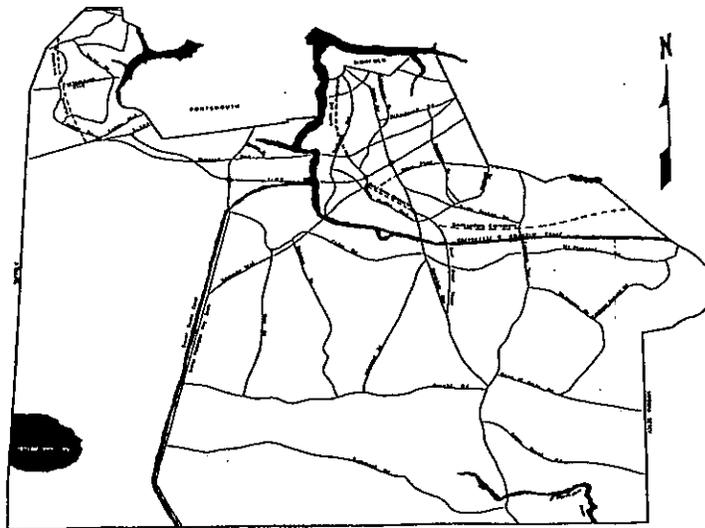


**Docket Item "A"**

**PLN-TXT-2016-008**

**CZO: Farmers Markets Regulations**

**CITY COUNCIL PACKAGE FOR  
MAY 16, 2017**



|      |         |   |                   |
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## TEXT AMENDMENT SUMMARY

### **PLN-TXT-2016-008 CZO: Farmers Markets Regulations**

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#### **Version dated November 23, 2016**

An Ordinance amending Appendix A of the City Code, entitled "Zoning," Article 3, Section 3-403; Article 7, Section 7-601 and 7-602; Article 10, Sections 10-601 and 10-602; and enacting Article 13, Section 13-1405, to adopt regulations allowing farmers markets provided certain requirements are met and to correct clerical errors in the definitions in Article 3.

#### **Version dated May 5, 2017**

An Ordinance Amending Appendix A of the City Code, entitled "Zoning," Article 3, Section 3-403; Article 6, Sections 6-2101 and 6-2102; Article 7, Sections 7-601 and 7-602; Article 9, Sections 9-501 and 9-502; Article 10, Sections 10-601 and 10-602; Article 19, Section 19-411 and enacting Article 13, Section 13-1405, to adopt regulations making farmers markets a permitted use in certain zoning districts provided specific requirements are met and to correct clerical errors in the definitions in Article 3.

**Resolution Adopted by City Council:** 9-27-16

**Motion Adopted by Planning Commission:** 12-14-16

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### **STAFF RECOMMENDATION**

Approval of version dated November 23, 2016

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### **PLANNING COMMISSION**

**HEARING DATES:** 12-14-16

**RECOMMENDATION:** APPROVAL of version dated November 23, 2016

**VOTE:** 9 - 0

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### **CITY COUNCIL**

**HEARING DATE:** 1-17-17; 3-21-17

**ACTION:** CONTINUED TO May 16, 2017

**VOTE:** 7 - 0

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### **ATTACHMENTS**

*Alternate Ordinance, Memo(s) to City Council, Recommended Ordinance, Minutes, Staff Report(s)*

**TEXT AMENDMENT SUMMARY****PLN-TXT-2016-008 CZO: Farmers Markets Regulations**

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**COUNCIL HEARING DATE FOR RESOLUTION:** 9-27-16

**RESOLUTION REQUESTED BY:** Council Member Davis

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RESOLUTION REQUESTING THE CHESAPEAKE PLANNING COMMISSION TO CONSIDER AND MAKE RECOMMENDATIONS CONCERNING PROPOSED AMENDMENTS TO ARTICLE 3, SECTION 3-403; ARTICLE 7, SECTIONS 7-601 AND 7-602; ARTICLE 8, SECTIONS 8-601 AND 8-602; ARTICLE 9, SECTIONS 9-501 AND 9-502; ARTICLE 10, SECTIONS 10-601 AND 10-602; ARTICLE 11, SECTIONS 11-1104 AND 11-1304; AND ARTICLE 12, SECTIONS 12-405 AND 12 607 OF THE CHESAPEAKE ZONING ORDINANCE TO DEFINE "FARMER'S MARKETS" AND ALLOW THEM AS A PERMITTED USE IN APPROPRIATE ZONING DISTRICTS

**APPROVED** (9-0, Davis/Ritter)

**STAFF CONTACT:** Planning Department  
John Harbin, Principal Planner  
382-6176

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PLN-TXT-2016-008

ALTERNATE VERSION

May 5, 2017

AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE, ENTITLED "ZONING," ARTICLE 3, SECTION 3-403; ARTICLE 6, SECTIONS 6-2101 AND 6-2102; ARTICLE 7, SECTIONS 7-601 AND 7-602; ARTICLE 9, SECTIONS 9-501 AND 9-502; ARTICLE 10, SECTIONS 10-601 AND 10-602; ARTICLE 19, SECTION 19-411 AND ENACTING ARTICLE 13, SECTION 13-1405, TO ADOPT REGULATIONS MAKING FARMERS MARKETS A PERMITTED USE IN CERTAIN ZONING DISTRICTS PROVIDED SPECIFIC REQUIREMENTS ARE MET AND TO CORRECT CLERICAL ERRORS IN THE DEFINITIONS IN ARTICLE 3.

WHEREAS, the Council of Chesapeake finds the public necessity, convenience, general welfare and good zoning practice so requires;

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix A of the City Code, entitled "Zoning," Article 3, entitled "Interpretation and Definitions," Section 3-403; Article 6, entitled "Residential Districts," Sections 6-2101 and 6-2102; Article 7, entitled "Business Districts," Sections 7-601 and 7-602; Article 9, Sections 9-501 and 9-502; Article 10, entitled "Conservation and Agricultural Districts," Sections 10-601 and 10-602; Article 19, entitled "Design, Development and Performance Standards," Section 19-411 be amended and reordained, and Article 13, entitled "Supplemental Regulations," Section 13-1405 be enacted, as follows:

### ARTICLE 3. – INTERPRETATION AND DEFINITIONS

#### § 3-403. - Definitions.

The following definitions shall be used in the interpretation and administration of this ordinance. The definitions of various terms as presented do not necessarily represent the same definitions as may be found for the same terms in other chapters of the City Code.

*Borrow pit.* As defined in section 13-1200 et seq. of this ordinance, entitled "Supplemental Regulations," and chapter 26, article VII (section 26-221 et seq.), of the City Code, entitled "Excavations." A borrow pit shall be deemed a form of excavation, extraction or mining.

*Conditional zoning.* As defined in article 16 of this ordinance, entitled "Zoning Amendments: Conditional Zoning."

*Excavation/extraction/mining.* As defined in article 13 of this ordinance, entitled "Supplemental Regulations," and chapter 26, article VII (section 26-221 et seq.), of the City Code, entitled "Excavations." When the term "excavation," "extraction" or "mining" is used by itself in this ordinance, it shall be deemed to include both of the other terms.

*Farmers Market.* A building, structure or place used by a group of farmers or producers to conduct an open air sale of locally or regionally produced agricultural, horticultural, or aquacultural produce, such as vegetables, fruit, herbs, grains, mushrooms, flowers, potted or bedding plants, honey, meat, dairy, eggs, fish, shrimp, oysters or clams, directly to the public on a regular basis. Handcrafted products (such as wooden furniture or textiles), value added products (such as jam, beeswax candles) or other handmade food products (such as baked goods and prepared foods) may be sold, but the total sum of vendors of these goods may not comprise the majority of the vendors. All products offered for sale are to be grown, raised or produced, at least in part, by the vendors; the resale of products is not permitted. For purposes of this definition, locally or regionally produced shall include any agricultural, horticultural or aquacultural produce that is grown, raised or produced either (1) within four hundred (400) miles of the City; or (2) in the Commonwealth of Virginia or the State of North Carolina. For purposes of this definition, value added items shall include items that are derived from or contain a main ingredient from the agricultural or horticultural produce on sale at the farmers market. The following uses are not included in the definition of a "farmers market:" 1) a wayside stand; 2) individuals selling items from a truck; 3) special outdoor events as regulated by this ordinance; 4) flea markets as defined in this ordinance; 5) yards sales as regulated by

this ordinance; and 6) auctions. Farmers markets shall also not include government-sponsored farmers markets.

*Floodplain.* As defined in chapter 26, article IV (section 26-86 et seq.), of the City Code, entitled "Floodplain-Zone Management."

*Home occupation.* As defined in section 14-300 et seq.

*Junkyard.* As defined in chapter 19, article II (section 19-51 et seq.), of the City Code, entitled "Junkyards, and Automobile Graveyards, and Towing Service Storage Yards."

*Major recreational equipment.* As defined in section 6-2002(A) ~~6-2000(B)~~ of this Zoning Ordinance.

*Medical care facility* means any institution, place, building, or agency, at a single site or combined sites, whether or not licensed or required to be licensed by the state board of health or the State Board of Behavioral Health and Developmental Services, ~~mental health, mental retardation and substance abuse services board~~, whether operated for profit or nonprofit, and whether privately owned or operated or owned or operated by a local government unit, by or in which facilities are maintained, furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two (2) or more non-related mentally or physically sick or injured persons, or for the care of two (2) or more non-related persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled. Medical care facility shall include, but not be limited to the following:

4. ~~Mental retardation~~ Behavioral Health and Developmental facilities. Facilities licensed by the Virginia Department of Behavioral Health & Developmental Services ~~department of mental health, mental retardation, and substance abuse services~~, in which care is provided to mentally disabled ~~retarded~~ individuals who are not in need

of skilled nursing care, but who need more intensive training and supervision than would be available in a rooming, boarding home, or group home.

5. Psychiatric hospitals and intermediate care facilities. Facilities established primarily for the medical, psychiatric or psychological treatment of patients or the rehabilitation of alcoholics or drug addicts, as defined and licensed by the Virginia Department of Behavioral Health & Developmental Services ~~department of mental health, mental retardation, and substance abuse services.~~

*Principal use.* The primary activity or structure for which a lot is used, as permitted by this Zoning Ordinance. The definition of principal use includes the components of a principal use. Components of a principal use include, but are not limited to, the following: required landscaping, off-street parking, private access lanes for ingress and egress, principal structures, septic drain fields and storm water management as defined in section ~~26-344~~ 26-343 of the City Code. This definition shall not limit or expand the definition of accessory use or accessory structure.

*Property owners association.* An incorporated, nonprofit organization made up of property owners in a specified subdivision or development that shall be responsible for the maintenance and operation of open space, recreational facilities or amenities and other common areas, facilities or functions and that shall assess its members fees or dues to offset the cost thereof and shall have such other specific features or requirements as the City may require, as provided for in this Zoning Ordinance. Also defined in section ~~13-1800~~ 13-1803 of this Ordinance.

*Public housing support services center.* As defined in section 13-2100 et seq. of this ordinance.

*Unmanned public facility building.* A public facility building which does not have an operational staff located on the site and which meets the requirements of section 13-1700 et seq., entitled "Unmanned Public Facility Buildings and Related Structures."

**ARTICLE 6. – RESIDENTIAL DISTRICTS**

**§6-2101. - Description.**

C. Special conditions pertaining to specific uses. In the table below, the numbers shown in the column entitled "condition" shall have the following meanings:

34. See Section 13-1405 of this ordinance for supplemental regulations.

**§ 6-2102. – Table of permitted and conditional uses in Residential districts.**

SECTION 6-2102. TABLE OF PERMITTED AND CONDITIONAL USES  
IN RESIDENTIAL DISTRICTS

| SIC                 | Use                    | Rural    |          |    | Suburban |          |    | Urban    |          |    | Condition* | Parking** |
|---------------------|------------------------|----------|----------|----|----------|----------|----|----------|----------|----|------------|-----------|
|                     |                        | 1F       | 2F       | MF | 1F       | 2F       | MF | 1F       | 2F       | MF |            |           |
| <i>Retail Trade</i> |                        |          |          |    |          |          |    |          |          |    |            |           |
| <u>5431</u>         | <u>Farmers Markets</u> | <u>P</u> | <u>P</u> |    | <u>P</u> | <u>P</u> |    | <u>P</u> | <u>P</u> |    | <u>34</u>  | <u>31</u> |

**ARTICLE 7. – BUSINESS DISTRICTS**

**§ 7-601. - Description.**

C. *Special conditions pertaining to specific uses.* The following conditions shall apply to specific uses, as indicated in the "condition" column in the uses schedule:

39. See Section 13-1405 of this ordinance for supplemental regulations.

**§ 7-602. - Table of permitted and conditional uses in Business districts.**

SECTION 7-602. TABLE OF PERMITTED AND CONDITIONAL USES IN BUSINESS DISTRICTS

| SIC                 | Use                    | Rural    |          | Suburban |          | Urban    |          |          | MXD/U    | Condition* | Parking** |
|---------------------|------------------------|----------|----------|----------|----------|----------|----------|----------|----------|------------|-----------|
|                     |                        | B 1      | B 2      | B 1      | B 2      | B 1      | B 2      | B 5      |          |            |           |
| <i>Retail Trade</i> |                        |          |          |          |          |          |          |          |          |            |           |
| <u>5431</u>         | <u>Farmers Markets</u> | <u>P</u> | <u>39</u>  | <u>28</u> |

ARTICLE 9. – OFFICE, INSTITUTIONAL AND ASSEMBLY DISTRICTS

§ 9-501. - Description.

C. Special conditions pertaining to specific uses. The following conditions shall apply to specific uses, as indicated in the "condition" column in the uses schedule:

24. See Section 13-1405 of this ordinance for supplemental regulations.

§ 9-502. - Table of permitted and conditional uses in the Office and Institutional district and the Assembly Center district.

SECTION 9-502. TABLE OF PERMITTED AND CONDITIONAL USES IN OFFICE AND INSTITUTIONAL AND ASSEMBLY DISTRICTS

| SIC                 | Use                    | Rural    |          | Suburban |          | Urban    |          | Condition* | Parking** |
|---------------------|------------------------|----------|----------|----------|----------|----------|----------|------------|-----------|
|                     |                        | AC       | O-I      | AC       | O-I      | AC       | O- I     |            |           |
| <i>Retail Trade</i> |                        |          |          |          |          |          |          |            |           |
| <u>5431</u>         | <u>Farmers Markets</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>24</u>  | <u>28</u> |

ARTICLE 10. – CONSERVATION AND AGRICULTURAL DISTRICTS

§ 10-601. - Description.

C. *Special conditions pertaining to specific uses.* In the table below, the numbers shown in the column entitled "condition" shall have the following meaning:

33. See Section 13-1405 of this ordinance for supplemental regulations.

**§ 10-602. - Table of permitted and conditional uses in Conservation and Agricultural districts.**

SECTION 10-602. - TABLE OF PERMITTED AND CONDITIONAL USES IN AGRICULTURAL AND CONSERVATION DISTRICTS

| SIC         | Use                    | Rural |          |          |          | Suburban |          |          |          | Urban |          |          |          | Condition* | Parking** |
|-------------|------------------------|-------|----------|----------|----------|----------|----------|----------|----------|-------|----------|----------|----------|------------|-----------|
|             |                        | C1    | C2       | C3       | A1       | C1       | C2       | C3       | A1       | C1    | C2       | C3       | A1       |            |           |
|             | <i>Wholesale Trade</i> |       |          |          |          |          |          |          |          |       |          |          |          |            |           |
| <u>5431</u> | <u>Farmers Markets</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>P</u> | <u>33</u>  | <u>28</u> |

ARTICLE 13. – SUPPLEMENTAL REGULATIONS

**§ 13-1405. - Farmers Markets.**

A. *Purpose.* The purpose of this ordinance is to promote and protect agricultural, horticultural and aquacultural activities in Chesapeake by allowing farmers markets to operate with minimal regulatory intrusion while, at the same time, ensuring public safety. It is the intent of the City Council to adopt regulations that allow farmers markets under certain conditions in an effort to support vendors selling agricultural, horticultural and aquacultural products that are predominately locally or regionally produced; promote fresh, nutritious, local produce; maintain the viability of local farming operations; and bolster the quality of life and sense of community in our City.

B. *Permit and site plan required.*

1. Permit. No farmers market shall be established or used to conduct sales activities until a permit is issued for the operation by the Zoning Administrator. The permit shall be issued at no charge to the applicant and shall be valid until such time, if any, that the farmers market is abandoned for more than two (2) consecutive years. However, upon written notice, a permit may be revoked by the Zoning Administrator for violation of any provision of the City Code or this ordinance. To obtain a permit, the applicant shall file an application with the Zoning Administrator. As part of the application, the owner/applicant shall certify either that the farmers market is the principal use on the property, or if an accessory use, that its hours of operation shall not conflict with the principal use. The application shall be on a form generated by the Zoning Administrator and shall require conformance with the following standards:

a. Standards for farmers markets on public property.

1. No more than one (1) farmers market shall operate contemporaneously on one parcel or contiguous parcels of public property. Priority for the issuance of a permit for a farmers market on public property shall be based on the date on which a completed application and site plan were filed with the Zoning Administrator. This limitation shall ensure that public land is preserved for its intended use.

b. Standards for farmers markets on properties zoned or used for residential purposes.

1. Such farmers markets shall only be allowed on parcels that have not been improved with a principal residential structure.

2. Materials related to the display and sale of agricultural, horticultural and aquacultural products, including stands, tables, and structures shall not remain on the site from season to season.
  3. Outdoor live music shall be permitted, subject to the provisions of the City of Chesapeake's noise ordinance as put forth in Article V of Chapter 26 of the City Code.
  4. Portable toilets or similar sanitary facilities shall not be permitted.
- c. Standards for farmers markets on properties zoned business, office and institutional, assembly or conservation and for agriculturally zoned parcels used for a nonresidential purpose.
1. Portable toilets or similar sanitary facilities may be located on the site, provided that the facilities are set back at least one hundred (100) feet from all property lines. Portable toilets and similar sanitary facilities shall be screened from view from any public arterial street. The term "arterial street" shall mean a right-of-way at least 80 feet in width.
  2. Materials related to the display and sale of agricultural, horticultural and aquacultural products, including stands, tables, and structures may remain on the site from season to season. However, if a farmers market is abandoned for more than two (2) consecutive years, all materials and structures related to the farmers markets shall immediately be removed and the farmers

market may not be used to conduct sales activities or otherwise operate until a new permit is issued by the Zoning Administrator as described in this ordinance.

3. Outdoor live music shall be permitted, subject to the provisions of the City of Chesapeake's noise ordinance as put forth in Article V of Chapter 26 of the City Code.

2. Site Plan. No farmers market shall be established or used to conduct sales activities until a site plan for the farmers market has been submitted to and approved by the Zoning Administrator. The site plan must depict the entrance to the site, a designated vendor area, customer parking and setbacks of the vendor area and parking area from property lines. In addition, the site plan must designate the size and location of existing buildings and structures and any proposed buildings or structures, which must be in compliance with all applicable zoning and building code regulations. The Zoning Administrator shall review the submissions and shall include any necessary City departments, including but not limited to the Department of Development and Permits, Department of Public Works, Department of Parks, Recreation and Tourism and the Health Department, in the review of the site plan. All City departments involved in the review must approve the site plan prior to the issuance of a permit. The site plan shall also show conformance with the following standards:

a. Parking.

1. General requirements applicable to all farmers markets.

- a. If the farmers market is located on a property zoned or used for residential purposes or on an undeveloped site in the agricultural, conservation, business or assembly center districts and utilizes an alternative parking surface, the application and site plan shall be subject to the review and approval of the Directors of Public Works and Development and Permits or their respective designees to determine if the site complies with stormwater management requirements.
  - b. Where parking areas are shared with other uses on-site, parking must meet the minimum requirements for all uses unless otherwise permitted by another provision of the Zoning Ordinance.
- 2. Standards for farmers markets on properties zoned or used for residential purposes.
  - a. An entrance from the street, approved by the Department of Development and Permits as meeting public safety needs, shall be provided.
- 3. Standards for farmers markets on properties zoned business, office and institutional, assembly or conservation and for agriculturally zoned parcels used for a nonresidential purpose.
  - a. Parking and driving areas shall be paved or be surfaced in crushed stone in an amount sufficient to prevent soil erosion, abate dust and provide an adequate driving

surface unless the application involves a farmers market on an undeveloped site and the applicant meets the requirements necessary for approval of an alternative parking surface as described by this ordinance.

b. Buildings and structures that are part of the farmers market.

1. Buildings and structures, including but not limited to stands, tables, tents, vehicles from which products are sold or any other sales area that is a part of the farmers market, shall be set back a minimum of fifty (50) feet from the nearest edge of the sidewalk pavement or street pavement, or, if there is no sidewalk, of any public right-of-way which abuts or is in close proximity to the property on which the farmers market is located and shall be set back a minimum of fifty (50) feet from any adjoining lot which is zoned or used for residential purposes.
2. Areas dedicated to parking, drive aisles, landscaping and any other setback imposed by this ordinance shall follow the setbacks imposed for the underlying zoning district. Farmers markets shall be exempt from the regulations concerning landscape plant material and structures in required buffer areas and all regulations concerning planter islands or tree canopies.

C. Compliance with other laws. Excluding the requirements imposed on uses that are specifically exempted from the definition of a farmers market, farmers markets shall be in compliance with all applicable City Code and Zoning Ordinance provisions prior to the issuance of the permit. Any farmers market which proposes to operate on public

property shall be in compliance with the restrictions imposed on outdoor meetings and events on public property in City Code Section 46-14, the restrictions imposed on events at parks or public recreation areas in City Code Section 50-51, and the restrictions imposed on events proposed to take place on the street or sidewalk as put forth in City Code Section 74-21. No provision of this ordinance shall be interpreted to supersede or override any other applicable federal or state regulation.

**ARTICLE 19: DESIGN, DEVELOPMENT AND PERFORMANCE STANDARDS**

**§ 19-411. - Schedule of specific requirements for number of off-street parking spaces.**

B. *Requirements for parking groups.* The applicable parking groups and the parking space standards for each are as follows:

| Parking Group | Minimum Space Requirements   |
|---------------|--|
| 28            | Four (4) spaces for each booth, space or area occupied by a merchant.      |
| 31            | <u>One (1) space for each booth, space or area occupied by a merchant.</u> |

ADOPTED by the Council of the City of Chesapeake, Virginia, this \_\_\_\_ day of \_\_\_\_\_, 2017.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk of the Council



City of Chesapeake  
 Department of Planning  
 Post Office Box 15225  
 Chesapeake, VA 23328  
 (757) 382-6176  
 FAX (757) 382-6406

## Memorandum

**TO:** The Honorable Mayor and Members of City Council

**VIA:** James E. Baker, City Manager 

**FROM:** Karen E. Shaffer, AICP, Assistant Planning Director 

**DATE:** May 5, 2017

**SUBJECT: PLN-TXT-2016-008: Farmers Markets Regulations**  
 An Ordinance amending Appendix A of the City Code, entitled "Zoning," Article 3, Section 3-403; Article 6, Sections 6-2101 and 6-2102; Article 7, Sections 7-601 and 7-602; Article 9, Sections 9-501 and 9-502; Article 10, Sections 10-601 and 10-602; Article 19, Section 19-411; and enacting Article 13, Section 13-1405, to adopt regulations making farmers markets a permitted use in certain zoning districts provided certain requirements are met and to correct clerical errors in the definitions in Article 3.

The above referenced item was initiated by City Council, who adopted a resolution on September 27, 2016, requesting the Planning Commission to consider and make recommendation concerning farmers markets. The item was heard at the December 14, 2016 meeting of the Planning Commission, who voted 8-0 to recommend approval of the draft ordinance dated November 23, 2016. At the January 17, 2017 City Council meeting, the item was continued to March 21, 2017 in order to allow for public input to be considered in a draft ordinance. The item was continued again to May 16, 2017 to accommodate additional public input. This memorandum is an update to a previous memorandum distributed to City Council on April 26, 2017.

### SUMMARY OF PUBLIC INPUT

Staff held two public input open house events. The first event took place on March 2, 2017 at the Chesapeake Central Library. Nearly a dozen members of the public attended the open house where they were provided the opportunity to comment on the draft ordinance, dated November 23, 2016, describe the types of goods they would like to purchase from a farmers market, and suggest areas of the City where they would like to see farmers markets. The second event, held on April 10, 2017 at the Russell Memorial Library, provided the public the same opportunity. The input captured at the open house events showed a general consensus of expanding the definition of a farmers market to include a greater variety of goods offered for sale, promoting local

produce and meats, and greater flexibility in how and where the markets are permitted.

Staff also attended the March 23, 2017 meeting of the Agricultural Advisory Commission to seek input from the agricultural community. In addition, staff received numerous emails and phone calls throughout the text amendment process from stakeholders representing diverse interests of the community. A compilation of all public comments received are attached for your reference (Attachment 1).

#### **ALTERNATIVE ORDINANCE**

In response to the significant public input received, the City Attorney's Office prepared an alternative ordinance, dated April 26, 2017. Key changes made to the original ordinance include:

- A revised definition of a farmers market to allow for a greater variety of goods to be sold and specifications for where goods can come from.
- The addition of residential, business, assembly center, and conservation zoning districts for which a farmers market is a permitted use.
- Criteria to manage portable toilets, display materials, and live music.
- Provisions to allow farmers markets on City-owned property.

Other parts of the ordinance remain relatively unchanged, including the general permitting process and site plan requirements. On April 18, 2017, a formal request for comments was issued to the City's Application Review Committee on the alternative ordinance. A limited number of comments were received from the Departments of Planning and Parks, Recreation, and Tourism. City staff discussed the comments received and how best to incorporate them into the alternative ordinance.

Since issuance of the alternative ordinance dated April 26, 2017, a Council Member requested minor changes to facilitate farmers markets on parcels zoned for residential purposes. Staff had no objections to the changes and developed a new alternative ordinance dated May 5, 2017 (Attachment 2). Staff is confident that the May 5, 2017 version of the alternative ordinance represents a thoroughly vetted, consensus-based process that will allow the types of farmers markets the community desires.

Please let me know if you have any questions or require further background information.

KES:jmh

#### Attachments

cc: Jan Proctor, City Attorney  
Sandy Madison, MMC, City Clerk  
Catherine Lindley, Assistant City Attorney  
Jaleh Shea, AICP, Planning Director  
Mark Woodward, AICP, Comprehensive Planning Administrator  
John Harbin, Principal Planner  
Nicole Benson, Administrative Assistant III, City Manager's Office  
Kathryn Berning, Office Coordinator

**Summary of Comments Received at Public Input Open House**  
**March 2, 5:30-7:30 PM**  
**Chesapeake Central Library**

**How (Ordinance)**

- Add aquaculture
- Enforcement of 80/20 rule will be difficult
- Make farmers markets permitted in B-1 (not conditional)
- Need a permanent, year-round market
- Exclude items directly related to/supporting production of good from 80/20 space rule
- Allow exceptions to 100-foot setback from residential – some A-1 zoned lots have very narrow frontage or some neighborhood might enjoy having market close by
- Promote local products – those from within VA or 400 miles of Chesapeake
- Ensure mobile structures (i.e., tents) are permitted
- Remove “accessory/incidental” and replace with value-added
- Ensure goods for sale are 100% local – from within 75 miles

**Where (Location of markets)**

- Provide link of City website to private farmers markets
- Lakeside Park and Southgate Plaza would be good locations in SoNo
- Pike Place Market in Seattle is a good example year-round, permanent structure that could work
- Gateway @ SoNo had a food demonstration last year
- Mobile, pop-up farmers markets could rotate between locations throughout the City of Chesapeake
- Closing of streets would allow them to take place in right of way and create block party feel, contributing to success of market
- Indian River Shopping Center and Oaklette Methodist Church are possible sites
- Check Portsmouth site, Crawford parking garage

**What (Elements of markets)**

- Items with YES votes – local produce, local meats, eggs, seafood, baked goods, herbs and spices, flowers and other plants, honey, candles, textiles (only if made from local material), food vendors/trucks, children’s entertainment, live entertainment
- Items with NO votes – other produce, textiles, clothing, furniture, pet food, food vendors/trucks, recorded music
- Missing from list – gardening accessories, local restaurants using local space, rental space, information booths (FAA, Beekeeping, etc.), educational classes (cooking, gardening, etc.), apilary accessories
- Why do people go to market – fresh, local, community, social, tourism, value, reduce carbon footprint, information base/sharing techniques

**Summary of Comments Received at Public Input Open House  
April 10, 5:30-7:30 PM  
Russell Memorial Library**

**How (Ordinance)**

- Ensure vendors sell locally-grown products (from within 100 miles of Chesapeake)
- Allow vendors from anywhere in VA (Example of farmer from Stuart, Virginia – over 250 miles away)
- Could also distinguish between pure agricultural/horticultural products and value-added products for distance standards
- Producer-only may limit vendors selling goods that are not well-adapted to the area (apples, pears, etc.)
- Allow statewide vendors but focus on Hampton Roads farmers
- Establish permanent market, similar to farm stands along route to OBX (Morris, Powells)

**Where (Location of Markets)**

- Western Branch Community Center is a good location
- Must have lots of parking
- Wherever there is room for a variety of vendors
- Must be highly visible to drivers, especially on Saturdays
- Johnson Park, Deep Creek Park
- Walkable location
- Deep Creek Middle – has good visibility and pull-off
- Butts Road Primary is a good location
- Chesapeake Square Mall could be a good location – lots of parking
- Lakeside Park – SoNo is a food desert
- Maybe a community garden at 1414 Ohio Street if house replacement issue can be resolved
- Deep Creek Park is not ideal – too far from WB
- Bowers Hill area
- Churches might work, especially in Sunray or off Jolliff Road. Would have to mesh with church activities.

**What (Elements of markets)**

- Most wanted items – local produce (8 votes), baked goods (4 votes), crafts (4 votes), eggs (3 votes), flowers and other plants (3 votes), honey (3 votes), local meats, seafood, herbs and spices, candles, food trucks, live entertainment, dairy products, jams and jellies, pet food, furniture, children's entertainment [sum of both open house events]
- Least wanted items – clothing (10 votes), textiles (5 votes), recorded music (3 votes), other produce (3 votes), artwork, food trucks, pet food, children's entertainment, grains, dairy products [sum of both open house events]
- Missing from list – entertainment activities for kids, things you can't find in grocery stores, woodworking products, boiled peanuts, homemade items, petting zoo
- On the list that shouldn't be – resell of items (e.g., jewelry, produce), Tupperware/Tervis, Avon/Mary Kay products, yard sale junk, corporate products, LuLaRoe
- Why do people go to market – checkout product and crafts you can't find elsewhere or grow, interaction with people, teach gardening/farming, want farm to table, socialize, building

community, buy produce and baked goods, buy ripe produce from local vendors who use less pesticides

#### Comments Received via Email

To Whom It May Concern:

I support any rezoning and regulation changes that would facilitate expanding the size and number of Farmers' Markets in Chesapeake. I would also support any changes that would facilitate the markets opening earlier in the Spring, perhaps bringing in produce from the Carolinas.

Sincerely,  
Linda C. Smith  
217 Wildlife Trace  
Chesapeake, VA 23320

---

City Council Members,

I write as an engaged Chesapeake citizen as well as the Co-Chair of the Healthy Chesapeake Coalition, which is committed to building a CULTURE OF WELLNESS that supports, sustains and advocates for a healthier Chesapeake.

Community/Farmers Markets provide numerous benefits to their communities that address the social determinants of health. Restrictions on community/farmers markets should be eased to permit more of these grassroots operations to address these social determinants:

**Financial:** Community/farmers markets build micro businesses and give opportunities for entrepreneurship on the smallest scale, at home. This is a fantastic entry point for small business development and helping communities rise from the challenges of poverty.

**Active lifestyles:** Getting citizens out to community/farmer's markets will increase physical activity by having people wander around the markets.

**Nutritional/Healthy eating:** The obvious availability of fresh fruits, vegetables and meats in a community/farmers market is a boon to communities, especially those limited in geography to commercially available fresh foods.

**Behavioral health:** Engaging citizens in novel ways, socially interacting and removing boundaries to when/where folks interact, has been shown to be beneficial to the behavioral/mental health of a community.

See this article: <https://medicine.yale.edu/psychiatry/care/cmhc/article.aspx?id=5703>

## Attachment 1

**Social/Community building:** The opportunity for a direct connection between local farmers and neighbor-consumers builds the fabric for a resilient community.

**Artistic outlet:** Art is therapeutic. Including handmade artisans in the community farmer's market model is beneficial for all: providing cultivation and sharing of ideas, an outlet for the small-scale community artisans and students, spurring creative collaboration and diversifying the market to keep participants engaged week after week.

**Attraction:** Let Chesapeake become an attraction in the region, draw in others to show-case our products, the fruits of our labors, our social network and our artisans. The Smithfield Farmers Market draws people from all over the region. I have driven to East Beach Norfolk and Virginia Beach for their vibrant markets. Let's do it here at home and have the regional visitors come to us.

Additionally, please note that value-added marketing will ADD to the value of the market and the interaction with the farmers. The current 80/20 rule in PLN-TXT-2016-008 is stifling to the potential for growing a local market. It is the sharing of ideas, handmade/home-produced items, and different ways to make the veggies and meats from the farmers that contribute to the social benefit to a community/farmer's market as outlined above. Dancing to local music, purchasing handmade goods, sampling fresh bread and baked goods all compliment the purchase of fresh vegetables and meats from our farmers. If you just have a singular focus on the farmers, it overlooks the flare that the community flavors its individual market.

Community/Farmers Markets are part of a vibrant community to benefit the multidimensional determinants of health. Healthy Chesapeake Coalition supports the increased use and decreased barriers to setting up community/farmers markets in Chesapeake.

In Good Health,  
ws

--

Wendy Schofer, MD  
Co-Chair Healthy Chesapeake Coalition  
CTR, Tricare Prime Chesapeake, NMC Portsmouth  
PALS Program Director, NMC Portsmouth  
CDR MC USNR  
3936 Oak Drive East  
Chesapeake, VA 23321  
619-459-1268 cell

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I wanted to chime in regarding the farm markets issue on the agenda for tonight. I do not want overly restrictive regulations placed on this awesome addition to the city. The 80/20 ratio, which will all but eliminate the possibility of a large market forming needs to be removed from: PLN-TXT-2016-008 and it should be replaced with a rule allowing any item commonly and reasonably associated with a farmers' market. With the existing type of ratio, we will be stuck with having the same size and style markets we already have and there will be no change or growth.

I want to thank you for your consideration with regard to this matter.

Sincerely,

Katherine Humphreys and David Southard  
2233 Bugle Dr. N  
Chesapeake, VA 23321

---

Pattie Cartwright  
2018 River Pearl Way  
Chesapeake VA 23321

Dear Mr. Mayor and City Council Members,

Thank you for your attention to the matter of bringing a large farmers' market to the city of Chesapeake!

In order for this to happen, please do not impose overly restrictive regulations. Specifically, the stifling 80/20 ratio, which will all but eliminate the possibility of a large market forming needs to be removed from: PLN-TXT-2016-008 and that it should be replaced with allowing any item commonly and reasonably associated with a farmers' market. If any ratio similar to that found above should remain, you are essentially guaranteed the same size and style of markets.

My family was a weekly patron at the Farmers Market that was held at the Western Branch Community Center. It was a wonderful addition to our community. We would like to see it or something like that similarly continue throughout this season as well.

Thank you for your cooperation and attention to ensuring that farmers markets are able to expand throughout the City of Chesapeake. It's good for the vendors and it's especially beneficial to the patrons and local communities.

Sincerely, Pattie Cartwright

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"In order for this to happen, please tell them that you do not want overly restrictive regulations placed on this awesome addition to the city. Specifically, let them know that the stifling 80/20 ratio, which will all but eliminate the possibility of a large market forming needs to be removed from: PLN-TXT-2016-008 and that it should be replaced with allowing any item commonly and reasonably associated with a farmers' market. If any ratio similar to that found above should remain, you are essentially guaranteed the same size and style of markets already in play."

No, we don't want flea markets, but yes, we do want the community spirit of a farmers market. Please vote to change the rule to allow Western Branch to host a Farmers Market.

Mary Kiddy  
4600 Watson Way

Attachment 1

Chesapeake VA

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 Dear City Council

As a resident of Chesapeake for 30 years I would love to see you support our Farmers by allowing farmer markets on city land that would be fantastic thank you so much

Sincerely  
 Laura Houck

---

Good morning,

I received the following:

The City of Chesapeake is pursuing revisions to sections of its Zoning Ordinance and City Code to allow for the establishment of farmers markets. There are currently three City-sponsored farmers markets located on City-owned land but City codes and ordinances do not expressly allow for the establishment of private farmers markets. City Council directed staff to revise regulations to permit privately owned and operated farmers markets. Specifically, revisions define a farmers market, assign zoning districts in which they are permitted, and establish minimum operating criteria for them to meet. For more information and to submit comments on this subject, visit the website linked to below or go to the Farmers Market Pubic Input Open House on Thursday, March 2 from 5:30-7:30 p.m. at the Chesapeake Central Library (298 Cedar Rd). If you have any questions call the Chesapeake Planning Department at 382-6176 or email them at

I am hoping this happens. Currently I go to all over VB because they have markets where people set up in various neighborhoods. Chesapeake is way behind the times in not promoting the local markets in our rural areas and in allowing the VB people to not come market here. I support local and the city should also.

Vic Nicholls

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As a 20 year resident and defector from several other area cities, I have observed that the City of Chesapeake has, over the past two decades, done everything in its power to eliminate farming and redefine Chesapeake as another Norfolk or Virginia Beach.

The interest of the consumer is never a consideration, nor is the convenience or availability ever a factor. It is clear that the city will not allow private farmers and home based entrepreneurs to infringe on the hegemony granted to the city-sponsored markets, that for your information are virtually inaccessible. They will as usual, dissemble, solicit inputs, appear to listen to concerned citizens, while all along a detailed plan sits on file in somebody's desk drawer waiting for the smoke to clear and the time limit to run out. Then the city will impose yet another set of tyrannical and draconian regulations on the activities of citizens while willfully ignoring the will of the public.

We're blessed with a bloated and ineffective city government that never saw anything it didn't want to control or regulate. I'm sure when you folks are done, any enterprising 8 year old girls that want to set up a street corner lemonade stand on a summer Saturday will have to apply years in advance for a zoning variance and a boatload of permits under the same regulations that you intend to use to ban neighborhood farmers markets.

Keep up the good work as I watch my tax dollars at rest.

Edward Henry Rae III

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Good afternoon Mr. Harbin:

This is to provide written comments regarding the draft ordinance to allow for privately owned farmers' markets in Chesapeake. I am writing on behalf of Friends of Indian River, a community organization dedicated to maintaining and improving the quality of life for the people of the Indian River area of the city. We support efforts to provide residents with improved access to locally grown/harvested products. You can find out more about us at <http://friendsofindianriver.org>

It was a pleasure meeting you last Thursday at the public input open house and thank you for providing the venue to learn more about the ordinance.

Below are comments from the Friends of Indian River on the draft ordinance PLN-TXT-2016-008 regarding the establishment of private farmers' markets:

1. Consider the inclusion of aquaculture (fish and shellfish) products
2. Is the ordinance aimed at regularly occurring farmers' markets at a location as well as markets that occur infrequently or as a special event?
3. Are sites such as shopping centers and churches acceptable locations for a farmers' market under the proposed ordinance and what permits would be required for these types of settings?
4. The requirement in the draft ordinance regarding no more than 20% of market area for the sale of incidental products is likely to be difficult to identify/enforce. For example, a strawberry farmer may sell strawberries as well as strawberry jams/jellies made from their produce, which would appear to meet the intent of the farmers' market and therefore the jam would not be defined as an incidental product.

Thank you and please let me know if you have any questions regarding our comments.

Jayne Whitney  
President, Friends of Indian River

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In response to the Parks and Rec's comment about the consideration of a "special event" permit if there are "entertainment" factors that accompany a farmers market.

I am a local musician and play in numerous acoustic local "jams" of old timey and traditional music (including songs about food and farming). We have often discussed meeting up at a farmers market to "jam". If you put the requirement for a special permit for entertainment, specify "financially compensated entertainment". I wouldn't want a person or group of people meeting at a farmer's

Attachment 1

market to enjoy each other company providing a non-compensated family fun and entertaining activity to be banned. Farmers Markets should encourage these types of activities.

Constance Smith, RD  
Connie Smith, RD  
Nutrition Supervisor Senior - WIC Coordinator  
Chesapeake Health Department  
748 Battlefield Blvd, North  
Chesapeake, VA 23320  
757-382-8603  
FAX 757-547-0298

<http://www.facebook.com/ChesapeakeHD/>

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Mr. Harbin,

I enjoyed the opportunity to discuss with you the City of Chesapeake's consideration of a farmers market local ordinance. If it is not too late, I would like to have the following statement included in the ordinance so that we may be able to insure safe food handling practices to protect the public.

In section A. Para. 1. – The zoning administrator office shall notify the Health Department that an application for a farmers market permit has been submitted, and will include a copy of the site plan. The Health Department will review the site plan to determine if the proposed structures or facilities will require a plan review in accordance with 12 VACS – 421 (Virginia Food Code). The review by the Health Department will be independent of the zoning administrator's review of the application for a zoning clearance, and the approval of the zoning clearance shall not be dependent on any approval by the Health Department.

Section A. Para. 1b. – Private farmers markets will meet the same requirements of special use/temporary events when sponsoring mobile food units or temporary food vendors (other than those regulated by VDACS). All applicable sections of 12 VACS – 421 (Virginia Food Code) will be adhered to by the owner/operators of farmers markets including the notification of the health department at least fourteen days prior to a scheduled special event and the submission of applicable Health Department permits.

I want to be as unobtrusive as possible, and we are only really interested if they fall under the food code requirements for preparing and serving foods not covered by VDACS.

Best regards,

Michael Rexroad, MPH, MBA  
Environmental Health Manager, Sr  
Chesapeake Health Department  
Office: 757 382-8665  
Mobile: 757 377-4787  
Fax: 757 382-8713

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**Comments Received from Agricultural Advisory Commission**

**March 23, 2017, 6:00-8:00 PM**

**Chesapeake Central Library**

- Verify if show-sale and growers permits are required for each vendor or market as a whole – add stipulation that applicant must show proof of applicable permits.
- Protect existing City-managed farmers markets from private competition and exclude from ordinance requirements.
- Require applicant to show proof of insurance.
- Ensure market manager is responsible for compliance with ordinance and specific market rules.

City of Chesapeake  
 Department of Planning  
 Post Office Box 15225  
 Chesapeake, VA 23328  
 (757) 382-6176  
 FAX (757) 382-6406

## Memorandum

**TO:** The Honorable Mayor and Members of City Council

**VIA:** James E. Baker, City Manager 

**FROM:** Jaleh M. Shea, AICP, Planning Director 

**DATE:** March 3, 2017

**SUBJECT: PLN-TXT-2016-008 CZO: Farmers Markets Regulations**  
 An Ordinance amending Appendix A of the City Code, entitled "Zoning," Article 3, Section 3-403; Article 7, Section 7-601 and 7-602; Article 10, Sections 10-601 and 10-602; and enacting Article 13, Section 13-1405, to adopt regulations allowing farmers markets provided certain requirements are met and to correct clerical errors in the definitions in Article 3.

The above referenced item was initiated by City Council who adopted a resolution on September 27, 2016, requesting the Planning Commission to consider and make recommendation concerning farmers markets. The item was heard at the December 14, 2016 meeting of the Planning Commission, who voted 8-0 to recommend approval of the draft ordinance dated November 23, 2016. At the January 17, 2017 City Council meeting, the item was continued to March 21, 2017 in order to allow for additional public input to be considered in a draft ordinance. A public input open house was held on March 2, 2017 at the Chesapeake Central Library for this purpose.

At the February 28, 2017 City Council meeting, Councilmember deTriquet requested an additional public input open house be conducted in the Western Branch area. In order to accommodate this and to allow for other stakeholder input opportunities and research, staff requests a continuance to the May 16, 2017 City Council meeting.

Please let us know if you have any questions.

JMS/JMH:jmh

cc: Jan Proctor, City Attorney  
 Sandy Madison, MMC, City Clerk  
 Catherine Lindley, Assistant City Attorney  
 Anna D'Antonio, Assistant to the City Manager  
 Karen Shaffer, AICP, Assistant Planning Director  
 Mark Woodward, AICP, Comprehensive Planning Administrator  
 Kathryn Berning, Office Coordinator

**PLN-TXT-2016-008**

An Ordinance amending Appendix A of the City Code, entitled "Zoning," Article 3, Section 3-403; Article 7, Section 7-601 and 7-602; Article 10, Sections 10-601 and 10-602; and enacting Article 13, Section 13-1405, to adopt regulations allowing farmers markets provided certain requirements are met and to correct clerical errors in the definitions in Article 3.

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**PLANNING COMMISSION RECOMMENDATION:**

Planning Commission recommends that **PLN-TXT-2016-008, version dated November 23, 2016**, be **APPROVED**: (9 - 0)

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Mrs. Shaffer read **PLN-TXT-2016-008** into the record for Commission review and action.

**Staff Presentation:**

Mrs. Shaffer stated that based on the findings listed in the staff report, planning staff recommended that **PLN-TXT-2016-008 version dated November 23, 2016**, be **APPROVED**.

**COMMISSION VOTE:**

Commissioner Kish moved that **PLN-TXT-2016-008 version dated November 23, 2016**, be **APPROVED** as recommended by staff. Secretary Perry seconded the motion. The motion was carried by a vote of 9 - 0.

**PLN-TXT-2016-008**

**November 23, 2016**

**AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE, ENTITLED "ZONING," ARTICLE 3, SECTION 3-403; ARTICLE 7, SECTIONS 7-601 AND 7-602; AND ARTICLE 10, SECTIONS 10-601 AND 10-602; AND ENACTING ARTICLE 13, SECTION 13-1405, TO ADOPT REGULATIONS ALLOWING FARMERS MARKETS PROVIDED CERTAIN REQUIREMENTS ARE MET AND TO CORRECT CLERICAL ERRORS IN THE DEFINITIONS IN ARTICLE 3.**

WHEREAS, the Council of Chesapeake finds the public necessity, convenience, general welfare and good zoning practice so requires;

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix A of the City Code, entitled "Zoning," Article 3, entitled "Interpretation and Definitions," Section 3-403; Article 7, entitled "Business Districts," Sections 7-601 and 7-602; and Article 10, entitled "Conservation and Agricultural Districts," Sections 10-601 and 10-602 be amended and reordained, and Article 13, entitled "Supplemental Regulations," Section 13-1405 be enacted, as follows:

**ARTICLE 3. – INTERPRETATION AND DEFINITIONS**

**§ 3-403. - Definitions.**

The following definitions shall be used in the interpretation and administration of this ordinance. The definitions of various terms as presented do not necessarily represent the same definitions as may be found for the same terms in other chapters of the City Code.

*Borrow pit.* As defined in section 13-1200 et seq. of this ordinance, entitled "Supplemental Regulations," and chapter 26, article VII (section 26-221 et seq.), of the City Code, entitled "Excavations." A borrow pit shall be deemed a form of excavation, extraction or mining.

*Computer-based gaming establishments.* Establishments that offer use of on-site computers and lawfully conducted sweepstakes, games, lotteries, or contests in accordance with the Virginia Code § 18.2-325.1. Such establishments shall require a conditional use permit in

the B-2 General Business District, M-1 Light Industrial District and M-2 General Industrial District and shall be prohibited in all other zoning districts.

*Conditional zoning.* As defined in article 16 of this ordinance, entitled "Zoning Amendments: Conditional Zoning."

*Excavation/extraction/mining.* As defined in article 13 of this ordinance, entitled "Supplemental Regulations," and chapter 26, article VII (section 26-221 et seq.), of the City Code, entitled "Excavations." When the term "excavation," "extraction" or "mining" is used by itself in this ordinance, it shall be deemed to include both of the other terms.

*Farmers Market.* A building, structure or place used by two (2) or more vendors for the sale of agricultural or horticultural produce. Such markets may offer accessory/incidental merchandise to include jams, jellies, soaps, baked goods and other value added items provided that no more than twenty percent (20%) of the area delineated for sales of farmers market products on the site plan is dedicated to the sale of said merchandise. For purposes of this definition, value added items shall include items that are derived from or contain a main ingredient from the agricultural or horticultural produce on sale at the farmers market.

*Floodplain.* As defined in chapter 26, article IV (section 26-86 et seq.), of the City Code, entitled "Floodplain-~~Zone~~ Management."

*Home occupation.* As defined in section 14-300 et seq.

*Junkyard.* As defined in chapter 19, article II (section 19-51 et seq.), of the City Code, entitled "Junkyards, ~~and~~ Automobile Graveyards, and Towing Service Storage Yards."

*Major recreational equipment.* As defined in section 6-2002(A) ~~6-2000(B)~~ of this Zoning Ordinance.

*Medical care facility* means any institution, place, building, or agency, at a single site or combined sites, whether or not licensed or required to be licensed by the state board of health

or the State Board of Behavioral Health and Developmental Services, ~~mental health, mental retardation and substance abuse services board~~, whether operated for profit or nonprofit, and whether privately owned or operated or owned or operated by a local government unit, by or in which facilities are maintained, furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two (2) or more non-related mentally or physically sick or injured persons, or for the care of two (2) or more non-related persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled. Medical care facility shall include, but not be limited to the following:

4. ~~Mental retardation~~ Behavioral Health and Developmental facilities. Facilities licensed by the Virginia Department of Behavioral Health & Developmental Services ~~department of mental health, mental retardation, and substance abuse services~~, in which care is provided to mentally disabled ~~retarded~~ individuals who are not in need of skilled nursing care, but who need more intensive training and supervision than would be available in a rooming, boarding home, or group home.
5. Psychiatric hospitals and intermediate care facilities. Facilities established primarily for the medical, psychiatric or psychological treatment of patients or the rehabilitation of alcoholics or drug addicts, as defined and licensed by the Virginia Department of Behavioral Health & Developmental Services ~~department of mental health, mental retardation, and substance abuse services~~.

*Principal use.* The primary activity or structure for which a lot is used, as permitted by this Zoning Ordinance. The definition of principal use includes the components of a principal use. Components of a principal use include, but are not limited to, the following: required landscaping, off-street parking, private access lanes for ingress and egress, principal structures,

septic drain fields and storm water management as defined in section 26-34~~3~~4 of the City Code. This definition shall not limit or expand the definition of accessory use or accessory structure.

*Property owners association.* An incorporated, nonprofit organization made up of property owners in a specified subdivision or development that shall be responsible for the maintenance and operation of open space, recreational facilities or amenities and other common areas, facilities or functions and that shall assess its members fees or dues to offset the cost thereof and shall have such other specific features or requirements as the City may require, as provided for in this Zoning Ordinance. Also defined in section 13-180~~3~~4 of this Ordinance.

*Public housing support services center.* As defined in section 13-2100 et seq. of this ordinance.

*Unmanned public facility building.* A public facility building which does not have an operational staff located on the site and which meets the requirements of section 13-1700 et seq., entitled "Unmanned Public Facility Buildings and Related Structures."

**ARTICLE 7. – BUSINESS DISTRICTS**

**§ 7-601. - Description.**

C. Special conditions pertaining to specific uses. The following conditions shall apply to specific uses, as indicated in the "condition" column in the uses schedule:

39. See Section 13-1405 of this ordinance for supplemental regulations.

**§ 7-602. - Table of permitted and conditional uses in business districts.**

SECTION 7-602. TABLE OF PERMITTED AND CONDITIONAL USES IN BUSINESS DISTRICTS

|  |  |       |          |       |  |  |
|--|--|-------|----------|-------|--|--|
|  |  | Rural | Suburban | Urban |  |  |
|--|--|-------|----------|-------|--|--|

| SIC                 | Use  | B 1      | B 2      | B 1      | B 2      | B 1      | B 2      | B 5 | MXD/U | Condition* | Parking** |
|---------------------|--|----------|----------|----------|----------|----------|----------|-----|-------|------------|-----------|
| <i>Retail Trade</i> |  |          |          |          |          |          |          |     |       |            |           |
| 54                  | Food Stores  | P        | P        | P        | P        | P        | P        | P   | P     |            | 11        |
|                     | Grocery Stores                                     | P        | P        | P        | P        | P        | P        | P   | P     |            | 11        |
| <u>5431</u>         | <u>Fruit and Vegetable Markets; Farmers Market</u> | <u>C</u> | <u>P</u> | <u>C</u> | <u>P</u> | <u>C</u> | <u>P</u> |     |       | <u>39</u>  | <u>28</u> |

**ARTICLE 10. – CONSERVATION AND AGRICULTURAL DISTRICTS**

**§ 10-601. - Description.**

C. Special conditions pertaining to specific uses. In the table below, the numbers shown in the column entitled "condition" shall have the following meaning:

33. See Section 13-1405 of this ordinance for supplemental regulations.

**§ 10-602. - Table of permitted and conditional uses in conservation and agricultural districts.**

SECTION 10-602. TABLE OF PERMITTED AND CONDITIONAL USES IN AGRICULTURAL AND CONSERVATION DISTRICTS

| SIC | Use                    | Rural |    |    |    | Suburban |    |    |    | Urban |    |    |    | Condition* | Parking** |
|-----|------------------------|-------|----|----|----|----------|----|----|----|-------|----|----|----|------------|-----------|
|     |                        | C1    | C2 | C3 | A1 | C1       | C2 | C3 | A1 | C1    | C2 | C3 | A1 |            |           |
|     | <i>Wholesale Trade</i> |       |    |    |    |          |    |    |    |       |    |    |    |            |           |

|      |   |  |  |  |   |  |  |  |  |   |  |  |  |   |    |    |
|------|---|--|--|--|---|--|--|--|--|---|--|--|--|---|----|----|
| 5431 | <u>Fruit and Vegetable Markets:</u><br><u>Farmers Markets</u> |  |  |  | P |  |  |  |  | P |  |  |  | P | 33 | 28 |
| 5932 | Antique Stores Only   |  |  |  | C |  |  |  |  | C |  |  |  | C |    | 11 |
|      | Temporary Stands for the Sale of Locally Grown Produce        |  |  |  | P |  |  |  |  | P |  |  |  | P | 11 | 25 |

**ARTICLE 13. – SUPPLEMENTAL REGULATIONS**

**§13-1405. - Farmers Markets.**

A. Permit from the Zoning Administrator Required.

1. No farmers market shall be established or used to conduct sales activities until a permit is issued for the operation by the Zoning Administrator. To apply for a permit, the owner or authorized applicant must submit an application and a site plan to the Zoning Administrator which depicts the entrance to the site, a designated vendor area, customer parking and setbacks of the vendor area and parking area from property lines. The site plan must designate the size and location of any proposed buildings or structures, which must be in accordance with all applicable zoning and building code regulations. The Zoning Administrator shall review the application and site plan and include any

necessary City departments in the review of the same. The application and site plan shall also show conformance with the following standards:

- a. *Parking.* Parking and driving areas shall be paved or be surfaced in crushed stone in an amount sufficient to prevent soil erosion, abate dust and provide an adequate driving surface. If the farmers market is located on an undeveloped site and utilizes an alternative parking surface, the application and site plan shall be submitted to the Directors of Public Works and Development and Permits or their respective designees to determine if the site complies with stormwater management requirements. As part of the application, the owner/application shall certify either that the farmers market is the principal use on the property, or if an accessory use, that its hours of operation shall not conflict with the principal use. Where parking areas are shared with other uses on-site, parking must meet the minimum requirements for all uses.
- b. *Permitted sales.* At least eighty percent (80%) of the area delineated for sales of farmers market products on the site plan shall consist solely of agricultural and horticultural products. Products that are accessory/incidental, as defined by this Ordinance and determined by the Zoning Administrator, to the agricultural and horticultural products sold or offered for sale on the site may constitute no more than twenty percent (20%) of the area delineated for sales of farmers market products on the site plan.
- c. *Buildings and structures that are part of the farmers market.* Buildings and structures, including but not limited to stands, tables, vehicles from

which products are sold or any other sales area that is a part of the Farmers Market, shall be set back a minimum of fifty (50) feet from the nearest edge of the sidewalk pavement or street pavement, or, if there is no sidewalk, of any public right-of-way which abuts or is in close proximity to the property on which the farmers market is located and shall be set back a minimum of one hundred (100) feet from any adjoining lot which is zoned or used for residential purposes. Areas dedicated to parking, drive aisles, landscaping and any other setback imposed by this Ordinance shall follow the setbacks imposed for the underlying zoning district as required by this Ordinance except that required buffer areas shall not require the installation of landscaping.

B. Terms of Permit.

1. The permit shall be issued at no charge to the applicant and shall be valid until such time, if any, that the farmers market is abandoned for more than two (2) consecutive years. However, a permit may be revoked by the Zoning Administrator for violation of any provision of the City Code or this Ordinance.

ADOPTED by the Council of the City of Chesapeake, Virginia, this \_\_\_\_ day of \_\_\_\_\_, 2016.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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Clerk of the Council

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**HEARING DATE: DECEMBER 14, 2016**

**TO:** CHESAPEAKE PLANNING COMMISSIONERS

**FROM:** JOHN M. HARBIN, PRINCIPAL PLANNER

**THROUGH:** JALEH M. SHEA, AICP, PLANNING DIRECTOR 

**DATE:** DECEMBER 7, 2016

**RE:** **PLN-TXT-2016-008 CZO: Farmers Markets Regulations**  
 An Ordinance amending Appendix A of the City Code, entitled "Zoning," Article 3, Section 3-403; Article 7, Section 7-601 and 7-602; Article 10, Sections 10-601 and 10-602; and enacting Article 13, Section 13-1405, to adopt regulations allowing farmers markets provided certain requirements are met and to correct clerical errors in the definitions in Article 3.

**TEXT AMENDMENT DESCRIPTION:**

The proposed text amendment modifies several articles of the Zoning Ordinance to define a farmers market, set the Zoning Districts for which it is permitted, and establish criteria for the issuance of a Zoning Permit. This amendment also corrects several clerical errors in the definition section of Article 3.

**BACKGROUND:**

Farmers markets are growing in popularity as consumers become more conscious of where their food comes from and desire more options to purchase seasonal and local produce. There are currently three (3) City-sponsored farmers markets located on City-owned land in Greenbrier, Great Bridge, and Western Branch. The text amendment will permit privately owned and operated farmers markets to be established throughout in the City, further meeting the demand for local food products and promoting agricultural and horticultural economies.

The proposed amendment was initiated by City Council who adopted a resolution on September 27, 2016, requesting the Planning Commission to consider and make recommendation concerning farmers markets. The resolution was adopted after considering a citizen's request to establish a farmers market in the Western Branch area of the City.

**DEPARTMENTAL/ KEY STAKEHOLDER COMMENTS:**

City Staff representing the City Attorney's Office, Planning, and Development and Permits (Zoning) met on October 25, 2016, to discuss the citizen request and resolution from the September 27, 2016 City Council meeting to amend the Zoning Ordinance, allowing private farmers markets. Staff reviewed ordinances from other localities, including Stafford County, Virginia, and discussed considerations for farmers markets, including location, setbacks from right-of-way, parking, and types of products available for sale. The City Attorney's Office drafted the text amendment.

On November 7, 2016, a formal request for comments was issued to the Application Review Committee on the proposed text amendment, PLN-TXT-2016-008, with a deadline for comments of November 16, 2016. Comments were received from Public Works, Development and Permits, Agriculture, and Park and Recreation. On November 22, 2016, City Staff representing the City Attorney's Office, Planning, Development and Permits, and Agriculture met to discuss comments received (See Attachment 1) and how to best to incorporate them into the draft proposed text amendment.

Additionally, Planning staff contacted community residents with an expressed interest in the topic for comment. Staff is continuing to receive and review comments from these residents.

**STAFF ANALYSIS:**

Planning staff reviewed comments and draft ordinance language from the meeting held on October 25, 2016, and compiled comments from other City departments during the November 7<sup>th</sup>-16<sup>th</sup> comment period. Planning staff also examined how other localities regulate farmers markets through the Zoning Ordinance. Using existing provisions in Chesapeake's Zoning Ordinance, a farmers market would be considered a flea market which requires a conditional use permit. By defining a farmers market and establishing criteria in order to protect public health, safety, and general welfare, staff believes the City can encourage development of private farmers markets to better serve the needs of citizens.

The proposed text amendment permits farmers markets to be established in B-1, Neighborhood Business; B-2, General Business; and A-1, Agricultural Zoning Districts. This is consistent with where farm stands typically locate and protects residential areas from undesirable impacts of a market, such as traffic congestion and noise. Additional zoning districts were considered, including industrial and office, but staff determined that these districts and their associated setbacks and uses are not conducive to farmers markets.

In addition to location standards, staff developed criteria to obtain a Zoning Permit for a farmers market. A summary of this criteria, as stipulated in the proposed amendment, is as follows:

1. An application and site plan that shows the entrance, designated vendor area, customer parking, and setbacks;

2. Paved or crushed stone parking and driving lanes;
3. Assurance that if the farmers market is an accessory use on the property, it does not conflict with the principal use;
4. At least 80% of the sales area must be devoted to the sale of agricultural and horticultural products, with the remainder area used for accessory/incidental products (e.g., breads, jams, crafts, etc.); and
5. All buildings or structures must be setback fifty (50) feet from the sidewalk or street and one hundred (100) feet from any adjacent residential lot. Parking, drive aisles, landscaping, and other elements must comply with other setbacks imposed in the respective Zoning District.

According to Section 16-106 of the Chesapeake Zoning Ordinance, if the request is for a change in the text of this Zoning Ordinance, the recommendation of the Planning Commission should contain findings with respect to one or more of the following matters, as the Commission determines to be most significant:

1. **STANDARD:** Whether and in what respect the text amendment is consistent with the Chesapeake comprehensive plan.

**FINDING:** The Land Use section of the Comprehensive Plan states that "each land use should be located only on appropriate sites in terms of size, access, environmental conditions, community facilities and compatibility with neighbors." In this case, farmers markets are limited in location and required to submit a site plan in order to ensure size, access, and setbacks are appropriate for adjacent uses.

2. **STANDARD:** Whether and in what respect the proposed text amendment is consistent with the intent and purpose of this ordinance.

**FINDING:** According to Section 1-201.A of the Zoning Ordinance, a purpose of the Zoning Ordinance is to implement the adopted comprehensive plan of the City of Chesapeake and to promote the health, safety and general welfare of the residents of this city. Staff finds the proposed text amendment consistent with the provisions of the Zoning Ordinance and further finds the text amendment implements the following Action Strategies from the 2035 Comprehensive Plan:

From Section 2, Responsible Growth, Economy section –

*"The City will continue to support the growth of its small business community, as well as Chesapeake's local agricultural industry and working farm lands, including farmer's markets and other appropriate outlets for agri-business."*

From Section 2, Responsible Growth, Growth Management section –

*"Economic development of agricultural and rural enterprises should be fostered and promoted including the development of agricultural markets, alternative products, agri-tourism, and eco-tourism."*

3. **STANDARD:** The areas of the City that are most likely to be affected by the proposed text amendment and the manner in which those areas will be affected.

**FINDING:** The text amendment will affect B-1, B-2, and A-1 zoning districts. In the B-1 zoning district, a farmers market is a conditional use and in B-2 and A-1 zoning districts, a farmers market is a permitted use.

4. **STANDARD:** Whether and in what respect the proposed text amendment is necessitated by a change in conditions in the zoning districts affected and the nature of such changed conditions.

**FINDING:** There are no changed conditions that necessitate the proposed text amendment. Departmental review did not object to the final version of the proposed text amendment, which incorporated all comments received.

**FINDINGS:**

1. The proposed text amendment will allow the establishment of farmers markets in select zoning districts with standards to protect public health, safety, and general welfare.
2. The proposed amendment is consistent with the 2035 Comprehensive Plan.
3. The proposed amendment follows good zoning practices.

**STAFF RECOMMENDATION:**

Based on the findings contained in this staff report, staff recommends that **PLN-TXT-2016-008, version dated November 23, 2016**, be **APPROVED**.

JMH:rw

**John King, Zoning Administrator**

1. I am a little concerned about the definition of the Farmers market. The "20% of the square footage of the farmers market" is not specific enough to accomplish the goal. For example, if we had a 10 acre undeveloped site you could have 2 acres of non -produce, whether or not there was any actual produce on the site. I think we need to add something to the effect of:

"limited to an area equal to or less than 20% of the area used for display and sales of products" and possibly "as determined by the Zoning Administrator or designee"

2. The same goes for 13-1405.A.a(ii) as indicated above. (Should the lower case "a" in the code reference be a numeral?)
3. Section 13-1405.A.a(iii) – This section sets setbacks of structures from ROW and property lines and indicates there are no other setback. We should, at least apply the required setbacks found elsewhere in the CZO to the parking and drive isles. And, do we want to apply the landscape requirements found in the CZO? I would suggest that we do.

**Watson Lawrence, Director of Agriculture**

I do not see the need to include any accessory items at a Farmers Market other than agricultural or horticultural produce plus "value added" items. Otherwise it can easily transcend into a flea market.

The word produce defines something produced or grown which is synonymous to the identity of what one expects to find at a Farmers Market. Expanding that definition to include some accessory items becomes an exercise in calculation of how much floor space or area is devoted to non-agricultural or horticultural produce.

However, a Farmers Market could include value added items. These items should be derived and contain some main ingredient from agricultural or horticultural produce. For example, jams, jellies, breads, soaps all of which are individually wrapped to be sold and not intended to be consumed on-site.

Including items intended to be consumed on-site, ice cream, pastries, pop-corn, funnel cakes, cooked items involves the Health Department and I think departs from the concept of a market where you go to purchase items to bring home to consume.

I have attached what I provide as a guide of food safety requirements selling at Farmers Markets, Stores & Roadside Stands. It includes some basic food safety requirements.

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To clarify, the three Farmers' Markets Agriculture Department organizes on Parks & Rec. property:

1. City Park
2. South Battlefield Park
3. Western Branch Community Center

All are more restrictive than other some Farmers Markets because they have a mission to support local agriculture, but they do not go beyond that mission. That is my role in organizing these markets. Vendor fees basically cover the costs of advertising and covering associated operational costs. They have the added burden of requiring vendors:

- to be farmers, producers, growers to participate
- have a standard of offering at least 60% of items self-grown or produced
- allows 40% of items to be bought and resold, as protection from weather related crop failures and enhancing their selection of items offered to the public, because these are small scale producers

The above standard does not and probably should not apply to a Farmers Market on **private property**. I agree the City should give guidance through ordinances to allow Farmers Markets on private property.

**Michael Barber, Director of Parks and Recreation**

Some additional comments from us..... many farmer's markets nationally are trending to the addition of entertainment and activities to help draw more clientele (such as children's craft areas, bounce houses, food trucks, single acts of music, etc.) and usually help supplement the major theme and purpose of selling produce. We recently experienced this with a group in Western Branch as it got out of control pretty quick. I would suggest that a special event permit be required for any activity that includes anything other than what is defined the text and within the 80/20. The one we helped with in Western Branch, aside from the one done by Watson's group, easily could be classified a flea market as it had more than 20% of "other". Also, if we wanted to do something like this (farmers market plus entertainment), how would we be effected by the ordinance change? There are also a few private groups that have been doing this out there as well.

Lastly, and just for consistency sake, we noticed that the term is mentioned a couple of different ways in the documentation. For example, some staff consistently used "farmer's markets" in the Resolution and "farmers markets" in the Ordinance. It probably should be one or the other. We suggest "farmers markets". We read that both farmers markets or farmers' markets are both acceptable forms, but the USDA uses "farmers markets" on their website, although the markets listed use both versions.

Thanks for the chance to add input and hope it helps. Mike