

**FINDINGS OF FACT AND FINAL ORDER
TYPE I TEMPORARY USE PERMIT**

DATE: April 16, 2020

FILE NO.: 20-013 TEMP – Mount Hood Farmers Market

APPLICANT: AntFarm

OWNER: Leathers Fuel

LOCATION: 38600 Proctor Blvd. and 17455 Scales Avenue

LEGAL DESCRIPTION: 24E13CB, tax lots 700, 900, and 901

FINDINGS OF FACT

1. The applicant submitted a Temporary Use Permit application on April 8, 2020 requesting approval for a temporary use permit to hold a weekly farmer’s market with music at 17455 Scales Avenue and 38600 Proctor Blvd. The market is proposed to be held from 3 pm to 7 pm on Fridays from June 5, 2020 to October 30, 2020, and on Saturday and Sunday July 11 and 12, 2020 during the Sandy Mountain Festival. Prior to issuing this final order the Sandy Mountain Festival was cancelled for 2020 due to the COVID-19 pandemic.
2. The applicant indicates that vendors will set up their booths for the event on the undeveloped vacant lot located at 17455 Scales Ave. and parking will be provided on the lot located at 38600 Proctor Blvd.
3. This farmers market has been occurring at the subject site since 2013.
4. The applicant had previously submitted a signed letter (December 4, 2013) from the property manager (Steve Reimer) acknowledging submittal of the application for the farmers market. On April 14, 2020 the Chief Operating Officer of Leathers Fuel, Aaron Randels, confirmed that AntFarm can use the subject property for the market in 2020.
5. 38600 Proctor Blvd is located on the south side of Proctor Boulevard/Highway 26 and has frontage on both Proctor Blvd and Pioneer Blvd (Highway 26 couplet). The site is zoned C-1, Central Business District.
6. The lot located at 38600 Proctor Blvd. currently contains a structure used by the applicant for storage for their Outdoor Program and parking for the uses on the site. There is an ADA accessible restroom in the existing building at 38600 Proctor Blvd.
7. The proposed parking area located on this lot contains a combination of paved and gravel surfaces. No parking of vehicles is allowed on unimproved surfaces, such as grass.
8. In 2018, City Council declared the Mount Hood Farmers Market a “community-wide event” to allow for enhanced signage and temporary tents each year for the market.

9. Staff received an agency comment from the Sandy Fire District No. 72 Fire Marshall, Gary Boyles. Mr. Boyles stated the following requirements are from the Oregon Fire Code Chapters 31:
 - a. Once the LU application is approved, and before site set up, the owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory, certifying that all tents, canopies and membrane structures and their appurtenances, sidewalls, drops and tarpaulins, floor coverings, bunting, combustible decorative materials and effects, including sawdust when used on floors, shall be composed of flame-resistant material or shall be treated with a flame retardant (in accordance with Test Method 1 or 2 of NFPA 701) in an approved manner and that such flame resistance is effective for the period specified by the permit.
 - b. An affidavit or affirmation shall be submitted to the fire code official and a copy retained on the premises on which the tents and/or canopies are located. The affidavit shall attest to the following information relative to the flame resistance of the tent and/or canopy fabric:
 - i. Name and address of the owners of the tents and/or canopies.
 - ii. Date the fabric was last treated with flame-resistant solution.
 - iii. Trade name and kind of chemical used in treatment.
 - iv. Name of the person or firm testing the material.
 - v. Name of testing agency and test standard by which the fabric was tested.
 - c. A minimum of two exits to be provided and spaced at approximately equal intervals around the perimeter of the tent. Exit width for each exit shall be a minimum of 72 inches.
 - d. Outdoor cooking that produces sparks or grease laden vapors shall not be performed within 20 feet from a tent, canopy, or membrane structure.
 - e. Portable LP -gas containers with a capacity of 500 gallons or less shall have a minimum separation between the container and structure not less than 10 feet.
 - f. Tents, canopies or membrane structures and their appurtenances shall be adequately roped, braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire code official upon request.
 - g. Generators and other internal combustion power sources shall be separated from tents or membrane structures by a minimum of 20 feet and shall be placed on an approved surface. Such equipment shall be isolated from contact with the public by fencing, enclosure or other approved means.
 - h. Smoking shall not be permitted in tents, canopies or membrane structures. Approved “No Smoking” signs shall be conspicuously posted in accordance with Oregon Fire Code Section 310.
 - i. The floor surface inside tents or membrane structures and the grounds outside and within 30 feet perimeter shall be kept free of combustible waste and other combustible materials that could create a fire hazard. Such waste shall be stored in approved containers and removed from the premises at least once a day during the period the Saturday Market is occupied by the public.
 - j. At least one portable fire extinguisher rated 2-A:10BC shall be provided in the MHFM tent and placed conspicuously so its location is visible and the fire extinguisher is readily accessible for staff use if the event of an emergency. If applicable, a listed class K fire extinguisher shall be located within 30 feet of any commercial type cooking equipment.
 - k. Applicant to contact the Fire Marshal once the market is set up for a site visit prior to opening to the public. (503) 891-7042 or fmboyles.sandyfire@gmail.com

DECISION

The proposed Temporary Use Permit is in general conformance with the standards of the Sandy Development Code, Chapter 17.74.60, and is hereby **approved** for 2020. The following conditions of approval are required in order to ensure compliance with all applicable regulations of the Sandy Municipal Code.

CONDITIONS OF APPROVAL

1. The applicant is permitted to use the lot located at 38600 Proctor Boulevard and 17455 Scales Avenue for a weekly farmer's market event every week from 3pm – 7pm on Fridays, June 5, 2020 through October 30, 2020 and on Saturday and Sunday July 11 and 12, 2020.
2. If the farmers market is held while Governor Brown's COVID-19 declaration is effective the market shall follow all guidelines as outlined by the Governor.
3. The applicant shall maintain the striping of the parking area and maintain the designation of at least one van accessible ADA compliant parking space, including required striping and signage.
4. Parking of vehicles is not allowed on unimproved surfaces, such as grass.
5. The tents shall be secured at all corners to prevent being blown by the wind. The securing system used shall not penetrate into the parking lot surface.
6. The following requirements are from the Oregon Fire Code Chapter 31:
 - a. Once the LU application is approved, and before site set up, the owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory, certifying that all tents, canopies and membrane structures and their appurtenances, sidewalls, drops and tarpaulins, floor coverings, bunting, combustible decorative materials and effects, including sawdust when used on floors, shall be composed of flame-resistant material or shall be treated with a flame retardant (in accordance with Test Method 1 or 2 of NFPA 701) in an approved manner and that such flame resistance is effective for the period specified by the permit.
 - b. An affidavit or affirmation shall be submitted to the fire code official and a copy retained on the premises on which the tents and/or canopies are located. The affidavit shall attest to the following information relative to the flame resistance of the tent and/or canopy fabric:
 - i. Name and address of the owners of the tents and/or canopies.
 - ii. Date the fabric was last treated with flame-resistant solution.
 - iii. Trade name and kind of chemical used in treatment.
 - iv. Name of the person or firm testing the material.
 - v. Name of testing agency and test standard by which the fabric was tested.
 - c. A minimum of two exits to be provided and spaced at approximately equal intervals around the perimeter of the tent. Exit width for each exit shall be a minimum of 72 inches.
 - d. Outdoor cooking that produces sparks or grease laden vapors shall not be performed within 20 feet from a tent, canopy, or membrane structure.

- e. Portable LP -gas containers with a capacity of 500 gallons or less shall have a minimum separation between the container and structure not less than 10 feet.
 - f. Tents, canopies or membrane structures and their appurtenances shall be adequately roped, braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire code official upon request.
 - g. Generators and other internal combustion power sources shall be separated from tents or membrane structures by a minimum of 20 feet and shall be placed on an approved surface. Such equipment shall be isolated from contact with the public by fencing, enclosure or other approved means.
 - h. Smoking shall not be permitted in tents, canopies or membrane structures. Approved “No Smoking” signs shall be conspicuously posted in accordance with Oregon Fire Code Section 310.
 - i. The floor surface inside tents or membrane structures and the grounds outside and within 30 feet perimeter shall be kept free of combustible waste and other combustible materials that could create a fire hazard. Such waste shall be stored in approved containers and removed from the premises at least once a day during the period the Saturday Market is occupied by the public.
 - j. At least one portable fire extinguisher rated 2-A:10BC shall be provided in the MHFM tent and placed conspicuously so its location is visible and the fire extinguisher is readily accessible for staff use in the event of an emergency. If applicable, a listed class K fire extinguisher shall be located within 30 feet of any commercial type cooking equipment.
 - k. Applicant to contact the Fire Marshal once the market is set up for a site visit prior to opening to the public. (503) 891-7042 or fmboyles.sandyfire@gmail.com
7. The existing drive aisle in the parking lot shall be kept clear to allow vehicular movement.
8. The proposed use shall be monitored to ensure there is no disruption of traffic or adverse impacts to adjoining properties, and that it is in compliance with sanitation requirements.
9. The event shall comply with Section 8.20 of the Municipal Code regarding noise and amplified music.
10. The applicant is responsible for complying with the City Council approval for all market signage.
11. This Temporary Use Permit may be revoked by the City if conditions of approval are not met. Approval of this Temporary Use does not grant authority for the unrestricted use of the site.
12. Any other conditions or regulations required by Clackamas County, Fire District No. 72, and the Oregon Department of Transportation, or County, State or Federal agencies are hereby made a part of this permit and any violation of the conditions of this approval will result in the review of this permit and/or revocation.



Kelly O'Neill Jr.
Development Services Director

April 16, 2020
Date

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within 12 days of notice of the decision. The notice of appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and
5. Payment of required filing fees.