

TEMPORARY OPEN AIR PERMIT PROCEDURE

***** (Give customer copy of the Ordinance) *****

1. Customer needs to fill out the application (This is the longer Form)
2. A 500.00 bond from any insurance company (Or it can be higher). A check for 500.00 may be written out to the city and we will refund after 45 days. (**Businesses who hold a business license in Springdale are exempt from this**)
3. Written permission on business letterhead (if possible) from the property owner to allow them to set up on their property.
4. A site sketch illustrating how the applicant will comply with the regulations & restrictions contained in the Temporary open air ordinance.
5. Copy of the applicant's drivers license.
6. **\$50.00** to pay for a minimum seven days at a time
7. **\$100.00** to pay for fourteen days at a time. (limit of 14 days at one address per calendar year.)

License for 7 days _____

Special Events _____

APPLICATION FOR LICENSE TO OPERATE TEMPORARY OPEN-AIR ENTERPRISE IN THE CITY OF SPRINGDALE, ARKANSAS

Applicant's Name _____

Address _____ Telephone _____

Date of Birth _____ Social Security No. _____

Employer's Name (if different from applicant) _____

Address _____ Telephone _____

Date of Birth _____ Social Security No. _____

1. Nature, Character, and Quality of Goods, Wares, or Merchandise to be offered for sale: _____

2. Specific location of the temporary open-air enterprise (use exact location and street address): _____

3. Arkansas Sales Identification No. (attach proof that Arkansas has issued you a sales tax identification no.): _____

4. If special event, name the event and dates of the special event. _____

5. Other permits or licenses issued to applicant by City of Springdale in last 5 years. _____

NOTE TO APPLICANT: The following must accompany the application:

_____ 1. A site sketch illustrating how the applicant will comply with the regulations and Zoning requirements, restrictions contained in Ordinance #4327.

_____ 2. A \$500.00 bond, for the purpose of protecting the public against fraud or dishonest dealings, and said bond will be refunded **45 days** after the expiration of the permit, or any renewal thereof, if there are no claims against the bond. Any bond refund will be sent to the address listed for the applicant unless the applicant notifies the City Clerk in writing to send the refund to a different address.

_____ 3. Written proof from the property owner consenting to the operation of a temporary open-air enterprise on the owner's property.

_____ 4. Applicant must show a full face photograph, which is not less than two inches square, nor more than three inches square, or a valid copy of applicant's Drivers License.

I, the applicant named above, acknowledge all the above information is true and correct to the best of my knowledge and belief, and I further acknowledge that I have received a copy of Ordinance No. 4327 governing temporary open air enterprises, and I agree if a license is issued to abide by all terms set out in the ordinance.

Date: _____ Signature: _____

Original-City Clerk

Yellow-Building Inspector

Pink-Dispatch

Gold-Applicant

That which is underlined is added.

ORDINANCE NO. 4327

**AN ORDINANCE AMENDING ARTICLE 6,
SECTION 3.5 OF THE ZONING ORDINANCE OF
THE CITY OF SPRINGDALE, ARKANSAS AND
FOR OTHER PURPOSES.**

WHEREAS, Article 6, Section 3.5 of the Zoning Ordinance of the City of Springdale, Arkansas, contains regulations pertaining to temporary open-air enterprises;

WHEREAS, Article 6, Section 3.5 of the Zoning Ordinance of the City of Springdale, Arkansas, needs to be amended to allow the Springdale Farmers' Market to operate without the need for a temporary open-air enterprise permit;

WHEREAS, it is in the best interest of the City of Springdale, Arkansas, for the City Council of the City of Springdale, Arkansas, to amend Article 6, Section 3.5 of the Zoning Ordinance of the City of Springdale, Arkansas; and

WHEREAS, a public hearing was held before the Springdale Planning Commission on June 2, 2009, after notice was given of said hearing as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS:

Section 1: Article 6, Section 3.5 of the Zoning Ordinance of the City of Springdale, Arkansas, is hereby amended to read as follows:

3.5 Temporary open-air enterprises.

1. Definitions. When used in this chapter, the following words, terms, and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

a. Goods, wares, or merchandise shall include but not be limited to fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers appliances, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks. The selling of animals is subject to the restrictions of subsection 14-5(9) of the this Code.

b. Public way means all areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

c. Special event means any occasion including but not limited to Rodeo of the Ozarks, FeatherFest, or city wide celebrations, and festivals taking place within a specifically defined area of the city for a period of time not to exceed five (5) days.

d. Temporary open-air enterprise means any person, firm or corporation offering and exposing goods, wares, or merchandise for sale at a non-permanent location by exhibiting, displaying, selling, or offering for sale such products. This definition does not include those persons vending from a motor vehicle who visit multiple private property sites on a daily basis for no more than one (1) hour per site and who have obtained a business license from the city. The term "temporary open-air enterprise" is also used in this chapter interchangeably with the word "vendor" or "vending."

e. Non-permanent location means any location that has no utilities hooked up to a structure and that has no permanent building foundation.

2. It shall be unlawful for any person to operate a temporary open-air enterprise unless:

a. The open-air enterprise is located in a C-1, C-2, or C-5 zone,

b. Is not located within one hundred (100) feet of any property that is zoned residential pursuant to Article 4, Section 2,

c. The property on which the temporary open-air enterprise is to be located is in compliance with the dustproofing and paving requirements for parking as set forth in Article 7, Section 8, and

d. The person has obtained a license from the city clerk's office, including the posting of a bond if such bond is required under this chapter.

3. Application for license. The application for a temporary open-air enterprise license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

a. The applicants full name, current address, telephone number and proof of identity, together with a full face photograph of the applicant, not less than two (2) inches square, nor more than three (3) inches square.

b. A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale.

c. The specific location in which the vendor intends to conduct business, along with a site sketch illustrating how the applicant will comply with the regulations and restrictions contained herein.

d. Proof of a state sales tax identification number, or proof that the applicant has applied for a state sales tax identification number.

e. If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation.

f. A complete listing of any other licenses or permits issued to the applicant by the city within the five (5) years immediately preceding the date of the application.

g. The application must also be accompanied by a bond of five hundred dollars (\$500.00), if the applicant does not already operate a permanent enterprise within the city which has been granted a business license by the city, and which sells similar goods, wares and merchandise at the permanent enterprise as are being proposed to be sold at the temporary open-air enterprise. The bond required herein shall ensure performance of services, delivery of merchandise and proper application of monies received therefore. The bond will be refunded to the licensee if no claims have been filed against the licensee forty-five (45) days after the expiration of the permit.

4. Issuance of license.

a. The applicant shall be notified in writing by the city clerk's office of the city's decision to issue or deny the temporary open-air enterprise license not later than ten (10) days after the applicant has filed a completed application with the city.

b. Each license shall show the name and address of the licensee, the location at which the vending will be conducted, the kinds of goods to be sold, the amount of the license fee, the date of issuance, and the license number.

c. All licenses and permits issued under this section are valid for seven (7) days and may be renewed for an additional seven (7) days for the same location. No vendor shall operate at the same location in excess of fourteen (14) days within a one-year period. Licenses are issued seven (7) days at a time and therefore the seven-day license may be renewed one additional time for the year.

5. Reserved.

6. License fees. Any temporary open-air enterprise granted a license under this chapter shall pay a fee of fifty dollars (\$50.00), and if renewed for an additional seven (7) days, shall pay an additional fifty dollars (\$50.00). For a temporary open-air enterprise permit for special events, if a license is required, the fee shall be ten dollars

(\$10.00) per day a temporary open-air enterprise is operating at the special event.

7. Display of identification. Any license or permit issued by the city clerk shall be carried with the licensee whenever the vendor is engaged in vending. If a health certificate is required, the vendor shall also display the health certificate.

8. Notification of name or address. All vendors shall ensure that a current and correct name, residence address and mailing address are on file with the city clerk's office. Whenever either the name or address provided by a license vendor on his application for a vending license changes, the licensee shall notify the city clerk within five (5) days of such change and provide the same with a name change or address change.

9. Exemptions. The licensing provisions of this chapter do not apply to:

a. Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer;

b. The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paper bound books;

c. The distribution of free samples of goods, wares and merchandise by any individual from his person;

d. Farmers and growers selling fruits and vegetables which they have grown, provided these products are sold on parking lots where the owner has granted permission;

e. Charitable organizations, such as Girl Scouts, Boy Scouts, on the property of another, so long as the owner of the property consents.

f. Persons operating temporary open-air enterprises at special events, so long as the temporary open-air enterprise is located totally within property owned, occupied, or leased by the operators of the special event. No temporary open-air enterprises are allowed on the premises of, or within the geographical area of, a special event without the prior approval of the operator of the special event. The geographical area of the special event shall be established by the operator of the special event.

g. Persons operating a temporary open-air enterprise at the Springdale Farmers' Market, so long as the temporary open-air enterprise is located totally within a geographical area at the Jones Center for Families and designated by the Jones Center for Families as the Springdale Farmers' Market. The market place shall open no earlier than 6:00 a.m. and shall close no later than 2:00 p.m. on Tuesdays, Thursdays, and Saturdays in the months of May through October.

You have to
have grown them
or have an
interest in growing

The only articles that may be sold at the Springdale Farmers' Market are as follows: vegetables, honey, nuts, raw juices, molasses, fruit, and other produce and plants grown or produced by the vendor thereof; art work, craft work, and processed farm products produced by the vendor thereof. All products sold at the marketplace must be produced in compliance with all applicable regulations of the State Department of Health.

10. Restrictions. All temporary open-air enterprises are further restricted from operating:

- a. Within fifty (50) feet of a street intersection or pedestrian crosswalk;
- b. Within fifty (50) feet of any driveway, loading zone, or bus stop;
- c. On the median strip of a divided roadway unless the strip is intended for use as a pedestrian mall or plaza;
- d. Within fifty (50) feet of any fire hydrant or fire escape;
- e. Within fifty (50) feet of any parking space or access ramp designated for persons with disabilities;
- f. Within fifty (50) feet of an unobstructed pedestrian space;
- g. Within fifty (50) feet of a building entrance or exit;
- h. On a city sidewalk or other public easement or within twenty (20) feet of a public street or roadway;
- i. Between the hours of 10:00 p.m. to 7:00 a.m. except special events;
- j. With any flashing sign, or with any other sign that does not meet the requirements of a temporary sign (Section 98-61).

11. No person authorized to operate a temporary open-air enterprise under this chapter shall do any of the following:

- a. Unduly obstruct pedestrian or motor vehicle traffic flow;
- b. Obstruct traffic signals or regulatory signs;
- c. Conduct any vending upon a public way;
- d. Conduct any vending upon private property of another, unless the owner of the private property has consented to such vending in writing;
- e. Sound any device that produces a loud and raucous noise in violation of city ordinance, or violate any other city ordinances in connection with the vending operation.

12. Temporary open-air enterprises shall keep their vending sites clean and free of paper or refuse of any kind generated from the operation of their business. All trash or debris accumulating within twenty (20) feet of any vending stand should be collected by the vendor and deposited into a trash container.

13. In addition to any penalty contained herein, any license issued out of this chapter may be suspended or revoked for any of the following reasons:

a. Fraud, misrepresentation, or knowingly making a false statement contained in the application for the license;

b. Fraud, misrepresentation, or knowingly making a false statement in the course of carrying on the business of vending;

c. Conducting the business of vending in any manner contrary to the conditions of the license or this chapter;

d. Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public, health, safety, welfare or morals, or interfere with the rights of abutting property owners.

14. The building inspector and the chief of police shall be responsible for enforcing this ordinance. If the city revokes a vending license or permit, the fee already paid for the license or permit shall be forfeited. Any persons whose license or permit has been revoked under this section may not apply for a new license for a period of one year from the date the revocation took effect.

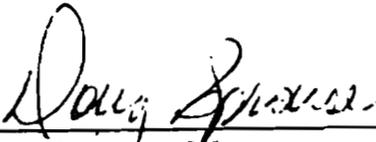
15. Appeals. If the city clerk denies the issuance of a license or permit, or the building inspector suspends or revokes a license or permit, or orders the cessation of any part of the business operation conducted under the license or permit, the aggrieved party may appeal the decision to the mayor's office, and then if not satisfied with the outcome of the appeal, to the city council.

16. Each sales transaction completed in violation of the terms of this subchapter shall be considered a separate violation for purposes of Article 10.

Section 2: All other provisions of Article 6, Section 3.5 of the Zoning Ordinance of the City of Springdale, Arkansas, not specifically amended by this Ordinance shall remain in full force and effect.

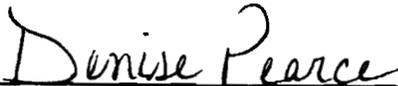
Section 3: Emergency Clause. It is hereby declared that an emergency exists and this ordinance being necessary for the preservation of the health, safety and welfare of the citizens of Springdale, Arkansas, shall be effective immediately upon its passage and approval.

PASSED AND APPROVED this 9th day of June,
2009.



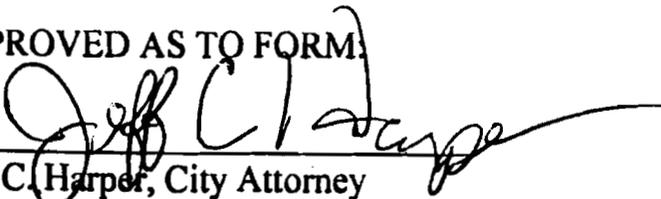
Doug Sptouse, Mayor

ATTEST:



Denise Pearce, City Clerk

APPROVED AS TO FORM:



Jeff C. Harper, City Attorney