

Town of Southeast, Putnam County, NY

Local Law No. __ of 2017

A LOCAL LAW entitled: “A Local Law to Add Chapter 72: ‘Farmers Markets’ to the Town Code.”

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

SECTION 1. LEGISLATIVE INTENT

The Town Board of the Town of Southeast hereby finds that farmers markets should be allowed by permit to increase access to healthy, local, and affordable foods, encourage community-building, support local agriculture and economic development, and promote agri-tourism. It is further found and determined that, in an effort to protect the health, safety and welfare of the residents and customers, the operation of farmers markets should be limited to commercial and institutional properties where sufficient parking and access exists, and that permits for such operation should be granted on an annual basis.

SECTION 2. ADDITION OF NEW CHAPTER 72

Article I, General Provisions

§ 72-1 Intent.

It is the intent of this chapter to establish reasonable restrictions and procedures for the establishment and operation of farmers markets in the Town of Southeast, New York. Notwithstanding the general prohibition of vending, peddling or soliciting contained in Chapter 103 of the Town Code, it is hereby found and determined that farmers markets should be allowed by permit to increase access to healthy, local, and affordable foods, encourage community-building, support local agriculture and economic development, and promote agri-tourism. It is further found and determined that, in an effort to protect the health, safety and welfare of the residents and customers, the operation of farmers markets should be limited to commercial and institutional properties where sufficient parking and access exists, and that permits for such operation should be granted on an annual basis.

§ 72-2 Prohibited acts; permit required.

- A. It shall be a violation of this chapter for any person to operate a farmers market in the Town of Southeast without having a permit therefor.
- B. It shall be a violation of this chapter for any owner to allow his or her property to be used for the operation of a farmers market by any person or persons who do not have a permit therefor.
- C. The permit and fees required under this chapter shall be in addition to and not in lieu of any permits, licenses, or fees required pursuant to Chapter 57, ‘Christmas Tree Sales, or Chapter 103, ‘Peddling and Soliciting’ of this Code.

§ 72-3 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACTIVELY PRODUCING FARM

Land not less than seven acres used for the production for sale of crops, livestock, or livestock products with an average gross salve value of ten thousand dollars or more.

AGRICULTURAL PRODUCTS

Agricultural products shall include any agricultural commodity or product, whether raw or processed, derived from “crops, livestock and livestock products” as defined by § 301.2 of the New York State Agriculture and Markets Law, as last amended, which includes but shall not be limited to: field crops, fruits, vegetables, horticultural specialties, livestock and livestock products, maple sap, aquaculture products, woody biomass, apiary products, and actively managed log-grown woodland mushrooms.

APPLICATION

The form and supporting information or documentation prescribed by the Town Board seeking the issuance of a farmers market permit.

COMMUNITY SUPPORTED AGRICULTURE (CSA)

A community of individuals who pledge support to a farm operation through the advanced purchase of farm shares, which allows the growers and consumers to share the risks and benefits of food production. The farm share purchase covers the anticipated costs of the farm operation and in return farm shareholders receive farm produce typically on a weekly basis from a central pick-up location throughout the growing season.

FARMERS MARKET

A temporary market that operates on a seasonal basis from booths, tables, or stands in a fixed location and is organized for the purpose of farms directly selling to the public local and regional agricultural products that were grown or produced on said farms. All products for sale must be locally or regionally grown or raised, or produced or processed by hand from local or regional agricultural products. Typical farmers market products include fresh vegetables and fruits; pickled vegetables; jams; sauces; wool; eggs; cuts of meats; smoked meats, handmade sausage and similar meat products; honey and other bee products; grains; maple syrup; flowers; locally baked goods; and dairy products such as milk, yogurt, and cheese. A farmers market shall not include resellers, the sale of antiques, flea market vendors, or manufactured products. A farmers market with two or more booths may permit the operation of a booth by a brick and mortar food wholesaler or retailer with a location in the Town of Southeast.

FARMERS MARKET PERMIT

The permit issued by the Town Code Enforcement Officer which shall be proof that a particular farmers market has met the qualification requirements and that the location endorsed thereon has been approved by the Town for the purpose stated therein.

HAND MADE PRODUCT

An agricultural product produced or processed locally or regionally by hand by an artisan, crafts person, or butcher, at a small scale for the purpose of selling at a farmers market, crafts market, or local specialty retail store. Hand made products shall not include imported, mass produced products, or manufactured products.

LOCAL

Includes agricultural products grown or produced in the Hudson Valley Region of New York State.

LOCATION

The particular physical site, approved by the Town Code Enforcement Officer, where the farmers market shall be operated on specified days per week during permitted hours.

MANUFACTURED PRODUCTS

A finished product, good, or ware assembled on a large scale either by manual labor or by machinery for the purpose of selling at retail.

REGIONAL

Includes agricultural products grown or produced in the states of New York, New Jersey, Connecticut, Massachusetts, Vermont, or Pennsylvania.

RESELLER

A vendor that purchases vegetables, fruit, meat, and other agricultural products at wholesale through a distributor for the purpose of reselling. A reseller shall not include a local or regional farmer or producer selling another local or regional farmer or producer's agricultural products as a means to increase the diversity of products offered or to bridge periods of low supply of commodities produced on-farm.

§ 72-4 Application; approval; appeal.

- A. All applications for the operation of a farmers market shall be made to the Town Code Enforcement Officer on a form prescribed by the Town Board and shall be accompanied by the requisite fee(s) and proof of general liability insurance with limits of liability not less than \$1,000,000 per occurrence. The Town of Southeast shall be listed as an additional insured on the policy of general liability insurance.
- B. The application shall be accompanied by a plan, drawn to scale, showing the general location of the lot where such farmers market is to take place and also showing provisions for site access and parking, together with the written consent of the owner of the lot. In the case of prepared food sales, a current food vendor's permit issued by the Putnam County Department of Health should be provided as applicable.
- C. Within 10 days after the application has been fully submitted, the Town Code Enforcement Officer shall approve, with conditions, said application and issue a temporary permit or disapprove the application. If the application is disapproved, the Town Code Enforcement Officer shall state his/her reasons for disapproval, in writing.
- D. Any applicant may appeal the decision of the Town Code Enforcement Officer to disapprove such application to the Town Board, who shall either affirm the decision of the Town Code Enforcement Officer or approve the application with conditions.

§ 72-5 Locations permitted for farmers markets.

The outdoor sale may be permitted on any commercial lot in the Town of Southeast, New York, or on any property owned by a not-for-profit or philanthropic organization. Such location shall be on private property and shall be declared on the permit.

§ 72-6 Conditions of approval; revocation.

- A. The Town Code Enforcement Officer shall approve an application and issue a permit if the lot is suitable for the sale in terms of vehicular access, parking and pedestrian safety. For built-up lots, the Town Code Enforcement Officer shall also make certain that other uses on the lot will permit vehicular access and parking, if such sales are also permitted on the lot.
- B. Hours of operation.
 - (1) Farmers markets may be operated during the hours of 8:00 a.m. through 8:00 p.m. no more than two days per week and at the specified location.
 - (2) Temporary furniture such as tables, tents, trash receptacles, and booths shall be removed from the permitted location within one hour after closing and shall not be returned to the permitted location more than one hour before the permitted opening time on any given day. Overnight outside storage of temporary furniture and/or agricultural products is not permitted.
 - (3) All trash shall be removed from the farmers market area within one hour of closing. The area shall be swept or raked as necessary to remove any debris.
- C. Provision of outdoor seating.
 - (1) The location, layout, and operation of any outdoor seating shall be reviewed and approved by the Town Code Enforcement Officer as part of the permit application provided that, in the opinion of the Town Code Enforcement Officer, the outdoor seating can be accommodated in a manner that does not pose a health or safety risk and that sufficient parking is available onsite.
 - (2) For the safety of patrons and motor vehicle operators, outdoor seating shall be sufficiently separated from roadways, active parking spaces, and drive aisles. For temporary outdoor seating areas proposed within a parking lot, temporary barriers shall be used to designate the outdoor seating area and to direct the flow traffic.
 - (3) Outdoor seating shall only be permitted where there is sufficient onsite parking during the hours of operation of the farmers market to accommodate the underlying use of the site, the farmers market, and the number of outdoor seats proposed.
 - (4) Trash receptacles shall be provided for the use of patrons within the outdoor seating area. Except for outdoor seating and trash receptacles provided for the benefit of the underlying use of the property, all temporary outdoor seating, barriers, and trash receptacles shall be removed in accordance with the provisions of § 72-6.C.(2).
- D. Any food trucks or on-site preparation of food shall be required to comply with the provisions of Chapter 103, Peddling and Soliciting.
- E. Any seasonal sales of Christmas Trees or decorations shall be required to comply with the provisions of Chapter 57, Christmas Tree Sales.
- F. The permit may be revoked at any time if the permittee deviates from the plan as submitted and/or if the sale is deemed to create a public health or safety hazard. If the permit is revoked, all sales shall be terminated immediately and shall not be permitted until the permittee complies with the plan and the Town Code Enforcement Officer is satisfied that all safety and health hazards are eliminated.

§ 72-7 Duration of permit; fee

- A. Permits shall be issued on a seasonal basis running from April 1 to December 1.
- B. The annual fee for a farmers market permit shall be set by the Town Board and included in the annual fee schedule adopted by the Town Board, as the same may be amended from time to time. Any permit issued after August 1 shall be 1/2 of the seasonal permit fee and shall run for the balance of the season. These fees shall be collected by the Town Building Department at the time of the application.

§ 72-8 Exemptions

The following actions are exempt from the permit requirements of this chapter:

- A. The sale of agricultural products from a temporary or permanent farm stand on an actively producing farm, as defined herein, provided that 51 percent of the gross sales of agricultural products sold are from the farm's own production. Crops, livestock and livestock products that are imported from other farms must be representative of the crops, livestock and livestock products that the farm grows/raises and sells. Such farm stands may require approval under Chapter 138, 'Zoning' of the Town Code.
- B. This chapter shall not apply to community supported agriculture weekly pick-up locations on private property, provided that these locations are utilized exclusively for the pick-up or pre-ordered shares of agricultural products and that no retail sales are conducted. This temporary use is considered a delivery, and is not subject to Chapter 138, 'Zoning' of the Town Code.

§ 72-9 Penalties for offenses; revocation.

- A. Any person who violates any provision of this article shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not less than \$100 nor more than \$250 for each violation, or by imprisonment not exceeding 15 days, or both such fine and imprisonment.
- B. Conviction of three violations of any provision of this article shall result in the immediate revocation of the farmers market permit.

SECTION 3. VALIDITY

The invalidity of any word, section, clause, paragraph, sentence, part, provision of this Local Law shall not affect the validity of any other part of this Local Law that shall be given effect without such invalid part or parts.

SECTION 4. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.