

TO: MAYOR AND CITY COUNCIL
FROM: NEIL JENSEN, City Administrator
SUBJECT: Farmers Market Discussion
MEETING DATE: November 5, 2020

BACKGROUND:

Mary Jill Bringgold brought forth an idea to the Finance Committee about a different format of a Downtown Farmers Market. The Finance Committee agreed that it should be discussed at the council level.

City Council tabled the Farmers Market a couple months ago until the season was over and to discuss this issue for the 2021 season.

I contacted Dave Kendall to review and have ready a few options if the council decides to move forward with a new Farmers Market Plan. Please review the memo from Mr. Kendall.

STAFF RECOMMENDATION

For discussion purposes.

REQUESTED COUNCIL ACTION

For discussion.

TO: Neil Jensen, City Administrator
FROM: Dave Kendall and Leah Koch, City Attorneys
DATE: October 30, 2020
RE: Farmer's Markets - Cannon Falls

Our office was asked to propose potential solutions for zoning issues and other issues surrounding the Cannon Falls Downtown Farmer's Market. There are two farmer's markets in Cannon Falls. One market is the Artisan Plaza Farmers Market, which is on private property in District B-2 and has a conditional use permit to operate. The other market is The Cannon Falls Downtown Market, which is on City property in District B-1 and is not explicitly authorized under the City code. There is a Vendor Application utilized by the City for all vendors to be permitted to sell their produce at either farmers market.

A few issues need to be addressed regardless of how the City proceeds with the Downtown Market. These are listed in Appendix A. These issues include properly defining farmers markets within the code, excluding them from the prohibition on merchants, and codifying the vendor's permit. See Appendix A for suggested language.

We have identified four options which will be explained further below. The first is that the Downtown Market remains on City property (Option 1). The second is the Downtown Market is removed from City property altogether and will be operated on private property (Option 2). The third option is for the City to move the downtown market to John Burch Park and perhaps expand the offerings to include live music or food vendors (Option 3). The fourth option is to follow the example of cities which permit carnivals and festivals in all districts on a temporary basis (Option 4).

Option 1:

Because there is some dispute as to who governs the Downtown Market, some vendors are attempting to act as managers or owners of the Downtown Market. The history of the Downtown Market is complex, but the City has generally undertaken management and ownership responsibilities because the market is on City property. One option for the City to manage how the Downtown Farmer's Market operates is to execute a lease with all parties who wish to have a stall on City property. In that way, the City could manage the terms of the lease.

Because the individuals who currently sell goods at the Downtown Farmers Markets are not the owners of the property where the market is located, it is not practical to make farmer's markets a conditional use in this district and then require all vendors to apply for a conditional use permit. To avoid this complication, we recommend that the City take the path of other cities which designate farmer's markets as permitted uses or accessory permitted uses in select districts. For purposes of continuing the Downtown Farmer's Market, Cannon Falls could permit farmers markets in B-1 and B-2 districts. Farmer's markets would then be regulated in a separate section of City code. Please see example in Appendix A. Vendors would still obtain a vendors license and would still execute a lease with the City, if necessary. From the public eye, everything will likely look the same, but the Downtown Farmers market would then be more fully authorized and regulated under City code. Please see Appendix B for suggested language.

Option 2:

Another option is to remove the Downtown Market from City property and allow it to exist on private property. Similar to Option 1, the City could then allow farmers markets to operate in whichever district in which the City prefers to permit farmer's markets. The City could still have vendors obtain vendor permits. The City would not execute a lease with them and so could not manage terms of operation through use of a lease. See Appendix B, but include zoning district of choice.

Option 3:

The City may want to move the Downtown Market to John Burch Park to facilitate a larger gathering such as a festival with live music, food trucks, etc. John Burch Park is located in a R-3 district. Prior to the COVID-19 pandemic, many cities in Minnesota carried on a weekly concert series or weekly festivals during the summer. Presumably this practice will continue when the pandemic is over. Apparently the newest the proposal regarding the Downtown Farmer's Market to establish a new event along the lines of a weekly festival or concert series- the Downtown Market would be a component of this new reoccurring event. See Appendix C.

To move forward with this plan, the City should bear in mind that two permits that are required to use a park for a concert or gathering under current City code. The first is the Loudspeaker Permit § 96.17 the other is the Public Gathering Permit § 96.29. This would be required for a concert series. Vendor permits would also be required if the event were to include a Farmers Market. It is common for cities to allow Farmers Markets, and also common for Cities to allow weekly concert series (prior to the pandemic). We are not aware of situations where cities have combined these two events.

Option 4:

If the City wishes to allow private individual to carry on a concert series or festival series, it could follow the example of St. Louis Park which permits carnivals and festivals in all districts on a temporary basis. See Appendix D. Under an ordinance of this type, all districts may have a carnival or festival and any one property owner may do so on a temporary basis. To host a festival for more than 14 days out of the year, the owner must provide additional information such as a site map, public safety plan, clean up and restoration plan, etc. Festivals at public parks are exempted from the 14 day cap.

St. Louis Park does not combine Farmers Markets and concerts or festivals into a single event permit. St. Louis Park's farmer's market provision, also in Appendix D, is more complex and demanding of those wanting to host farmers markets rather than festivals. The City should consider this language and decide which approach to take in regulating Farmers Markets.

Conclusion

Please note that the draft options for ordinance language appearing in the appendices is not finalized. These represent potential options for the City. We will need to know how the City wishes to proceed prior to refining the draft ordinance changes to conform to the City's goals.

APPENDIX A

Underlined language is an addition and strikethrough language is removed.

RULES AND DEFINITIONS

§152.021 DEFINITIONS:

FARMER’S MARKET: The display or sale of the following items: Christmas trees; nursery stock, plants and related materials; garden produce; lawn, garden, patio furniture and furniture accessories; antique/flea market not to include vehicles. Transient roadside vending is specifically not allowed.

CHAPTER 114: PEDDLERS AND SOLICITORS

§ 114.02 EXCEPTIONS TO DEFINITIONS.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales or estate sales, as well as those persons participating in an organized multi-person bazaar, farmer’s market, or flea market, shall be exempt from the definitions of PEDDLERS, SOLICITORS and TRANSIENT MERCHANTS, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

FARMER’S MARKETS:

Possible Zoning Code locations: § 152.195 or § 152.433.

(A) Manager Permit Required: No person, except for the city, shall conduct a farmer’s market without first having received a permit as provided in this section.

1. The application shall include:
 - a. A list of vendors
 - b. A list of the products to be sold
 - c. A list of all the materials and their quantities to be sold or displayed
 - d. The intended dates, times, and the duration of the sales
 - e. The name and contact information of the person or organization managing the farmer’s market.
 - f. A site plan illustrating the sales arranged in as compact a manner as possible demonstrating vehicle and pedestrian access, circulation and safety, traffic flow, and parking.
 - g. If the farmer’s market is operated by a person other than the property owner, the property owner must notify the city of the full name, address, date of birth and telephone number of the operator in writing. The property owner is responsible for the actions of the operator and for compliance with the conditions of the temporary/seasonal outdoor sales permit.

- h. The applicant shall pay the new or renewal permit fee as established annually by the City Council. The fee for new and renewal permits shall also include the cost of a sign permit. The permit fee shall be paid in full with the application.

2. Duration: Permits issued under this section shall be valid for the dates and times approved with the permit.

(B) Standards: All farmer's markets shall be subject to the following standards:

1. A farmer's market shall provide one and one-half (1 1/2) parking stalls per producer and one and one-half (1 1/2) customer parking stalls per producer.
2. No public address system or speakers shall be used.
3. The site shall be kept in a neat and orderly fashion, free from litter, refuse, debris, junk, or other waste, which results in offensive odors or unsightly conditions.
4. Display of items shall be arranged in as compact a manner as reasonably practicable with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
5. Farmer's markets shall be allowed to operate one day per week during the months of April through November.

(C) Vendor Requirements: Only licensed vendors shall be allowed to participate in city farmer's markets and otherwise permitted farmer's market.

1. No person shall vend at a farmer's market without first having received a farmer's market vendor license. The application for a vendor permit must include:
 - a. Business name;
 - b. Minnesota State Tax ID number;
 - c. Applicant's full legal name, other names the applicant uses or is known by, date of birth and driver's license number or other acceptable identification of the person registering;
 - d. Applicant's home and business address, phone numbers, and e-mail address;
 - e. The intended primary farmer's market location
 - f. Applicant's verification that a general liability and product liability insurance policy has been issued to the applicant by an insurance company
2. Permit Fee: The applicant shall pay the new or renewal permit fee as established annually by the City Council. The permit fee shall be paid in full with the application.
3. Duration: Permits issued under this section shall be valid for the dates and times approved with the permit.

(D) Revocation or Denial of License or Permit:

1. A person licensed or permitted under the provisions of this chapter shall be allowed to conduct activity within the city; provided, that none of the following occurs:

- a. Fraud, misrepresentation, or false statement contained in the application for licensure.
- b. Fraud, misrepresentation, or false statement made in the course of carrying on the activity.
- c. Conviction of any offense for which granting of a license or permit could have been denied under § 114.04;
- d. Any violation of any provision of this chapter.
- e. Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public, including revocation of any state license or authority to operate such business.

2. Notice. Prior to revoking or suspending any license or permit issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license or permit application, or if no residential address is listed, to the business address provided on the license or permit application.

3. Public hearing. Upon receiving the notice provided in division (2) above of this section, the person shall have the right to request a public hearing. If no request for a hearing is received by the City Administrator within ten (10) regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

4. Emergency. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a license or permit holder licensed or permitted under this chapter, the City Council may immediately suspend the person's license or permit and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) above of this section.

5. Appeals. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(E) Farmer's market sales are limited to the B-1 and B-2 zoning districts only.

APPENDIX B

Underlined language is an addition and strikethrough language is removed.

B-1, CENTRAL BUSINESS DISTRICT

§ 152.627 PERMITTED ACCESSORY USES.

Subject to applicable provisions of this chapter, the following are permitted accessory uses in a B-1 District:

- (A) Commercial accessory buildings and structures provided that the use shall not exceed 30% of the gross floor space of the principal use;
- (B) Fences as regulated by §§ 152.275 through 152.281 of this chapter;
- (C) Off-street parking and loading as regulated by §§ 152.255 through 152.264 of this chapter;
- (D) Secondary or accessory use antennas or satellites as regulated by §§ 152.330 through 152.337 of this chapter; and
- (E) Signs as regulated by §§ 152.350 through 152.359 of this chapter.
- (F) Farmer's markets as regulated by §§ _____ through _____ of this chapter.

B-2, HIGHWAY BUSINESS DISTRICT

§ 152.647 PERMITTED ACCESSORY USES.

Subject to applicable provisions of this chapter, the following are permitted accessory uses in a B-2 District:

- (A) Commercial accessory buildings and structures provided that the use shall not exceed 30% of the gross floor space of the principal use;
- (B) Fences as regulated by §§ 152.275 through 152.281 of this chapter;
- (D) Off-street parking and loading as regulated by §§ 152.255 through 152.264 of this chapter, but not including semitrailer trucks, except in designated loading areas not to exceed four hours;
- (E) Secondary or accessory use antennas or satellites as regulated by §§ 152.330 through 152.337 of this chapter; and
- (F) Signs as regulated by §§ 152.350 through 152.359 of this chapter.
- (G) Farmer's markets as regulated by §§ _____ through _____ of this chapter.

§152.648 CONDITIONAL USES.

- (I) Outdoor sales lots, except for farmer's markets as permitted accessory uses, (not outdoor storage) provided that: ...

APPENDIX C

Underlined language is an addition and strikethrough language is removed.

R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT

§ 152.541 PERMITTED USES.

Subject to applicable provisions of this chapter, the following are permitted uses in the R-3 District:

- (A) Public parks, playgrounds, recreational uses and directly related buildings and structures;
- (B) Residential facilities, licensed by the state, serving six or fewer persons in a single-family detached dwelling;
- (C) Single-family detached dwellings; and
- (D) Two-family dwellings.
- (E) Farmer's markets as regulated by §§ _____ through _____ of this chapter.

OTHER CODE SECTIONS

§ 96.15 SALE OF ARTICLES.

It is unlawful for any person to sell or offer for sale any article whatsoever in any park or parkway, provided, however, that this prohibition shall not apply to farmer's markets, festivals, carnivals, sales of refreshments or other articles by the city, its duly licensed concessionaires, or persons selling under its written direction.

§ 112.41 EXCEPTIONS TO CONCERT LICENSE.

The following performances are exempt from payment of a license fee:

- (A) Performances presented in the local schools and colleges, under the sponsorship of the schools and colleges, and primarily for the students thereof only;
- (B) Performances of athletic, musical or theatrical events sponsored by local schools; and
- (C) Any performance or event in, or sponsored by, bona fide local church and nonprofit organizations.

APPENDIX D

St. Louis Park City Code, Sec. 36-82. Temporary uses.

(b) Authorized temporary uses. A structure or land in any use district may be used for one or more of the following temporary uses if the use complies with the conditions stated in this chapter:

...

(4) Carnivals and festivals.

a. Carnivals and festivals shall not be permitted for more than 14 days in any calendar year except in public parks or closed right-of-way as approved by the city. The city council may approve events lasting more than 14 days at any other location with the following conditions:

1. Approval of a site plan showing compliance with city code;
2. Approval of a public safety plan, including traffic control, fire protection and security of the site and area;
3. Approval of a clean up and restoration plan;
4. Other conditions to address the public health, safety, welfare and community impacts from the use, including any sound and vibration impacts to surrounding properties;
5. A financial guarantee, in an amount determined by the Zoning Administrator or city council, may be required to ensure compliance with and/or completion of the approved plans;
6. Payment of all required application fees

b. Carnivals and festivals shall be permitted within the required front yard, side yard, and rear yard; except where prohibited. Carnivals and festivals shall not be allowed within the public right-of-way unless such right-of-way will be closed for the event as approved by the city.

c. All signage must meet the sign provisions in this code; a sign plan for carnivals and festivals lasting longer than 14 days may vary from the sign provisions if approved by the city council.

.....

(7) Same--Up to six months. The sale of agricultural commodities, including seasonal farmers' markets, greenhouses, and gardening supplies, which are offered for sale directly from the grower/producer, shall be allowed as a temporary use provided the following standards are satisfied:

a. A site plan must be submitted to the city.

b. The temporary use shall be located in the C-1 district, C-2 district, M-X district, PUD district, in a public park or closed right-of-way as approved by the city.

c. The owner of any private property on which the temporary use is proposed to be located shall submit a letter in support of the use to the city.

- d. If the temporary use is located on a surface parking lot or area, such use shall not encumber more than ten percent of the total amount of available parking spaces.
- e. Products shall be limited to produce, vegetables, flowers, plants and related items.
- f. Sales activities may be conducted within a required yard provided the area is paved and the activity does not interfere with parking, traffic circulation or emergency access. Temporary sales on unpaved landscaped areas are prohibited except in public parks as approved by the city or as specified by PUD approval.
- g. Tents, stands and other similar temporary structures may be utilized, provided they are clearly identified on the submitted plan and provided it is determined that they will not impair parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site.
- h. The submitted plan shall clearly demonstrate that adequate off-street parking for the proposed temporary use can and will be provided for the duration of the temporary use. Determination of compliance with this requirement shall include the consideration of the nature of the temporary use and applicable parking requirements set forth in section 36-361 or the approved PUD. Consideration shall be given to the parking needs and requirements of the principal uses located on the same property. If unforeseen circulation or congestion problems occur on the site, or causes traffic to back up on public streets, the city may order the use to relocate on the same property or to be removed.
- i. Signage related to the temporary use shall be in compliance with the applicable standards set forth in the approved PUD, or section 36-362 and the following standards:
1. Freestanding signs shall not exceed 16 square feet.
 2. All other signage shall be placed on a tent or canopy.
 3. No sign face shall exceed 100 square feet.
- Special signage for purposes of traffic direction and control may be authorized by the city.
- j. The maximum time for sales activities shall be six months per calendar year per property.
- k. All stands, equipment, signs, and other structures shall be maintained in good repair.
- l. All stands, equipment, signs and other structures shall be removed on the last day of the temporary use.