

ARTICLE V. MUNICIPAL PRODUCE MARKET

Sec. 94-356. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Artisan dealer. A person who offers for sale products which he makes.

Dealer. An artisan, floral, merchandise or wholesale produce dealer, whichever is applicable.

Establishment. A building, freight car, vacant lot, stand, vehicle, or other place where produce is offered for sale at wholesale.

Floral dealer. A person who offers for sale plants.

Load. That amount of products which is contained in a vehicle at time of entry into the municipal produce market.

Merchandise dealer. A person who offers for sale any product for which a special license is not required under this article.

Municipal produce market. That area which is described in [section 94-359](#) and designated by the market manager as a public market place.

Plant. A flower or potted plant or bedding plant.

Produce. A fruit or vegetable.

Producer. A person who offers for sale produce which he has raised, grown, or produced on land which he or a member of his immediate family owns or leases.

Sale at wholesale. A transaction in which produce is sold to a retailer for resale or to someone other than the ultimate consumer.

Special event. A market activity which is at a time and place designated by the market manager to promote public awareness of the municipal produce market and which is not an ordinary market activity.

Stall. A marked or unmarked area which is designated by the market manager as a place for parking a vehicle for the purpose of offering for sale produce or other products.

Street. A public street, alley, sidewalk, parkway or other public property.

Vehicle. Every device in, upon, or by which a person or property is or may be transported or drawn upon a highway, including devices moved by human power.

Wholesale produce dealer. A person who:

- (1) Offers for sale in the municipal market produce which is raised, grown, or produced by another, or on land outside the North Texas Southern Oklahoma area; or
- (2) Operates an establishment for the sale at wholesale of produce in the city.

(2001 Code, sec. 94-356; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-357. Penalty for violation.

Any person who violates [section 94-363](#) shall be subject to a fine as provided in [section 1-14](#). Any person violating any of the other sections of this article shall be subject to suspension or loss of stall tenure in accordance with the rules and regulations promulgated under this article. (2001 Code, sec. 94-357; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-358. Use of streets for sales of produce.

It shall be unlawful for any person engaged in the sale of vegetables, produce, or other perishable commodities to use any portion of any street, save and except the municipal produce market, for selling, vending or exchanging of vegetables, produce or other perishable commodities. (2001 Code, sec. 94-358; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-359. Established; location.

There is established a municipal produce market on lots 8, 9 and the south half of lot 10 of block 162 of the original town site. The street address for the municipal produce market is 713 Ohio Street. (2001 Code, sec. 94-359; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-360. Appointment of market manager.

The municipal produce market shall be under the direction of a market manager who may be appointed by the city manager or by an approved lease agreement. Duties of the market manager shall be those prescribed by [section 94-361](#). (2001 Code, sec. 94-360; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-361. Duties of market manager.

It shall be the duty of the market manager to:

- (1) Exercise general supervision and control over the municipal produce market and the conduct of business therein, and enforce all of the terms of this article and the rules and regulations promulgated under this article.
- (2) Assign stalls to the producers and dealers attending the municipal produce market and collect the rental fees for the use thereof.
- (3) Enforce order in and about the municipal produce market.
- (4) Remove from the market any person who is violent or disorderly or who in any way interferes with him in the performance of his duties or who disturbs the producers, dealers, buyers or any other person lawfully using the municipal produce market.
- (5) Prescribe rules and regulations governing the conduct of business in the municipal produce market not inconsistent with this article.
- (6) Establish the opening and closing hours of the municipal produce market and schedule and control the use of the market for special events.
- (7) Allocate market stalls for producers and dealers.
- (8) Schedule, control and collect fees, if appropriate, for other public uses within the municipal produce market.

(2001 Code, sec. 94-361; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-362. Fees for rental of stalls.

- (a) The term "day," as used in this section, shall mean that period of time from the opening hour of the municipal produce market in the morning to the closing hour in the evening of any calendar day, such opening and closing hours to be established from time to time by the market manager.
- (b) A producer who desires to use a stall in the municipal produce market shall apply to the market manager and pay a daily rental fee. Rental fees shall be established annually by the market manager with the approval of the city manager.
- (c) A dealer who desires to use a stall in the municipal produce market shall apply to the market manager and pay a daily rental fee. Rental fees shall be established annually by the market manager with the approval of the city manager.
- (d) Payment of a rental fee entitles a producer or dealer to the use of a stall for one day. The use of a stall is forfeited if a producer or dealer leaves the market and fails to notify the market manager of his intent to return.
- (e) A producer or a dealer may request a monthly or weekly permit from the market manager. Rental fees shall be established annually by the market manager with the approval of the city manager. A monthly permit shall be in effect for one month with a renewal option at the end of the month. A weekly permit shall be in effect for seven days commencing with the first day of the business week. The number of permits issued will be limited and will be issued at the discretion of the market manager. A permit holder must obligate himself that he will sell fresh produce from the designated stall every day in which the market is open during the term of the permit. If the permit holder determines that he will not be able to sell produce on a particular day, he must notify the market manager at least 24 hours before the market is to open on that day. The market manager will then place that stall on the list available for rental on that day. If a permit holder fails to notify the market manager within the allotted time, he, upon review of the market manager, will forfeit his permit. The permit holder is guaranteed only that a stall will be available for his use each day during the term of the permit. A permit in no way guarantees the permit holder rights to any particular stall. Any days not used by the permit holder will be forfeited and will not be applied to any future permit period.

(f) Stall fees may be adjusted at the discretion of the market manager when unique situations, such as market cancellation due to climatic conditions, arise.

(g) Dealers or producers may be allowed to rent a maximum of two stalls. Agreement to rent a second stall shall be at the sole discretion of the market manager.

(h) Rental fees for the use of the market for purposes other than the selling of produce shall be set by the market manager.

(2001 Code, sec. 94-362; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-363. Producer certification; producer's employee.

(a) Each producer shall provide to the market manager a certificate from the producer's county agent certifying that the producer resides within the agent's county.

(b) A producer may send an employee in his stead to sell his produce, provided that the producer provides verification that the producer meets the requirement of a producer as stated in [section 94-356](#). The producer must provide his employee with a signed statement of authorization. The statement of authorization shall indicate that the employee is authorized by the producer to be his representative at the municipal produce market. Employees of a producer must also meet and abide by all rules and regulations of the market. Any violation by an employee of a producer shall subject both the employee and the producer to suspension or banishment as determined by the market manager.

(2001 Code, sec. 94-363; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-364. Right to refuse stall rental; ejection of persons renting stalls; operation through agent after rejection.

(a) The market manager shall have the right to refuse to rent a stall to any producer or dealer who has been guilty of willful violations of this article or of any of the rules or regulations promulgated under this article.

(b) The market manager shall have the authority to eject any producer or dealer or any other person who willfully refuses to conform to this article or the rules and regulations promulgated under this article, without refunding to such producer or dealer the rental fee paid for a stall.

(c) No person shall sell on the municipal produce market any of the produce of a producer or dealer or act as the agent or employee of a dealer who has been barred from the municipal produce market by the market manager.

(2001 Code, sec. 94-364; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-365. Use of designated areas.

(a) No person shall use or occupy any areas of the municipal produce market not designated for his use by the market manager, and no person shall use or occupy any stall in the municipal produce market, other than the stall assigned to such person by the market manager.

(b) A person who uses or occupies a stall in the municipal produce market shall pay a rental fee prior to occupying the stall. Producers, dealers and market customers may use the driveways and parking areas of the market, but no person may use a driveway as a through street.

(c) It shall be the duty of every person desiring to use the area designated for producers to first furnish the market manager with satisfactory evidence that the produce or product to be sold by him in the area designated for producers has been raised or grown or produced by him upon land or premises owned or leased by him or some member of his immediate family. The market manager may require a statement in writing signed by such person evidencing such facts, and any false statement made therein shall be deemed a violation of this article and the person making such false statement shall be guilty of a misdemeanor.

(2001 Code, sec. 94-365; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-366. Rubbish, refuse and litter disposal.

No person shall throw, place or permit to be thrown or placed on the municipal produce market or any part thereof or the public streets adjacent thereto any rubbish, refuse or litter of any kind or any vegetable or produce which is likely to become dangerous or offensive to the public. All spoiled produce must be placed in plastic bags prior to being placed in designated disposal bins on the market premises. (2001 Code, sec. 94-366; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-367. Use during closed hours.

No person shall enter, occupy, use or leave any produce, commodity, container, box, crate, basket, motor vehicle or other type of personal property of any description within the limits of the municipal produce market during such time as the market is closed, without the permission of the market manager. (2001 Code, sec. 94-367; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-368. Holding stalls by trick, scheme or artifice.

It shall be unlawful for any person occupying a stall in the municipal produce market to resort to any trick or scheme or artifice, to ask prices which are unreasonable when compared to prices asked for similar products at that time, or to refuse to sell his merchandise for the purpose of holding a stall. Such action on the part of a person in holding a stall shall be sufficient cause for the market manager to forfeit all rights, including fees paid, to such stall by such person. (2001 Code, sec. 94-368; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-369. Removal of unattended products.

If products are left unattended in a stall for two hours at the municipal produce market, the market manager may forfeit the renter's right to the stall and dispose of the products. (2001 Code, sec. 94-369; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-370. Minimum quantities.

(a) No dealer at the municipal produce market may sell in a quantity less than the minimum quantity which is established from time to time by the market manager.

(b) No producer, when assigned to the area designated for wholesale sales, shall sell in any quantity less than the minimum, which shall be established from time to time by the market manager.

(2001 Code, sec. 94-370; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-371. Restrictions on types of products.

No person may offer for sale any product prohibited by the market manager. The market manager is authorized to determine the types of products which may not be sold in the municipal produce market. (2001 Code, sec. 94-371; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-372. Consumption of alcohol.

(a) A person commits an offense if he consumes beer or other alcoholic beverage in the municipal produce market and he received notice that the consumption was unlawful but failed to leave the market or relinquish possession of the alcohol.

(b) It is a defense to prosecution under this section that the consumption was during a special event and in a special event area in which the market manager approved alcohol consumption.

(2001 Code, sec. 94-372; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-373. Price fixing.

A person, as a producer or dealer at the municipal produce market, commits an offense if he agrees to fix or raise prices of products with another producer or dealer. (2001 Code, sec. 94-373; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-374. Animals prohibited.

It shall be unlawful for any owner, keeper, or person having the custody or control of any dog, cat, or other animal to cause or permit such animal to go into or upon the municipal produce market. (2001 Code, sec. 94-374; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-375. Display of produce; sale of produce not fit for human consumption.

(a) All products shall be displayed in a sanitary and attractive manner at the municipal produce market. Produce displayed and the containers the produce is packaged in should meet the highest degree of cleanliness. The market manager is empowered to require producers to use sanitary containers for produce on display.

(b) It shall be unlawful for any person to bring, cause to be brought, sell, offer for sale, or expose for

sale in the municipal produce market any produce unfit for human consumption or otherwise not suitable for sale on the municipal produce market because of age, disease, damage or other conditions affecting the wholesomeness of the produce. It shall be unlawful for any person to bring into the producers' section of the municipal produce market or to sell, offer for sale, or expose for sale in the producers' section any produce which has been in cold storage or which has been artificially ripened, which is overripe or immature, which is damaged or diseased, or which is affected by any condition that would render the produce unsuitable for sale in the producers' section. The decision of the market manager shall be final in determining the quality, condition and wholesomeness of all produce of the municipal produce market. All produce shall be subject to inspection by the market manager at all times, and any person who fails or refuses to permit such inspection shall forfeit all rights to his stall and shall, upon instruction of the market manager, immediately vacate the stall.

(2001 Code, sec. 94-375; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-376. Vehicles blocking driveways.

It shall be unlawful for any person to park, stop or stand a motor vehicle on any of the driveways in the municipal produce market in such a manner as to block or prevent the passing of other vehicles. (2001 Code, sec. 94-376; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-377. Illegal parking.

- (a) It shall be unlawful for any person to park a loaded produce truck on any portion of the municipal produce market without payment of required applicable fees.
- (b) It shall be unlawful to park vehicles for loading purposes under sheds in any manner that will block driveways or cause congestion of traffic flow under sheds.
- (c) It shall be unlawful to park any unauthorized vehicle upon the municipal produce market.

(2001 Code, sec. 94-377; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-378. Display of broken or sliced melons or fruit.

Produce samples may only be distributed at the municipal produce market if sanitary operations outlined in the Texas Health and Safety Code as applied to municipally owned farmer's markets are met as determined by the Health District. (2001 Code, sec. 94-378; Ordinance 28-2012, sec. 1, adopted 5/1/12; Ordinance 31-2012, sec. 1, adopted 6/5/12)

Sec. 94-379. Obstructing sidewalks.

It shall be unlawful for anyone to place any barrel, box, crate, wood, vehicle, merchandise, or other substances on any sidewalk in the municipal produce market so as to obstruct, entirely or in part, passage along such sidewalk or any part thereof. (2001 Code, sec. 94-379; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-380. Fraudulent sale or possession of inferior produce.

It shall be unlawful for any person at the municipal produce market, with intent to deceive or to defraud, to sell, offer for sale, expose for sale or to possess for sale any box, basket, crate, bag, or other container containing produce, merchandise or other commodity of a quality inferior to that with which such container is apparently filled. (2001 Code, sec. 94-380; Ordinance 28-2012, sec. 1, adopted 5/1/12)

Sec. 94-381. Cleanliness of wet fabric to cover produce.

All burlap bags, sacks, cloth or other fabric, when used while wet to protect produce by persons utilizing the municipal produce market, must be thoroughly laundered and cleaned before being used for such purpose. The decision of the market manager as to the cleanliness of such fabric shall be final. When the market manager has determined that a fabric is too dirty for use on produce, the owner thereof must have such fabric laundered and cleaned before he shall be authorized to use the fabric. (2001 Code, sec. 94-381; Ordinance 28-2012, sec. 1, adopted 5/1/12)