

# Town of Milton

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Milton, DE 19968



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## **ORDINANCE NO. 2017-007**

### **AN ORDINANCE TO CREATE A NEW CHAPTER IN THE TOWN CODE ENTITLED FARMERS MARKET**

**WHEREAS**, the Mayor and Town Council of the Town of Milton have the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Town Council of the Town of Milton, a majority thereof concurring that the following chapter be incorporated and effective immediately:

## Chapter 94. Farmers Market

### § 94-1. Purpose and policy.

The Mayor and Town Council of the Town of Milton find that the operation of a farmers market in the Town gives the residents and visitors to Milton an opportunity to purchase fresh produce and other food products to which they might not otherwise have access, provide a market for local growers and foster a sense of community. It is therefore the policy of the Town of Milton to permit and encourage, under clearly defined conditions, the operation of a farmers market in the Town of Milton.

### § 94-2. Definitions.

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

#### FARMERS MARKET

A market organized and operated by a local organization at which farmers, growers or producers from the local area are present in person to sell their own produce, direct to the public from a stall. The majority of products sold will have been grown, reared, caught, pickled, baked, smoked or processed by the vendor.

#### ORGANIZATION

Any entity legally formed in the State of Delaware and which has been ruled to be tax-exempt under section 501(c) (3) of the Internal Revenue Code.

#### SEASON

The period from April 1 to October 31 of any year.

#### VENDOR

Any person or entity, separate from any other vendor, who grows and/or markets a product which is typically not marketed widely, but is sold at the vendors facility or other farmers markets and who pays the permit holder a fee to sell at the farmers market. The permit holder may be considered a vendor and sell products during the hours of the farmers market.

§ 94-3. Permit required.

No one shall operate a farmers market until first having obtained a permit from the Town. Only one permit shall be issued each season to operate a farmers market in the Town of Milton.

§ 94-4. Administration.

The administration of this chapter shall be by the Town Manager or designee.

§ 94-5. Application for permit.

Any organization desiring to operate the farmers market for the ensuing season shall, by February 1, file an application with the Town Manager or designee providing at a minimum the following information:

- A. The name of the applicant and whether it is incorporated.
- B. The Employer Identification Number or 501 (c) (3) number assigned to the applicant by the Internal Revenue Service.
- C. The mailing address of the applicant and telephone number.
- D. The names, addresses and telephone numbers of at least three officers or directors of the applicant who will be responsible for operation of the farmers market.
- E. The intended day of the week, hours, and the beginning and ending date for the operation of the farmers market.
- F. Equipment and other resources the applicant has available for operation of the farmers market.
- G. The location of the Farmer's Market and documentation from property owner granting use for the Farmer's Market

§ 94-6. Approval of selected applicant, if any.

The Town Manager or designee shall be vested with the sole discretion to issue a permit to the applying organization which in their determination best meets the purpose and policy of this chapter, in accordance with the following:

- A. They shall base the decision on the following:
  - (1) Timely completion of the application requirements.
  - (2) Past experience with the operation of the farmers market.
  - (3) The equipment and other resources available.
- B. The Town Manager or designee may reject the application of any organization that has previously held a permit and failed to satisfactorily operate the farmers market.
- C. The Town Manager or designee shall issue their determination in writing.

§ 94-7. Days and hours of operation; time limits.

- A. The permit holder shall operate the farmers market one day per week as indicated in the permit and shall not change days of the week without authorization of the Town Manager or designee.
- B. The farmers market shall be operated for a maximum of four hours on any day.
- C. The permit holder shall have two hours before and two hours after the close of the farmers market to set up and remove its equipment.
- D. The permit holder shall determine when to begin the season, but there after shall operate the farmers market each week until they determine a time and date to terminate operation for the season.

§94-8. Vendors limited.

Only those vendors selected and approved by the permit holder may set up and sell during the hours of the farmers market.

§ 94-9. Number of vendors.

Should the Farmer's Market be operated on Town of Milton property, there shall be a maximum of 25 vendors present.

§ 94-10. Vendor selection.

- A. Vendors shall be chosen to make the widest selection of produce and food products available.
- B. Preference shall be given to vendors closest to Milton and those that grow their product or incorporate the least previously processed ingredients.
- C. In accordance with generally accepted standards, there shall be no discrimination in the selection of vendors.
- D. The permit holder shall be the sole judge as to which vendors to include in the farmers market. No vendor shall inure any rights or privileges from the Town of Milton by virtue of having been selected by the permit holder to participate in the farmers market.

§ 94-11. Admission.

- A. There shall be no admission charge levied by the permit holder for any person to enter the area of the farmers market at any time.
- B. No person shall be denied access to the farmer's market by the permit holder.

§ 94-12. Cleanliness; storage.

The permit holder shall be responsible to leave the Market site in as neat and clean a condition at the end of each event as it was at the start. No equipment or other material shall be stored in the park or left in the market area overnight unless previously approved by the property owner and the Town Manager or designee.

§ 94-13. Demonstrations; entertainment.

Demonstrations sponsored by the permit holder and related to food, the preparation of food or other related subjects shall be permitted during the hours the farmers market is in operation. Entertainment sponsored by the permit holder and limited to that which does not create a nuisance in the neighborhood shall be allowed.

§ 94-13. Adequate staffing.

The permit holder shall, at all times the farmers market is in operation, have sufficient persons staffing the farmers market to ensure that the event remains orderly and attendees concerns and needs are adequately addressed.

§ 94-14. Permit fee.

The permit holder shall pay a fee of \$150 to the Town of Milton for the season. Vendors other than those who offered prepared meals for consumption either on-site or off-site shall not be required to be separately licensed by the Town. Those offering meals for on-site or off-site consumption shall be required to obtain a separate Town of Milton business license.

§ 94-15. Violations and penalties; revocation of permit.

The Town Manager or designee may revoke the permit of any organization to which a permit has been issued, pursuant to provisions of this chapter, because of any violation of the provisions of this chapter or of any other ordinance of the Town or of any statute of the State of Delaware, or of any statute of the United States of America; provided, however, that before any permit is revoked by the Town Manager or designee, they shall personally meet with a representative of the permit holder to review in detail the specifics of the violation. The permit holder shall have five days to correct the violation; if at the end of this five-day period the violation remains or if the violation recurs the same season then the Town Manager or designee in their sole discretion may revoke the permit.

**I, THEODORE J. KANAKOS**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the \_\_\_\_ day of \_\_\_\_\_, **2017**, following a duly noticed meeting, at which a quorum was present and voting throughout and that the same is still in full force and effect.

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**MAYOR**