

ORDINANCE NO. 2017-

AN ORDINANCE TO ESTABLISH STANDARDS AND AN APPROVAL PROCESS FOR FARMERS MARKETS, THEREBY AMENDING CHAPTERS 14, 19, 21 OF THE CITY CODE

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 14 of the City Code is hereby amended by deleting those words that are contained in brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 14

LICENSES AND PERMITS

ARTICLE I. GENERAL PROVISIONS

§ 14.03 FEES.

(a) Except as otherwise stated in this Code, the fees for the various licenses and permits shall be as hereinafter stated.

License/Permit	Required by Section	Annual Fee
<u>Farmers Markets</u>		
Farmers Market Permit	14.600	\$100

Food Establishments

(H) Farmer~~[']~~s market stand (stands not exempted from licensing in M.S. Chapter 28A, as it may be amended from time to time)

14.443 \$170

ARTICLE IX. FARMERS MARKETS

§ 14.600 PURPOSE.

The purpose of Article IX is to establish standards for the regulation of farmers markets in the city to protect the health, safety, and general welfare of the public.

§ 14.601 DEFINITIONS.

COTTAGE FOOD VENDOR. A market vendor who sells home prepared foods prepared by the market vendor who has control over the means and methods of production, assumes principal financial and liability risk for the production enterprise and who is not regularly engaged in the business of manufacturing; and sells food pursuant to Minnesota Statutes, section 28A.152 or as recognized by Minnesota law, and registered by Minnesota Statute.

FARMER. A person who sells directly to the consumer products of the farm or garden cultivated or raised by the person selling the product on land they own or occupy.

FARMERS MARKET. An association of two or more market vendors who assemble at a defined location primarily for the purpose of selling directly to the consumer the products of a farm or garden occupied and cultivated or raised by the person selling the product.

FOOD SERVICE VENDOR. A market vendor who sells foods prepared for immediate consumption at the market and who is licensed according to Minnesota law or city ordinance.

HANDICRAFTS. Non-food products that are substantially made or crafted by hand, where any materials used for crafting a product must be significantly altered or enhanced by the handicraft producer and handcrafted components must functionally and/or aesthetically dominate any non-handcrafted (commercial) components.

HANDICRAFT VENDOR. A market vendor who produces handicrafts, who has control over the means and methods of production and who assumes the principal financial and liability risk for the production enterprise.

HOME PREPARED FOOD. Products made through the transformation of raw ingredients into a finished food product prepared in the home including, but not limited to, jams, jellies, pickles, baked goods and confections.

PERSON. One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the state; or any other organization.

PLANT VENDOR. A market vendor who resells live plants, cut flowers, or non-food plant products purchased from retail stores, wholesalers or agricultural producers, or sells such plants or plant products grown and harvested on land that is not owned or leased by the vendor.

PRIVATE FARMERS MARKET. A farmers market that is not open to the general public.

RETAIL FOOD VENDOR. A market vendor who sells food purchased from retail stores, wholesalers or agricultural producers, or sells foods for off-site consumption, excluding cottage food vendors, provided that the vendor is licensed according to Minnesota law or city ordinance.

SECONDHAND GOODS. As defined in §14.422 of this code.

VENDOR OF SERVICES. A market vendor who provides a service intended for immediate consumption including, but not limited to, chair massage and face painting.

§ 14.602 PERMIT REQUIRED AND REGISTRATION.

A farmers market must not be conducted until a permit is obtained unless exempted under this Article IX. Any person organizing a farmers market for which a permit is not required by this Article IX must register the farmers market with the issuing authority at no charge.

§ 14.603 PERMIT APPLICATION.

(a) **Filing.** A person seeking a permit required by Article IX must file a signed and completed application with the issuing authority on the forms provided. Applications must be filed at least 60 days prior to the farmers market.

The issuing authority may waive the minimum filing period for good cause shown if, after due consideration of the date, time, place and nature of the farmers market, the anticipated number of participants, and the city services required in connection with the farmers market, it is determined that the waiver will not adversely impact the public health, safety or welfare.

(b) **Contents.** The application for a permit under this Article IX must include the following information:

- (1) The name, address, electronic mail address, and telephone number of the applicant;
- (2) The names, addresses, electronic mail addresses, and telephone numbers of the owner of the land upon which the farmers market is to be conducted and the name of the person within that organization responsible for the farmers market;
- (3) A letter of authorization from the property owner, if different from the applicant;
- (4) The names, addresses, electronic mail addresses, and telephone numbers of the persons who will act as the market manager(s) responsible for the farmers market;

- (5) The date and hours when the farmers market will start and terminate, including set-up and teardown times;
- (6) A description of the planned activities, including the approximate number of vendors, the type and number of vehicles involved and the approximate number of customers and guests reasonably anticipated;
- (7) A scaled site plan depicting the location of the farmers market that includes loading or unloading areas, vendor stand locations, parking areas, gathering and seating areas, tents, stages, platforms, temporary structures, tables, booths, first-aid or relief stations, dumpsters, fencing, portable toilets, signs or banners and a parking, pedestrian circulation and traffic plan;
- (8) A description of any sound amplification equipment and its positioning, and other mechanical or electronic equipment to be used in connection with the farmers market and the names, addresses and telephone numbers of any sound technicians for the farmers market;
- (9) A description of any public facilities or equipment to be utilized;
- (10) A description of the applicant's plan to clean up and restore the site;
- (11) Vendor information. For each market vendor the following information must be supplied:
 - (A) Business or farm name;
 - (B) Name of the primary seller;
 - (C) Mailing address;
 - (D) Description of goods to be sold;
 - (E) Vendor type (i.e. farmer, cottage food vendor, retail food vendor, food service vendor, handicraft vendor, plant vendor, vendor of service, etc.);
 - (F) A description of how vendors will comply with Minnesota Statutes, section 28A.151 if vendors intend to provide samples or food demonstrations; and
 - (G) Applications for required city licenses related to vendor type; and
- (12) Such other information as the issuing authority requires in order to make a fair determination as to whether or not a permit should be issued.

§ 14.604 FEES.

- (a) Permit fees. Permit fees for farmers markets are listed in § 14.03 of this code, and the permit fee must be submitted with the application. Additional permits and fees may be required if the farmers market includes public facility rental, tents, retail food vendors, food service vendors, or other attributes subject to separate regulation.
- (b) Contractual police overtime deposit. A fee for contractual police overtime must be paid at the time the application is submitted if the Chief of Police determines, based upon the market's size, date, time of day, location, concentration of persons, vehicles, equipment, that additional police services, over and above that which can be provided by regularly scheduled on-duty police personnel, is necessary to protect the public health, safety and welfare. The fee for contractual police overtime shall be based upon the established contractual overtime rates for the patrol and supervisory officers available, which include regular salary, plus regular fringe benefits. In making this determination, the Chief of Police may not reference or consider the content of the expressive activity or views expressed or anticipated to be expressed at any public assembly at the farmers market or the response it may provoke.
- (c) Other city staff overtime deposit. A fee for estimated city staff overtime must be paid at the time the application is submitted if the issuing authority determines, based upon the farmers market's size, date, time of day, location, concentration of persons, vehicles, or equipment that additional city staffing is necessary to protect the public health, safety and welfare. The fee for city staff overtime shall be based upon the actual overtime rates for the city staff available to serve the farmers market, which shall include regular salary, plus regular fringe benefits. In making this determination, the issuing authority may not reference or consider the content of the expressive activity or views expressed or anticipated to be expressed at any public assembly at the farmers market or the response it may provoke.

§ 14.605 EXEMPTIONS.

- (a) City Council findings on exemptions. The City Council exempts private farmers markets that comply with the requirements for farmers markets outlined in §14.607 and comply with the following additional standards from submitting a permit application and paying a permit fee:

- (A) The farmers market must be substantially conducted outdoors;
- (B) No signs are allowed except for one sign at each vendor stand consistent with §19.105(c)(23)F;
- (C) The farmers market is not allowed to have more than three vendors;
- (D) All vendors must be a farmer; and
- (E) No advertisement of the farmers market is allowed outside of invited attendees.

(b) Responsibilities of exempt farmers market sponsors. Those persons exempt from a permit fee and application in subsection (a) above are nonetheless subject to all applicable state laws and city code provisions, including without limitation regulations relating to: parks, open space and recreational areas (§§ 5.20 through 5.22.01); noise (§§ 10.29 through 10.32); sound trucks (§§ 10.33 through 10.36); trespass (§§ 12.07 through 12.12); public nuisance (§§ 12.02 through 12.06); juvenile curfew (§§ 12.27 through 12.33); vandalism (§ 12.34); transient merchant (§§ 14.180 through 14.192); tents (§ 19.63.06); and signs (§ 19.106) and may be required to pay the cost of any law enforcement services over and above the level of city services available with regular on-duty staffing that are directly attributable to their farmers market. The city's cost of repair, clean-up or replacement of city property, public grounds or facilities damaged as a direct result of the farmers market shall also be recoverable from the exempt farmers market sponsor, as well as any city liability to third parties resulting from the exempt person's farmers market.

§14.606 PERMIT APPLICATION AND VERIFICATION.

(a) Application consideration. An application for a permit pursuant to this Article IX must be submitted to the issuing authority, which will verify the information on the application form. The issuing authority is empowered to conduct any and all investigations to verify the information on the application. The issuing authority may include in its approval such conditions as may be necessary to ensure adequate parking and traffic circulation, to minimize impacts on adjacent property, to ensure compliance with all applicable laws and to otherwise protect the health, safety and welfare of the community. A permit may not be granted unless the issuing authority finds that:

- (1) The conduct of the farmers market will not impair the safe and orderly movement of pedestrian or vehicular traffic;
- (2) The conduct of the farmers market will not require the diversion of so great a number of city police resources as to pose an adverse impact on the health, welfare and safety of the public;
- (3) The concentration of vehicles, persons at the farmers market will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the farmers market;
- (4) The conduct of the farmers market is not reasonably likely to cause injury to persons or property;
- (5) Adequate sanitation and other required health facilities are or will be made available in or adjacent to the farmers market area;
- (6) There are sufficient parking places near the farmers market;
- (7) The applicant has paid all fees required under §14.03;
- (8) The application meets all applicable code requirements; and
- (9) The application is not detrimental to the public health, safety or welfare.

(b) Denial.

- (1) Denying an application. The issuing authority may deny an application completely or in part. The issuing authority must explain the reason for denial in a written notice. The issuing authority must mail the notice of denial to the applicant at the street address provided in the application, and may send a copy electronically to the electronic mail address provided in the application. The notice of denial must inform the applicant that he or she has 20 days to request an administrative review, counting from the date the issuing authority mailed the notice of denial.
- (2) Request for Administrative Review. An applicant has a right to request an administrative review of the issuing authority's decision to deny a permit. The applicant must serve the request for review on the issuing authority within 20 days, counting from the date the issuing authority mailed the notice of denial. The applicant must include with the request all documents and written arguments in support of the applicant's position.
- (3) Written Decision. If the issuing authority receives a request for administrative review within the 20-day period, the City Manager or the City Manager's designee must review the request and issue a written decision to the applicant within 20 days, counting from the date of receipt of the

request. This written decision must be mailed to the applicant at the address on the permit application.

§14.607 REQUIREMENTS FOR ALL FARMERS MARKETS.

- (a) Location. Farmers markets are subject to the following location requirements:

 - (1) Zoning districts. Farmers markets are permitted uses in multiple zoning districts as stated in Chapter 19 and 21 of the city code.
 - (2) Permitted within the right-of-way. Farmers markets are permitted within the right-of-way subject to requirements in § 17.68 of this code.
- (b) Sampling and demonstrations. Farmers market vendors providing food samples or conducting food and cooking demonstrations must do so in accordance with Minnesota Statutes, section 28A.151.
- (c) Farmers market vendors.

 - (1) Primarily farmers. At least 60 percent of farmers market vendors must be farmers. The other vendors, up to 40 percent, are limited to the following types:

 - (A) Retail food vendors;
 - (B) Food service vendors;
 - (C) Handicraft vendors;
 - (D) Cottage food vendors;
 - (E) Plant vendors; and
 - (F) Vendors of services.
- (d) Hours and frequency.

 - (1) Farmers market vendors are not allowed to begin setting up earlier than 7:00 AM if located on or within 250 feet of a residential property.
 - (2) No farmers market is allowed to be open for the transaction of business on any day of the week before 7:00 AM or after 8:00 PM.
 - (3) The farmers market is not allowed to conduct business for more than six total hours in a seven day period in the same location, except that farmers markets exempt from permit requirements under §14.605 are not allowed to conduct business for more than eight total hours in a seven day period in the same location.
 - (4) The farmers market is not allowed to operate more than twice per seven day period in the same location.
 - (5) The farmers market site must be entirely free of refuse, litter, recyclables, equipment, and vendors two hours after the farmers market's advertised closing time.
- (e) Parking.

 - (1) A farmers market must provide three code-compliant parking stalls per market vendor.
 - (2) The applicant must demonstrate that display area and farmers market parking will not negatively impact the parking required on site for non-farmers market uses during periods when the farmers market is open.
- (f) Tents and canopies. Permits are required for tents subject to requirements stated in §19.63.06 of this code.
- (g) Farmers market goods.

 - (1) Compliance with local, state, and federal regulations.

 - (A) All items must be transported, prepared, labeled, displayed, stored, and sold in accordance with local, state and federal regulations and are subject to inspection.
 - (2) Prohibited vendors and goods. The following types of vendors are prohibited from farmers markets:

 - (A) Vendors selling any entity's non-food product as an agency, franchisee, distributor, or licensee; or on consignment; or by any third-party arrangement; and
 - (B) Vendors selling secondhand goods.
- (h) Signs. Signs for the farmers market are subject to requirements stated in Chapter 19 Article X of this code.

- (i) Permits and licenses. All permits and licenses required by the Minnesota Departments of Health or Agriculture or City are the responsibility of the vendors.
- (j) Market manager. All farmers markets must have a designated farmers market manager. The market manager must be present when the farmers market is open and is responsible for the supervision, management, and control of the farmers market, including:
 - (1) Obtaining any required permits for the farmers market from the City of Bloomington;
 - (2) Ensuring compliance with the farmers market's policy documents and all the farmers market requirements listed herein;
 - (3) Ensuring all market vendors are in compliance with all required local, state, and federal licenses and regulations prior to vending;
 - (4) Ensuring a current list of all market vendors is available to city staff to review at all times during the farmers market season;
 - (5) Ensuring prompt removal of all refuse, litter, and recyclables from the farmers market and areas of public right-of-way within 100 feet of the farmers market; and
 - (6) Maintaining a record, on site and easily accessible to city staff and other officials, of all market vendors who qualify for exemption under Minnesota Statutes, chapter 28A. Each individual vendor record must contain at minimum the following data:
 - (A) Vendor name, business name, and contact information;
 - (B) The address and approximate total acres of farm or garden;
 - (C) A list of farm products sold; and
 - (D) A list of vehicles used for delivery of farm products.
- (k) Insurance. Commercial General Liability and Auto insurance for all vendors at a minimum of \$1,000,000 must be obtained to cover any farmers market on city property that requires a permit under this Article IX. A certificate of insurance must be filed with the city.

§14.608 PENALTY.

A violation of any provision of this Article IX shall be a misdemeanor under state law.

§14.609 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Article IX is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article IX. The City Council hereby declares that it would have adopted the ordinance in each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 2. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets and ~~stricken through~~ and adding those words that are underlined, to read as follows:

CHAPTER 19

ZONING

ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

§19.29 HIGH INTENSITY MIXED USE WITH RESIDENTIAL (HX-R) DISTRICT.

(b) *Permitted principal uses.*

- (8) Conference, exposition and meeting facilities; ~~and~~
- (9) Entertainment and recreation special events~~[-];~~ and
- (10) Farmers Market subject to standards set forth in Chapter 14, Article IX.

§19.31.01 REGIONAL COMMERCIAL (CR-1) DISTRICTS.

(b) *Permitted principal uses.*

- (10) Entertainment and recreation special events; ~~and~~
- (11) Firearm sales, incidental, subject to standards set forth in § 21.302.11~~[-];~~ and
- (12) Farmers Market subject to standards set forth in Chapter 14, Article IX.

§19.33 INDUSTRIAL (I-1, I-2 AND I-3) DISTRICTS.

(b) *Permitted uses.*

- (12) Entertainment and recreation special events; ~~and~~
- (13) Firearm manufacturing, warehousing, or distribution, subject to standards set forth in § 21.302.11~~[-];~~ and
- (14) Farmers Market subject to standards set forth in Chapter 14, Article IX.

§19.33.01 INDUSTRIAL PARK (IP) DISTRICT.

(b) *Permitted principal uses.*

- (9) Entertainment and recreation special events; ~~and~~
- (10) Firearm manufacturing, warehousing, or distribution, subject to standards set forth in § 21.302.11~~[-];~~ and
- (11) Farmers Market subject to standards set forth in Chapter 14, Article IX.

§19.34 FREEWAY DEVELOPMENT (FD-1 AND FD-2) DISTRICTS.

(b) *Permitted uses.*

- (9) Entertainment and recreation special events; ~~and~~
- (10) Firearm manufacturing, warehousing, or distribution, subject to standards set forth in § 21.302.11~~[-];~~ and

(11) Farmers Market subject to standards set forth in Chapter 14, Article IX.

ARTICLE IIIA. ADDITIONAL ZONING DISTRICTS

§19.40.07 COMMERCIAL SERVICES CS-05 AND CS-1.

(b) *Permitted principal uses.*

(7) Transient merchant sales as an accessory use in hotel interiors only; ~~and~~

(8) Entertainment and recreation special events~~[-]; and~~

(9) Farmers Market subject to standards set forth in Chapter 14, Article IX.

§19.40.08 COMMERCIAL OFFICE DISTRICT CO-1.

(b) *Permitted principal uses.*

(5) Entertainment and recreation special events~~[-];~~

(6) Farmers Market subject to standards set forth in Chapter 14, Article IX.

§19.40.08.01 COMMERCIAL-OFFICE/MIXED-USE DISTRICT CO-2.

(e) *Interim uses.*

(1) *Uses.* The following uses are allowed on an interim basis in accordance with the provisions of this section:

(E) ~~[Farmer's market, provided products are sold directly to consumers by Minnesota growers and producers consistent with the exceptions allowed by M.S. § 329.14, as it may be amended from time to time]~~ Reserved;

§19.40.09 RESIDENTIAL OFFICE DISTRICTS RO-24 AND RO-50.

(b) *Permitted principal uses.*

(4) Accessory uses customarily incidental and clearly subordinate to permitted principal uses; ~~and~~

(5) Entertainment and recreation special events~~[-]; and~~

(6) Farmers Market subject to standards set forth in Chapter 14, Article IX.

§19.40.10 CONSERVATION DISTRICT SC.

(b) *Permitted principal uses.*

(4) Transient merchant sales as an accessory use in a park or government building interior, where incidental and clearly subordinate to a special event; ~~and~~

(5) Entertainment and recreation special events~~[-]; and~~

(6) Farmers Market subject to standards set forth in Chapter 14, Article IX.

ARTICLE X. SIGN REGULATIONS

DIVISION C: GENERAL REGULATIONS

§19.105 REGULATED SIGNS EXEMPT FROM OBTAINING A SIGN PERMIT.

(c) *Regulated signs exempt from permit requirements.*

(23) Farmers market signs. Farmers market signs are exempt from obtaining a permit but must meet the following standards:

- (A) Maximum size and number. Two temporary signs are allowed per street frontage in addition to the temporary directional signs discussed below. The maximum size per temporary sign is 50 square feet.
- (B) Maximum height and minimum setbacks. Any temporary signs must maintain a minimum setback of five feet from any street right-of-way unless the farmers market itself has approval to locate in the right of way. No temporary sign is allowed to be placed above the highest outside wall of a structure. All temporary signs are subject to the requirements of § 19.108(e)(1), clear view triangle area.
- (C) Time period for signage. Temporary signs are not allowed to be displayed before 24 hours before the opening of the farmers market or after two hours after closure of the farmers market.
- (D) Location. Temporary signs are only allowed to be placed in yard areas and on buildings below the roof line and are not allowed to be placed within two feet of public sidewalks, or on sidewalks, parking lots (except for vendor signs), parking lot islands, retaining walls, boulders, planters or any other areas prohibited by the city code. Signs are only allowed to be placed on the site of the farmers market and with property owner authorization.
- (E) Illumination. The signs are not allowed to be artificially illuminated.
- (F) Vendor signs. Each market vendor is allowed one additional sign during farmers market operations located in their respective vendor area no larger than 20 square feet in area.
- (G) Types of permitted temporary signs. Banners, including banners on buildings, freestanding yard signs, properly secured sandwich board signs and commercial flags are permitted types of signs if they meet all other requirements of the city code.
- (H) Temporary directional signs. Farmers markets may display temporary directional signs provided the following criteria are satisfied.
 - (i) The directional signs must maintain a minimum setback of five feet from any street right-of-way.
 - (ii) The maximum sign surface area is six square feet.
 - (iii) The maximum sign height is six feet.
 - (iv) No directional sign is allowed to be erected that is not clearly necessary for the safety and convenience of the public. In no instance will the number of directional signs exceed two per acre of total site area. Exception: if a site is less than one acre, the site is allowed two directional signs.

Section 3. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets and ~~stricken through~~ and adding those words that are underlined, to read as follows:

CHAPTER 21

ZONING AND LAND DEVELOPMENT

ARTICLE II. DISTRICTS AND USES

DIVISION F: SPECIALIZED ZONING DISTRICTS

§21.207.01 MIXED USE (CX-2) DISTRICT.

- (b) *Uses.* Uses allowed in the CX-2 District as permitted, accessory, conditional or interim uses are listed in Table 21.209(f) as well as the following additional interim uses.

- (1) *Additional interim uses.*

- (E) ~~[Farmer's market, provided such products are sold directly to consumers by Minnesota growers and producers consistent with the exceptions allowed by M.S. § 329.14, as it may be amended from time to time]~~Reserved; and

§21.207.02 LINDAU MIXED USE (LX) DISTRICT.

- (b) *Uses.* Uses allowed in the LX District as permitted, accessory, conditional or interim uses are listed in Table 21.209(f) as well as the following additional interim uses.

- (1) *Additional interim uses.*

- (B) ~~[Farmer's market, provided such products are sold directly to consumers by Minnesota growers and producers consistent with the exceptions allowed by M.S. § 329.14, as it may be amended from time to time]~~Reserved.

DIVISION H: USES

§21.209 USE TABLES.

- (c) *Residential Zoning Districts.*

Use Type	Zoning District									References; See listed section
	R-1	R-1A	RS-1	R-3	R-4	RM-12	RM-24	RM-50	RM-100	
TEMPORARY/SEASONAL										
Temporary Uses										
Farmers Market	P				P	P	P	P	P	Chapter 14, Article IX

- (d) *Neighborhood and Freeway Commercial Zoning Districts.*

Use Type	Zoning District								References; See listed section
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	
TEMPORARY/SEASONAL									
<u>Farmers Market</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Chapter 14, Article IX</u>

- (f) *Specialized zoning districts.*

Use Type	Zoning District		References; See listed section
	CX-2	LX	
TEMPORARY/SEASONAL			
Special Events			
<u>Farmers Market</u>	<u>P</u>	<u>P</u>	<u>Chapter 14, Article IX</u>

Passed and adopted this 5th day of June, 2017.

/s/ Gene Winstead
Mayor

ATTEST:

/s/ Denise M. Christenson
Secretary to the Council

APPROVED:

/s/ Melissa J. Manderschied
City Attorney