimum of 1 space per booth. Notwithstanding the foregoing, in zoning districts where there is no minimum parking requirement, there shall be no parking required for a Farmers' market.
  - (1) Except as provided in subparagraph (2) below, all required parking spaces must be provided on-site. For the purposes of Farmers' Markets only, required on-site parking spaces of the host property may apply towards meeting the number of required parking spaces required for the Farmers' Market and without rendering the host property deficient in its parking requirement so long as a written document, signed by both the

property owner and the Market Manager, establishes that there will be no parking demand associated with the use of the host property for the same parking space(s) during the hours of the Farmers' Market operation.

(2) Off-site parking up to eight hundred (800) feet away may apply to the number of parking spaces required by the Farmers' Market, provided that:

(a) Such facilities shall be under the same ownership or control as the host property or Farmers' market. Such ownership or control shall be evidenced either by deed or by lease, which shall be filed with the City of Roswell; and

(b) All commercial vehicles or vehicles necessary for the operation of the Farmers' Market shall be maintained on-site.

(l) *Farmers' market Permit:* A farmers' market permit for a Farmers' Market shall expire 365 days from the date of issuance. A farmers' market permit for a Farmers' Market may be renewed upon a reapplication in the same manner as required for initial issuance. A farmers' market permit for a Farmers' Market may be transferred in the same manner as provided for in Section 31.7 or as said subsection may hereafter be amended. Failure to comply with these standards or otherwise meet the definition of a Farmers' Market after issuance of a farmers' market permit may result in the revocation of the farmers' market permit.

5.

The City of Roswell is hereby amending Article 22 of the *City of Roswell Zoning Ordinance*, amending the Chapter 22.12 *Temporary Signs*, by adding Section 22.12 (e) language which deals with banners for Farmers market to reads as follows:

(e) One temporary banner identifying a City approved Farmers' market with a maximum size of 32 square feet shall be allowed no more than twenty-four hours before and two hours after the hours of operation for said farmers' market. Said banner shall be set back out of the right-of-way.

6.

The City of Roswell is hereby amending Article 31 of the *City of Roswell Zoning Ordinance*, Chapter 31.7 *PERMITS AND CERTIFICATIONS* by adding the following new Section 31.7.10 *Farmers' market Permits*:

- (1) **Farmers' market Permits:** The Zoning Director or his designee shall be responsible for processing farmers' market permits, making or causing to be made all necessary forms and application requirements, and deciding thereon.
- (2) **Applications:** A property owner, or any other person with notarized written consent of the property owners, may file with the Zoning Director or his designee an application for a farmers' market permit on such property, provided that such permit is authorized

generally or in the zoning district in which such purpose use is so designated. The application shall be filed on a form provided for such and shall be accompanied by plans, reports or other information, exhibits or documents as may reasonably be required by the Zoning Director to make the necessary findings in the case.

- (3) **Action by Zoning Director:** The Zoning Director or his designee shall examine the application and supporting materials for conformity with the requirements and stated intent of the use, make such referrals as are called for in the circumstances of the case, and shall within 30 days (unless a longer period is mutually agreed upon) decide on the application. The Zoning Director may issue the permit as applied for, may issue a permit conditional upon changes from the applicant, set forth in writing, as necessary to assure conformity with the requirements and stated intent of this part, or may deny the application, with written reasons for such denial.
- (4) **Farmers' market permit transfer:** The transfer of a farmers' market permit is authorized upon the approval of the Zoning Director, or his designee after a request for such transfer has been made in writing by the new owner or operator, accompanied by an affidavit certifying that the new operator or owner is familiar with and will abide by the terms of the original farmers' market permit.
- (5) **Withdrawal of Application:** An application for farmers' market permit may be withdrawn at any time without limitation on resubmittal.
- (6) **Appeals From Decision of the Zoning Director:** Appeals from decisions of the Zoning Director or his designee shall be submitted to the Board of Zoning Appeals, as provided in Section 31.6.
- (7) **Appeals:** Appeals of a decision of the board of zoning appeals under the provisions of this section shall be as provided for in Section 31.6.6.

7.

This Ordinance is enacted pursuant to the authority granted to municipal governing authorities in Chapter 35 of Title 36 of the O.C.G.A., known as the *Municipal Home Rule Act of 1965*.

8.

All ordinances, parts of ordinances and regulations in conflict here are repealed as of the effective date of this Ordinance.

9.

It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Zoning Ordinance, City of Roswell, Georgia and the sections of such text may be renumbered to accomplish such intention.

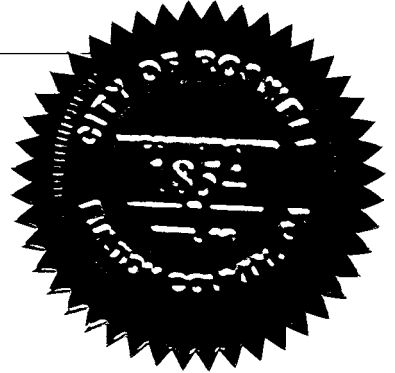
10.

This Ordinance shall take effect and be in force from and after the date of its adoption on April 9, 2012, the public welfare demanding it.

Attest:

Marlee Press  
Marlee Press, City Clerk  
(SEAL)

J. Wood  
Jere Wood, Mayor



Jerry Orlans  
Councilmember Jerry Orlans

Rebecca Wynn  
Councilmember Rebecca Wynn

Betty Price  
Councilmember Betty Price

Richard Dippolito  
Councilmember Richard Dippolito

Kent Igleheart  
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Nancy Diamond  
Councilmember Nancy Diamond