

ORDINANCE NO. 1037

**AN ORDINANCE TO REGULATE THE CITY OF GUNTERSVILLE'S
FARMER'S MARKET.**

**BE IT ORDAINED BY THE CITY COUNCIL OF GUNTERSVILLE AS
FOLLOWS:**

SECTION ONE: General Terms

The City of Guntersville shall have supervision and control of the farmer's market together with the streets and alleys adjoining the same which is located at Sunset Drive, Guntersville, Alabama.

The farmer's market is created by the City for the purpose of providing a venue by which local producers and resellers may sell their products directly to the general public. It is the objective of the market to provide local farmers and resellers a market place for produce and agricultural products, to educate citizens about the agricultural importance of Marshall County and its surrounding counties, to promote the abundance of fruits and vegetables in our rural community and improve the economic impact of agriculture on small farmers and our community.

The farmer's market is primarily a producer market. The farmer's market shall consist of approximately 2/3 Producers and 1/3 Resellers. Reseller locations at the farmer's market shall be grouped together. All goods being sold as "resale" goods shall be designated by the seller as "not locally grown" in a manner which is open and obvious to customers.

A Producer is a person(s) that grows, raises and/or makes what they sell and produces local agricultural products within Marshall County and/or the seven bordering counties of Madison, Jackson, Dekalb, Etowah, Blount, Cullman and Morgan. All agricultural products grown, raised or made and offered for sale must be produced by the Seller or under the Seller's direction and management in order for a vendor to be classified as a producer.

- B. A reseller is a person(s) selling agricultural products not meeting the definition and/or requirements of a Producer. Any person who chooses to sell as both a producer and reseller shall be treated as a reseller. All resellers must purchase a city business license and collect and remit sales tax as required by law.
- C. All Sellers shall be designated as either Producers as described in Section

A or
as Resellers as described in Section B.

Sellers must obtain a current "Growers Permit" from the State of Alabama to obtain a permit to sell at the farmer's market as a producer.

All sellers must sign a Guntersville Farmer's Market Facility User Permit.

All goods sold at the farmer's market must be grown, purchased, or prepared by the person(s) authorized to sell at the market.

All sellers must adhere to the terms of this ordinance and all rules of the farmer's market authorized by this ordinance.

The farmer's market is a multi-use location. On days when the farmer's market is not in operation, the city may permit the use of the farmer's market facilities for other public purposes.

The City's action in allowing a Seller to sell products at the Farmer's Market shall not confer any right on the Seller to own, possess or exclude any other person from the specific space designated for the Seller or from the Farmer's Market location in general.

The farmer's market shall be operated under the supervision of the Guntersville Park and Recreation Department.

A Seller in possession of a User Permit is granted a fully revocable license to sell products at the Farmer's Market as defined by this ordinance. The City retains full authority to revoke the license in its discretion for non-compliance with this ordinance and rules promulgated by the City.

10. No person(s) shall occupy or conduct any business at or upon the grounds of the farmer's market without an authorized user permit issued by the City of Guntersville.
11. Permits are non-transferrable.
12. The City may designate a market manager whose duties shall be the supervision and management of the market operation.
13. The director of parks and recreation shall be entitled to publish rules and regulations which govern the hours of operation, modifications of season length and farm site visits. The rules and regulations for each year shall be published

within 14 days of the passage of this ordinance and by March 1st of each year thereafter which shall govern the operation of the farmer's market from March 1st of that year until February 28th the following year. The rules and regulations shall be published at the Guntersville Recreation Center on a bulletin board accessible to the public, published on the City's website and attached to each user agreement between the City and each Seller.

SECTION TWO: Advisory Board

The formation of the farmer's market advisory board is hereby authorized consisting of seven members who shall be appointed by the city council.

Two of the initial at large members shall serve 1 year terms, two of the initial at large members shall serve 2 year terms and three of the at large members will serve 3 year terms. At the expiration of each term of an initial at large member, the appointment for all following terms shall be 3 years. The board will meet as needed. Members shall serve without compensation. The board will elect a chairperson annually. The chairperson may serve up to three years.

The city council may appoint a member of the council to sit as an ex-officio member of the board.

Only the at large members shall be entitled to vote. A quorum shall consist of four at large members and a quorum must be present in order for a vote to occur. Any recommendations to be made by the advisory board to the city council shall require a majority vote of those present who are entitled to vote.

The board is advisory only and provides recommendations to the city council on matters concerning operating guidelines, long range planning, development and use and improvements of the farmer's market.

SECTION THREE: Seller applications and assignment

The market calendar year begins on April 1st. Applications for the market will be available after January 1st. Applications are to be submitted to the Guntersville Recreation Center within 14 days of the passage of this ordinance and by March 1st each year thereafter to allow for processing of applications and assignment of spaces. If all producer stalls are not filled by applications received by application deadline, remaining producer stalls may be filled with resellers. Anyone submitting an application after March 1st and meeting necessary requirements as

stated herein shall be eligible for stall space remaining after all applications submitted before March 1st have been processed and stalls assigned to those applicants.

Each application shall be reviewed by the Applications Review Committee. The Applications Review Committee consists of the Farmer's Market Advisory Board, the Market Manager, one city council representative, Marshall County Extension Agent and the Parks and Recreation Director or his designee. This group is responsible for selecting sellers from the pool of applicants and assigning spaces at the market.

Any and all partnerships must be declared on the original User Permit application.

Each applicant must have a current Grower's Permit issued by the State of Alabama which lists anticipated crops or products to be sold which must be attached to the application at the time it is submitted if the applicant is applying as a Producer.

If an applicant intends to sell produce which is labeled as organic that applicant must provide a certificate to the City indicating organic certification.

Sellers shall operate from his/her own assigned space. The Applications Review Committee shall assign spaces based upon each Seller's seniority, frequency of attendance in the prior season, market manager's farm visit report and promptness in arriving at the market in previous seasons. In the assignment process, the committee shall also consider a balance of goods distributed throughout the market. Sellers will be assigned one space contingent upon the listed factors and in an arrangement that is beneficial to the general success of the market. If requested by the applicant, consideration will be given, but not guaranteed, to a preferred space previously occupied by the applicant.

Address and directions to all grow sites must be attached to the permit application if applicant is applying as a producer.

All resellers shall be assigned spaces together (consecutive to one another).

SECTION FOUR: Rules and Regulations

Each user space must be staffed by the permitted Seller or an employee or an immediate family member of the Seller who has signed a user agreement with the City. Immediate family is defined as spouse, parents, children, siblings and grandchildren of the vendor.

Employees of the Seller may be required to provide proof of the employment by

presenting a signed employment contract between the Seller and the employee, a W-2 or 1099 issued to the employee by the Seller or a pay stub that shows that employee's name and the Seller's name.

Sellers must visibly display any licenses, certifications and permits required by law for all products.

Signage identifying the seller and farm or identifying the products as "not locally grown" is required. All signs are restricted to the front of the display table. Signs for producers, resellers vendors and other decorations are to be approved by the market manager. No signage or other user personal hardware is to be attached to any Guntersville Farmer's Market structure.

All Sellers must furnish their own display surfaces (tables) and remove the same at the end of each market sale day.

All produce offered for sale must be under a roof cover. If no fixed roof space is available, 10 foot X 10 foot pop-ups provided by the seller may be used in designated areas.

Sellers set their own prices and are responsible for accurately representing their products.

Producers selling at the Guntersville Farmer's Market are subject to one or more compliance farm site visits by the market manager to verify that the items listed on the grower's permit are grown, raised or produced by the Producer and that the quantity brought to the market were grown, raised or produced at the site inspected. The market manager may be accompanied on the compliance visit by persons designated by the market manager. Photographs may be taken at the farm site.

Any farm visit that does not verify Producer's compliance with this ordinance will subject the Producer's permit to be become null and void and user privileges revoked.

Animal products which may be sold shall include butter, cheese, honey and eggs. Eggs are subject to Alabama shell egg law and must be clearly labeled with seller name, date gathered/packaged and verbiage "Not Graded" clearly marked. Any and all dairy products must meet state and federal requirements governing their production and sale.

If requested, a Producer must accompany a representative of the City to the farm or other facility where the goods offered for sale at the market are being grown or

produced.

If samples are provided by a Seller, the samples must meet the guidelines of the State of Alabama Public Health Department.

All public litter containers in the market area are for reasonable use by sellers and customers. Sellers are required to collect refuse generated during their sale day and dispose of it in the site dumpster provided and shall not use public trash containers. Any and all produce not sold on any given market day must be removed from the assigned sale space either by taking it back home, arranging for delivery to a charitable organization or placing it into the farmer's market dumpster.

No gambling, alcoholic beverages or illegal substances are allowed at the farmer's market.

All unsafe or unsanitary conditions shall be brought to the immediate attention of the market manager.

The City of Guntersville and its representatives shall not be responsible for damage or loss of any personal belongings of Seller's or their employees or family members.

The City shall require the Seller to indemnify and hold harmless the City of Guntersville from any liability arising from the Seller's participation in the Guntersville Farmer's Market.

SECTION FIVE: Vendor fees

The daily space user permit fee is \$5.00 per day.

The seasonal space user permit fee is \$90.00 per year.

All user fees are non-refundable.

SECTION SIX: Sale of Prepared Foods

Home processed foods allowed by state law or regulation may be sold at the farmer's market if those home processed foods are labeled as required by state law or regulation and produced as required by this ordinance.

Home processed vegetables cannot be sold at the farmer's market unless prepared in an establishment permitted by state statute or regulation.

Alabama Department of Public Health (ADPH) amendment to chapter 420-3-22-.01 states that certain home “value added” processed foods, for example baked breads, rolls, cookies, cakes, brownies, fudge and double crust fruit pies; traditional fruit jams, jellies, marmalades and relishes, candy, spices or herbs, snack items such as popcorn, caramel corn and peanut brittle may be sold at farmer’s market with appropriate labeling. Home processed ‘value added” foods shall contain as the major component home grown produce from the Seller’s identified grow site(s) that are declared on the grower’s permit. The “value added” items shall be listed on the back side of grower’s permit.

All home-prepared consumable products must be covered and labeled with the product name and date of preparation. A sign stating “These foods were prepared in a kitchen that is not inspected by a regulatory agency” must be posted in a conspicuous manner at the stall.

SECTION SEVEN: Compliance and Complaints

Failure by a Seller to comply with this ordinance may result in appropriate disciplinary action, which may include the forfeiture of the privilege to do business at the farmer’s market.

Any Seller wishing to complain concerning the compliance with City ordinances and farmer’s market rules shall submit the complaint in writing to the Director of the Guntersville Parks and Recreation Department and the Director’s decision shall be final.

SECTION EIGHT: Repeal of prior ordinances

Ordinances numbers 825, 983 and 1020 are hereby repealed.

PASSED, APPROVED AND ADOPTED THIS THE 1ST DAY OF APRIL, 2013.