

ORDINANCE NO. 12-24

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER 660, LAND USE, TO MODIFY FARMER'S MARKET REGULATIONS

WHEREAS, the Administration, in conjunction with the Mayor and Denville Farmer's Market coordinator, have recommended certain changes to the regulations governing the Farmer's Market to provide greater flexibility for participation; and

WHEREAS, the Municipal Council desires to amend the Township Code to incorporate the recommendations.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the Township of Denville, County of Morris, State of New Jersey, as follows:

SECTION 1. Chapter 600, Land Use, Part IV, Zoning, Article XXIV, General Provisions, § 600-161, Farmer's market sales, is hereby amended as follows:

- A. Purpose. The purpose of this section is to permit and regulate the outdoor display and sale of merchandise within the Township of Denville in such a manner as to protect the public's health and safety and to ensure the integrity of the Township's land use plan and zoning regulations.
- B. Designated zones. Farmer's markets shall be permitted on Lots 14 and 22, Block 50202 within the B-1 and B-2 Zone Districts and such other locations in the B-1 and B-2 Zone Districts as may be designated by the appropriate municipal official, provided that at least 10 days' written notice is given to the sponsor of the farmer's market to relocate the farmer's market for a given weekend.
- C. Permit required.
 - (1) Zoning permit.
 - (a) No property shall be utilized for a farmer's market as defined herein without the issuance of a farmer's market permit to the sponsor of the market from the Township's Zoning Officer in accordance with the provisions of this chapter.
 - (b) No person, persons, firm or corporation shall participate as a vendor in a farmer's market without first obtaining a permit from the Township's Zoning Officer.
 - (c) The fee for the farmer's market sponsor permit shall be \$50. The fee for the farmer's market vendor permit shall be \$50.
 - (2) Health licenses and other licenses/permits.
[Amended 9-1-2015 by Ord. No. 17-15]
 - (a) No person, persons, firm or corporation shall operate a farmer's market without first obtaining a farmer's market blanket license from the Township's Health Department.

- (b) No person, persons, firm or corporation shall serve or offer food at a farmer's market without having obtained a farmer's market vendor's license from the Township Health Department. A farmer's market vendor's license shall be required for each stand, kiosk or similar appurtenance from which food is served regardless of whether there is a charge to the public.
- (c) Fees for health licenses are set forth in Chapter 245, Fees, Rates and Charges.
- (d) In accordance with N.J.S.A. 33:1-98, the Director of the Division of Alcoholic Beverage Control may, in accordance with regulations or a special rulings, issue to the holder of a limited brewery license, restricted brewery license, craft distillery license, plenary winery license, farm winery license, or cidery and meadery license, as established pursuant to N.J.S.A. 33:1-10, a daily or annual permit to sell any of the licensee's products in original containers at a seasonal farm market for consumption off of the premises of the seasonal farm market. The licensee shall obtain a separate permit for each seasonal farm market at which the licensee intends to sell its products.

Subject to regulation or special ruling, a licensee issued a permit pursuant to N.J.S.A. 33:1-98 may: (1) transport the licensee's products in original containers for the purpose of selling them at a seasonal farm market; and (2) offer samples for sampling purposes to persons of the legal age to consume alcoholic beverages in the amounts authorized pursuant to N.J.S.A. 33:1-10 during each day the seasonal farm market is operating.

Applications must be submitted exclusively through the POSSE ABC Online Licensing System and will be reviewed by the Township Clerk and Police Chief or designee. Permit holders shall follow all permit requirements set forth in N.J.S.A. 33:1-1 et seq. and applicable ABC regulations and special rulings.

- (3) Each permit and license shall expire on December 31 of the calendar year in which it is issued.
- (4) The sponsor of the farmer's market shall be responsible to secure the farmer's market permit and license required pursuant to Subsection C(1)(a) and (2)(a) above and to verify that permits and licenses required pursuant to Subsection C(1)(b), (2)(b) and (2)(d) have been obtained by all vendors participating in the event, as applicable. A copy of all wine festival or Daily or Annual Seasonal Farm Market permits must be submitted to the Township Clerk prior to each farmer's market at which a wine vendor will be participating. Not more than four (4) permit holders may offer samples and sales at any single farmer's market.
[Amended 9-1-2015 by Ord. No. 17-15]
- (5) Farmer's market uses shall be limited to the following vendor categories:
 - (a) Farmer. A person who raises produce, plants, botanicals or animals on the land such person owns, leases or rents. Also

includes a person who processes produce, fruit, berries, botanicals, meats, eggs, dairy, honey, etc., which is grown, raised or harvested on property that such person owns, leases or rents, and then turned into value added product(s) such as jam, cider, maple syrup, cheese, baked goods, essential oils, etc.

- (b) Processor. A person who sells foods that such person has personally prepared or processed on property that such person owns, leases or rents. Processors are persons offering fresh food products that have added value to their products through "hand on" processing.
- (c) Prepared food. Prepared food vendors offer freshly made foods available for sale and immediate consumption on site. All food is prepared on property owned, leased or rented by the vendor. Prepared food vendors using local ingredients are preferred.
- (d) Non-food grower and processor. A person who prepares natural products, such as essential oils, cosmetics, pet foods, soaps, etc., that they have personally prepared or processed to support a healthy lifestyle on property that they own, lease or rent.

- (6) All vendors are prohibited from reselling products that are not produced, prepared or processed on property that they own, rent or lease.
- (7) All vendors and their products must be approved by the sponsor before a vendor permit may issue.
- (8) In addition to licensed vendors, (1) one restaurant shall be permitted each week to provide menu samples and sales; (2) one nonprofit organization having I.R.C. Section 501(c)(3) tax-exempt status shall be permitted each week to distribute information to the public regarding the organization and to solicit members and, if desired, to obtain signatures for petitions; and any civic or local not-for-profit organization shall be permitted once a month to sell goods The vendor permit fee required under Subsection C(1)(c) above shall not apply to the restaurant and nonprofit organization selling items one time per calendar year as provided in this section. However, all required Health Department license fees shall continue to be paid by each respective vendor.

D. Submission requirements.

- (1) The sponsor of the farmer's market shall be required to submit a map order and/or diagram indicating the location of the proposed vendor display standards.
- (2) A certificate of insurance indicating that the sponsor of the farmer's market and each vendor has public liability insurance in the amount of at least \$1,000,000 and naming the Township as an additional insured shall be provided for the sponsor and for each vendor at least 10 days prior to the date of the market in which the vendor is participating. A new certificate of insurance for the market sponsor and each vendor shall be submitted prior to the expiration date of the liability policy indicating renewal of the policy. A vendor who does not provide a current certificate of insurance may not participate in a farmer's market.

- (3) Site plan approval is not required for farmer's market uses as defined herein.
- E. Days and hours of operation. Functions authorized by the farmer's market permit shall be limited to Sundays only and to the hours between 7:00 a.m. and 4:00 p.m. inclusive of setup and breakdown time.
- F. Standards. Farmer's market activity shall adhere to the following standards:
- (1) Sponsor shall abide by any and all provisions of this section as well as conditions that may be attached to the permit by the Police, Health and Planning Departments to ensure the public's health, safety and welfare.
 - (2) No structures, tables, stalls or other appurtenances shall obstruct a sidewalk or emergency access lane.
 - (3) Solid waste removal. It shall be the responsibility of each vendor and the sponsor to arrange for the removal of any solid waste generated.
 - (4) Temporary signage shall be subject to § 600-189 of this chapter.
 - (5) The sponsor shall contact the Township Police Department for a determination as to whether inclement weather conditions exist that require cancellation of the market and shall abide by the decision of the Police Department.
 - (6) Wine samplings. The following requirements, of which Subsection F(6)(a) through (e) are pursuant to the State Sanitary Code, shall apply to all vendors offering wine samplings:
[Added 9-1-2015 by Ord. No. 17-15]
 - (a) Single-service disposable cups may only be used to serve wine or any other beverage.
 - (b) Single-service disposable cups must be protected from contamination during handling, display or storage.
 - (c) The wine and any other beverage may only be served by a farmer's market vendor/employee. Self-service, wherein patrons serve their own beverages, is prohibited.
 - (d) A waste receptacle must be provided for disposal of single-service cups.
 - (e) A means of handwashing must be readily available to the vendor/employee providing wine samplings.
 - (f) A fetal alcohol syndrome notice from the Township Health Department must be conspicuously posted at the point that the alcohol sample is being served and at the point of sale of any permitted alcohol in sealed, original containers.
 - (g) The holder of a Daily or Annual Seasonal Farm Market Permit

issued pursuant to N.J.S.A. 33:1-98 authorizes the licensee to sell for a nominal charge or make a gratuitous offer of an open container of the products produced by the licensee in the following amounts: (1) for a limited brewery, restricted brewery, and cidery and meadery licensee, an amount not exceeding four, three-ounce samples; (2) for a plenary and farm winery licensee, an amount not exceeding four, one and one-half ounce samples; and (3) for craft distillery licensees, an amount not exceeding three, one-half ounce samples.

- (h) Samples may not be offered to or allowed to be consumed by any minor or intoxicated person.
- G. A farmer's market sponsor or vendor permit or license shall not be construed to permit peddling and/or soliciting as regulated under Chapter 388, Peddling and Soliciting, Article I, Solicitors.
- H. Exemptions. Farmer's market use as described herein shall be exempted from the provisions of § 600-160 regarding outdoor storage.
- I. Appeals. Where there is a dispute regarding a decision by the Township's Administrative Officer or Zoning Officer as to whether an activity qualifies for a permit under this section, the matter shall be referred to the Denville Township Zoning Board of Adjustment for a determination pursuant to N.J.S.A. 40:55D-70a.

SECTION 2. Ordinances, resolutions, regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law, and upon erection of appropriate signage reflecting the new time limits.

BY ORDER OF THE MUNICIPAL COUNCIL
OF THE TOWNSHIP OF DENVILLE

ATTEST:

APPROVED:

MATTHEW N. BANSCH
MUNICIPAL CLERK

MAYOR THOMAS W. ANDES
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on May 21, 2024.

Matthew N. Bansch, Municipal Clerk

