

use remains in compliance with all conditions stated herein. Such license will not be transferable in any manner.

(b) The fee for a sidewalk cafe license shall be set by mayor and council by resolution.

Mr. Davidson noted if approved, this will be the first reading.

**Council Comment:**

Councilmember Dippolito said he supports the ability to have sidewalk cafes in additional places in the City; however, he wanted to ensure that each applicant needs to come in for a license so there will be an approval process for each café and that this would not be a matter of right and will still require a license. Mr. Townsend responded correct.

Mayor Pro-Tem Wynn asked for public comment. There was none.

**Motion:** Councilmember Diamond moved for **Approval of RZ12-01 Text Amendment related to Sidewalk Cafes** on first reading. Councilmember Price seconded. The motion passed unanimously.

**12. RZ12-02 Text Amendment to allow Farmers' Markets in commercial zoning districts. (First Reading)**

Planning and Zoning Director Brad Townsend, said this is a proposed text amendment to allow, as a permitted use in the HR, MPMUD, C-1, C-2, and C-3 a Farmers' Market permit. The permit would have the criteria that it would be a license for 12 months, the market must include 75% farm produce, there must be an on-site market manager, the hours of operation could not exceed six (6) hours per day between the hours of 7:00 a.m. and 9:00 p.m., and a maximum of two (2) days per week. This also includes an administrative process that allows the Zoning Director to approve the Farmers' Market as part of this proposed ordinance. The Planning Commission, in reviewing this proposed text amendment, did request that staff add language on page four (4) of the proposed ordinance – allowing the Farmers' Market to have a temporary banner, which is not included in the first 40 days or not included in the additional 40 days of the banner – this is totally separate, allowing them to put it up a maximum of 24 hours before the Farmers' Market starts and to be removed within two (2) hours after the Farmers' Market is closed. That's the only change that has not been seen by Mayor and Council before. Everything was language that was reviewed at the Committee level as well as initiated. The Planning Commission recommended approval and staff recommends approval of the proposed text amendment.

City Attorney David Davidson conducted the first reading of *AN ORDINANCE TO AMEND SECTIONS OF THE CITY OF ROSWELL ZONING ORDINANCE REGARDING THE USE OF FARMERS' MARKET, CREATING A DEFINITION OF FARMERS' MARKET, TO ALLOW THE USE OF FARMERS' MARKETS TO BE LOCATED AS A PERMITTED USE IN THE CITY OF ROSWELL ZONING DISTRICTS HR, MPMUD, C-1, C-2, AND C-3 CREATING A FARMERS' MARKET PERMIT REQUIREMENTS TO ALLOW FOR THE APPROVAL OF A FARMERS' MARKET PERMIT BY THE ZONING DIRECTOR* stating, Pursuant to their authority, the Mayor and City Council adopt the following Ordinance:

**1.**

The City of Roswell is hereby amending Article 3 of the *City of Roswell Zoning Ordinance*, Chapter 3.2 *Definitions*, by adding the following definitions dealing with Farmers' Market:

**Farmers' Market:** An outdoor market open to the public:

- (a) At least 75 percent of the displayed inventory of the products sold in each Farmers' Market is Farm Products or Value-Added Farm Products.

(b) At least 75 percent of the booths open during the market's hours of operation are Producers, or family members or employees or agents of Producers; and

(c) If a booth sells Farm Products or Value-Added Farm Products that are not produced by the vendor, said booth must explicitly disclose the producer's name and location in writing with lettering that is at least 2 inches tall and visible to the consumer.

**Producer:** means (a) a person or entity that raises farms products on land that the person or entity farms and owns, rents or leases or (b) a person or entity that creates (by cooking, canning, baking, preserving, roasting, etc.) Value-added Farm Products.

**Farm Products:** means fruits, vegetables, mushrooms, herbs, grains, legumes, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, yogurt, cheese and other dairy products), and seafood.

**Value-Added Farm Product:** means any product processed by a Producer from a Farm Product, such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, tea, smoked or canned meats or fish, sausages, or prepared foods.

2.

The City of Roswell is hereby amending Article 6 of the *City of Roswell Zoning Ordinance*, Table 6.1 Permitted uses in Office and Commercial Zoning Districts, as follows:

**TABLE 6.1  
 PERMITTED USES IN OFFICE AND COMMERCIAL ZONING DISTRICTS**

USE	O-P	C-1	C-2	C-3	I-1
Farmers' market	X	P	P	P	X

(C-Conditional Approval Required, X-Not Permitted, P-Permitted)

3.

The City of Roswell is hereby amending Article 7 of the *City of Roswell Zoning Ordinance*, Table 7.1 Permitted uses in Mixed-use Zoning Districts as follows:

**TABLE 7.1  
 PERMITTED USES IN MIXED-USE ZONING DISTRICTS**

USE	H-R	OCMS	MPMUD
Farmers' produce market	CP	X	P

(C-Conditional Approval Required, X-Not Permitted, P-Permitted)

4.

The City of Roswell is hereby amending Article 10 of the *City of Roswell Zoning Ordinance*, amending the title Chapter 10.19.5 *Farm Produce Market*, to read Chapter 10.19.5 *Farmers' Market* and by adding language which reads as follows:

A farmers' market permit is required to operate a Farmers' Market. Said permit shall expire twelve months from issuance and such use shall thereafter only operate upon issuance of a new farmers' market permit in the manner prescribed in Section 31. In addition to the requirements set forth in this Section of the Zoning Ordinance, as part

of the application for farmers' market permit a Farmers' Market shall submit documentation showing (as opposed to merely stating) that it will comply with the following standards:

- (a) Farmers' produce market temporary: After the approval of a Farmers' market Permit a person(s) may sell or offer to sell farm products and value-added farm products at approved commercially zoned locations as a temporary use under the requirements provisions and conditions as set forth in this Section and article 10.31.
- (b) Farmers' produce market permanent: A permanent facility for a farmers' market may be permitted in the historic district ~~as a conditional use with review and approval of a site plan by the mayor and city council~~ under the requirements as set forth in this Section with final design approval by the historic preservation commission according to the standards of Chapter 10.26 "Outside Storage" provided approved fencing may be temporarily opened or removed and must be closed or reinstalled nightly.
- (c) Removal of temporary displays: Temporary appurtenances such as umbrellas, tables, and displays shall be removed when not in use or may be stored within the screened storage area.
- (d) Removal of waste product: All waste containing putrescible products shall be removed from the site each day.
- (e) Delivery: Nothing in this section shall be construed to prohibit delivery of farm produce to customers provided orders are placed in advance.
- (f) Market Manager: On site presence of a Market Manager during all hours of operation who shall direct the operations of all vendors participating in the market and verify that the requisite number of individual booths are operated by Producers.
- (g) Booths: Assignment of booths and registration of Producers.
- (h) Rules: An established set of operating rules addressing the governance structure of the market, hours of operation, maintenance, security requirements, and the appointment of a Market Manager.
- (i) Recycling: Provision for recycling in accordance with all applicable codes.
- (j) Hours of Operation: Hours of operation shall be during a window between 7 a.m. and 9 p.m. but in no event may a market operate more than two (2) days per week and for more than six (6) hours per day. Set-up of market operations shall begin no earlier than 6 a.m. and take-down shall end no later than 10 p.m.
- (k) Parking Requirements: During the hours of operation, dedicated and exclusive parking shall be provided at the rate of a minimum of 1 space per booth. Notwithstanding the foregoing, in zoning districts where there is no minimum parking requirement, there shall be no parking required for a Farmers' market.
- (1) Except as provided in subparagraph (2) below, all required parking spaces must be provided on-site. For the purposes of Farmers' Markets only, required on-site parking spaces of the host property may apply towards meeting the number of required parking spaces required for the Farmers' Market and without rendering the host property deficient in its parking requirement so long as a written document, signed by both the property owner and the Market Manager, establishes that there will be no parking demand associated with the use of the host property for the same parking space(s) during the hours of the Farmers' Market operation.

(2) Off-site parking up to eight hundred (800) feet away may apply to the number of parking spaces required by the Farmers' Market, provided that:

- (a) Such facilities shall be under the same ownership or control as the host property or Farmers' market. Such ownership or control shall be evidenced either by deed or by lease, which shall be filed with the City of Roswell; and
  - (b) All commercial vehicles or vehicles necessary for the operation of the Farmers' Market shall be maintained on-site.
- (l) *Farmers' market Permit:* A farmers' market permit for a Farmers' Market shall expire 365 days from the date of issuance. A farmers' market permit for a Farmers' Market may be renewed upon a reapplication in the same manner as required for initial issuance. A farmers' market permit for a Farmers' Market may be transferred in the same manner as provided for in Section 31.7 or as said subsection may hereafter be amended. Failure to comply with these standards or otherwise meet the definition of a Farmers' Market after issuance of a farmers' market permit may result in the revocation of the farmers' market permit.

5.

The City of Roswell is hereby amending Article 22 of the *City of Roswell Zoning Ordinance*, amending the Chapter 22.12 *Temporary Signs*, by adding Section 22.12 (e) language which deals with banners for Farmers market to reads as follows:

- (e) One temporary banner identifying a City approved Farmers' market with a maximum size of 32 square feet shall be allowed no more than twenty-four hours before and two hours after the hours of operation for said farmers' market. Said banner shall be set back out of the right-of-way.

6.

The City of Roswell is hereby amending Article 31 of the *City of Roswell Zoning Ordinance*, Chapter 31.7 *PERMITS AND CERTIFICATIONS* by adding the following new Section 31.7.10 *Farmers' market Permits*:

- (1) **Farmers' market Permits:** The Zoning Director or his designee shall be responsible for processing farmers' market permits, making or causing to be made all necessary forms and application requirements, and deciding thereon.
- (2) **Applications:** A property owner, or any other person with notarized written consent of the property owners, may file with the Zoning Director or his designee an application for a farmers' market permit on such property, provided that such permit is authorized generally or in the zoning district in which such purpose use is so designated. The application shall be filed on a form provided for such and shall be accompanied by plans, reports or other information, exhibits or documents as may reasonably be required by the Zoning Director to make the necessary findings in the case.
- (3) **Action by Zoning Director:** The Zoning Director or his designee shall examine the application and supporting materials for conformity with the requirements and stated intent of the use, make such referrals as are called for in the circumstances of the case, and shall within 30 days (unless a longer period is mutually agreed upon) decide on the application. The Zoning Director may issue the permit as applied for, may issue a permit conditional upon changes from the applicant, set forth in writing, as necessary to assure conformity with the requirements and stated intent of this part, or may deny the application, with written reasons for such denial.

- (4) **Farmers' market permit transfer:** The transfer of a farmers' market permit is authorized upon the approval of the Zoning Director, or his designee after a request for such transfer has been made in writing by the new owner or operator, accompanied by an affidavit certifying that the new operator or owner is familiar with and will abide by the terms of the original farmers' market permit.
- (5) **Withdrawal of Application:** An application for farmers' market permit may be withdrawn at any time without limitation on resubmittal.
- (6) **Appeals From Decision of the Zoning Director:** Appeals from decisions of the Zoning Director or his designee shall be submitted to the Board of Zoning Appeals, as provided in Section 31.6.
- (7) **Appeals:** Appeals of a decision of the board of zoning appeals under the provisions of this section shall be as provided for in Section 31.6.6.

~~Strikethrough~~ are deletions, Underlines are additions, *Changes from PC*

Mr. Davidson noted if approved, this will be the first reading.

**Council Comment:**

Councilmember Price said currently there is a Farmers' Market on the City Hall property in the summer time – does that preclude that or do they need to make any provisions for public property and Farmers' Markets? Mr. Townsend said this ordinance would only deal with private commercial property. The public property is allowed by the City granting them the use of the property. Councilmember Price said, so they wouldn't have to abide by any of this? Mr. Townsend responded no, only on private property. Councilmember Price asked if there is any reason not to include public property. Mr. Townsend said this is a policy decision from Council.

Mayor Pro-Tem Wynn asked City Attorney David Davidson if there is anything that would disallow. Mr. Davidson said it is up to Council if they want to include City property. Mayor Pro-Tem Wynn said City and/or public – Councilmember Price's comment seems to be more toward public property. Councilmember Price said, correct, she doesn't want to have two standards of Farmers' Markets necessarily. Mr. Davidson said depending on whom the public entity is they might not be subject to the City's Zoning Ordinance so it depends on who you are talking about. Councilmember Price asked for some type of communication about what type of public property Farmers' Markets might be located on and are there differences or what appreciable differences are there if they don't include them. Mr. Davidson said if you are talking about school board or state property, they are exempt from the City's Zoning Ordinance completely. At this time, he does not know what they would look like. If you are talking about the Farmers' Market at City Hall...Councilmember Price said City property. Mr. Davidson said if it's City property you can determine what you want it to look like as Mayor and Council. Councilmember Price recommended City property be included so there is a standard. The other thing on page one (1) of six (6) she questioned the need for Item (b) – this is just something to consider in the ensuing month. Councilmember Price said also, she is not sure if the banner is to be included in the permit itself or if it would be separate. Mr. Townsend said it would be separate. Councilmember Price asked what the difference is between this and the current temporary sign. Mr. Townsend said it specifically identifies the use as the Farmers' Market and this way it is separated from any of the retail or office/business establishments within the center that gets their own banners. Councilmember Price said otherwise, it's essentially just a temporary banner but there would be fewer opportunities for them to use it in a year. Mr. Townsend said no – they use it whenever the Farmers' Market is operating. Councilmember Price said so it's a specific banner provision. Mr. Townsend responded, right.

Councilmember Dippolito asked if the City has a set of ordinances or policies for the use of City property. Mr. Townsend said he is not aware of any. City Attorney David Davidson said City Hall is considered part of the park so the Recreation Commission may have some policies. He was not sure what other properties he would be

referencing. Councilmember Dippolito said he is trying to address Councilmember Price's question. He agrees with her that there not be two standards but typically they don't put City property in the Zoning Ordinance, so for consistency sake, he thought some language could be included in a written policy elsewhere that could reflect back on this and show this as the standard. So when somebody comes in and they want to use City property for a Farmers' Market they can refer to these guidelines and have that policy wherever they have our City property language. Mr. Townsend said you will need to at a minimum clarify it for his sake because the way this text is drafted it gives him the authorization to issue a license for the Farmers' Market on commercial property.

Mayor Pro-Tem Wynn said she would have City Administrator Kay Love clarify this. Ms. Love said the City adopted a Resolution related to the use of City Hall a number of years ago and then when they made the changes in 2009 to the Special Event Permitting process they folded and incorporated that in and there are specifics for use of City Hall related to the types of things that are allowed and it speaks specifically to rooms and inside uses and they have extended that to things outside such as particular festivals or events. So there are criteria and it does have an approval process. One of the things that you will see at Committee in March is some changes to this, so this is certainly an item that they could incorporate related to use of City Hall and facilities. They don't treat use of City Hall like the parks; however, that was a separate action by this Council that you can undo at any time.

Mayor Pro-Tem asked for public comment. There was none.

**Motion:** Councilmember Diamond moved to **Approve RZ12-02 Text Amendment to allow Farmers' Markets in commercial zoning district** on first reading. Councilmember Price seconded. The motion passed unanimously.