



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: April 17, 2012
To: Honorable Mayor & City Council
From: Greta Dunlap, Market Manager
Subject: Beverly Hills Farmers Market Annex Rules
Attachments: 1. Market Annex Rules

INTRODUCTION

Vice Mayor Mirisch requested the subject item be placed on the City Council agenda to discuss possible revisions to the Farmers Market Annex Rules. On February 12, 2012, Market staff was approached at the Beverly Hills Farmers' Market by Lauren Steiner inquiring about the process to get a table at the Farmers' Market to solicit donations for the CalFresh (food stamps) program. Ms. Steiner was informed about the guidelines included in the Market Annex Rules, which currently prohibit non-Beverly Hills based groups or organizations from participating in the Market. Ms. Steiner has been notified of this item being agendaized for discussion at the April 17 Council meeting and it is anticipated that she will be in attendance.

DISCUSSION

The Market Annex Rules were approved by City Council October 3, 2006. The exclusive purpose of the Market Annex is to provide a venue for limited commercial activity by community groups and local businesses based in Beverly Hills. In promoting this purpose, the Market Annex furthers the City of Beverly Hills' significant interest in the continued viability of organizations that either provide services directly to Beverly Hills residents or contribute to the City's tax base. The Market Annex Rules allow approved community groups and businesses to participate in no more than four Markets in a calendar year. Community Groups pay a \$25 fee for each date requested, with local businesses paying \$75 per date. The fees charged include the use of a City provided canopy, table, and chairs. Community Groups and Local Businesses are defined as follows:

Community Group: A Community Group is defined as an unincorporated association that (i) has premises within the City of Beverly Hills; and (ii) has as a primary purpose the provision of charitable, educational or social services to Beverly Hills residents. "Community Group" also includes a corporation organized under the Nonprofit Public Benefit Corporation Law (or an equivalent statute) that (i) has premises within the City of Beverly Hills; and (ii) has as a primary purpose the support of a facility owned by the City.

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Local Business: A Local Business is defined as a corporation that satisfies the following criteria: (i) is organized under the General Corporation Law (or an equivalent statute); (ii) has premises within the City of Beverly Hills; (iii) is subject to the business tax of the City of Beverly Hills; and (iv) provides food-related products or services to patrons.

There are several pros and cons to amending the current Annex rules. These include:

Pros:

- Increased opportunities for "regional" businesses and non-profits to participate
- More diverse subject matter/messages
- Increased flow of information to Market customers
- Minimal increase in revenue

Cons:

- Competition for Beverly Hills based businesses and organizations
- Increased staff time to administer
- May attract groups that do not serve the residents of Beverly Hills
- May attract groups that promote controversial agendas or subject matter

The nonprofit Ms. Steiner is associated with, Hunger Action LA (HALA), is based in Los Angeles. Staff informed Ms. Stein that she could not, under current rules, be on the street. However, she can be on the sidewalk bordering the Market, without obstructing pedestrian passage, to give out information about the CalFresh program.

FISCAL IMPACT

None at this time.

RECOMMENDATION

Staff seeks direction from City Council as to whether it is their interest to change or modify the existing Market Annex rules to allow nonresident nonprofit groups to participate in the Farmers' Market.

Steve Zoet
Approved By



Attachment 1

MARKET ANNEX RULES

BEVERLY HILLS FARMERS' MARKET ANNEX

Established October 2006

The Beverly Hills Farmers' Market ("Market") is a certified farmers' market operated in accordance with California law. Pursuant to state law, only agricultural products may be sold or offered for sale at the Market.

The Beverly Hills Farmers' Market Annex ("Market Annex") is a Market-adjacent circumscribed area in which certain types of non-agricultural products may be sold or offered for sale. The exclusive purpose of the Market Annex is to provide a venue for limited commercial activity by community groups and local businesses. In promoting this purpose, the Market Annex furthers the City of Beverly Hills' significant interest in the continued viability of organizations that either provide services directly to Beverly Hills residents or contribute to the City's tax base.

I. Definitions

1. **"Community Group."** A Community Group is defined as an unincorporated association that (i) has premises within the City of Beverly Hills; and (ii) has as a primary purpose the provision of charitable, educational or social services to Beverly Hills residents. "Community Group" also includes a corporation organized under the Nonprofit Public Benefit Corporation Law (or an equivalent statute) that (i) has premises within the City of Beverly Hills; and (ii) has a primary purpose the support of a facility owned by the City.
2. **"Local Business."** A Local Business is defined as a corporation that satisfies the following criteria: (i) is organized under the General Corporation Law (or an equivalent statute); (ii) has premises within the City of Beverly Hills; (iii) is subject to the business tax of the City of Beverly Hills; and (iv) provides food-related products or services to patrons.
3. **"Market-Compatible."** Market-Compatible is defined as not competitive with a product sold or offered for sale in the Market.
4. **"Market Manager."** A person or persons empowered to implement these Market Annex Rules. The Market Manager includes the Market Manager's designee.
5. **"Promotional Materials."** Promotional Materials is defined as clothing or other items bearing the name, logo, or both, of a Community Group.
6. **"Vendor."** A Vendor is defined as a Community Group or Local Business approved to engage in commercial activity in the Market Annex.

II. General Policies and Procedures

1. **Market Annex Hours.** The Market Annex will be held on Sundays from 9:00 a.m. to 1:00 p.m. in conjunction with the Market. The Market Manager may close the Market Annex early due to inclement weather in his or her sole discretion. In such event, the Market Manager shall determine whether Vendors approved for that day shall be assigned a make-up day.

2. **Admission of Vendors.** Prospective Vendors, with appropriate documentation, shall be considered for participation in the Market Annex by the Market Manager. No Vendor shall be allowed to participate in the Market Annex on more than four (4) days in a single calendar year unless assigned one (1) or more make-up days due to inclement weather. Prospective Vendors will be required to complete an application, which shall include designation of the product(s) desired to be sold at the Market Annex. Each application shall indicate the Market Annex days requested for the six-month period following the application date. Completed applications shall be approved on a first come, first served basis if the following criteria are satisfied:

- The applicant has paid the City of Beverly Hills business tax (if applicable).
- The applicant does not propose to sell or offer for sale an unpermitted product.
- The applicant has not had four (4) Market Annex applications approved that calendar year.
- The applicant is not suspended from the Market Annex.
- The applicant has not been expelled from the Market Annex.

3. **Products.** Only Market-Compatible products permitted by this Section may be sold or offered for sale in the Market Annex:

Vendor Classification

Permissible Products

•Community Group

Books
Promotional Materials

•Local Business

Food-Related Items

4. **Appropriate Market Annex Conduct.** Vendors and their representatives shall conduct themselves in a safe and courteous manner, and shall not use any language or engage in an behavior that is deleterious to the normal operation of the Market Annex. Consumption of alcoholic beverages, illegal drugs and other behavior-modifying substances is forbidden. No music shall be played from radios or other similar devices (i.e. compact disc players, tape players, etc.) at a volume audible outside of a Vendor's selling space.

5. **Smoking.** Smoking is prohibited within the Market Annex.

6. Incompatible Activities. The following activities are prohibited within the Market Annex: campaigning for or against any electoral candidate or ballot measure; campaigning for election to any public office; circulating an initiative or referendum petition; and unauthorized solicitation. For purposes of this prohibition, “unauthorized solicitation” means solicitation that is not conducted from an authorized selling space or that involves unpermitted products. This prohibition does not preclude any person or organization from conducting such activity in accordance with law during Market hours on sidewalks or other public property adjacent to the Market Annex. Violation of this prohibition may result in expulsion from the Market Annex for the remainder of that Market day.

III. Fees and Taxes

1. Stall Fee. For participation in the Market Annex, Vendors shall pay the City of Beverly Hills a stall fee as follows:

<u>Vendor Classification</u>	<u>Stall Fee (per Market day)</u>
•Community Group	\$25.00
•Local Business	\$75.00

2. Sales Tax. Vendors are responsible for complying with applicable sales tax laws. Vendors selling taxable items must display a Board of Equalization permit authorizing sales at the Market Annex.

IV. Selling Space

1. Number of Spaces. No Vendor can sell at two separate spaces in the Market Annex. No more than two Vendors can participate in the Market Annex on a single Market day.

2. Size. Vendors’ selling space size in the Market Annex is up to the sole discretion of the Market Manager. No portion of a Vendor’s display may extend into the fire lane. The Market Manager may, at any time, adjust the Vendor’s selling space size. During peak season, the maximum frontage allowable shall not exceed thirty (30) feet per Vendor or such other length as determined by the Market Manager.

3. Equipment. The City shall provide each Vendor one (1) table, one (1) canopy and two (2) chairs for the Vendor’s selling space in the Market Annex.

4. Signage. Each Vendor’s selling space must have its firm name prominently displayed within the Vendor’s canopy. Signs may not extend beyond the perimeters of the canopy. The Market Manager may specify sign sizes, types or other characteristics, and may, at his or her discretion, install additional signage at the Vendor’s location.

5. Cleanliness. Each Vendor shall maintain its selling space in a clean condition. Vendors are responsible for bagging and hauling their own trash at the close of the Market day and may not leave any item or trash at the Market Annex. Vendors leaving trash behind will be given a verbal warning and will be charged a clean up fee of \$50.00 for the second offense and \$100.00 for the third offense. After the third offense, Vendors may be suspended or expelled in accordance with Section VI of these Market Annex Rules.

6. Nonattendance. A Vendor who is unable to attend an assigned selling space for a reason unrelated to inclement weather must notify the Market Manager at least one week prior to the date of absence, unless special prior arrangements are made with the Market Manager. A Vendor who is unable to attend an assigned selling space due to inclement weather must notify the Market Manager by 7:00 a.m. of that Market Annex day. Failure to comply may result in suspension or expulsion in accordance with Section VI of these Market Annex Rules.

7. Representatives. Each Vendor's representatives at the Market Annex shall remain at the Vendor's selling space during Market hours.

V. Safety.

1. Tables and Canopies. Tables and overhead canopies must be maintained and used in a safe manner. Legs must be firmly locked into place on the shades. Tables must have smooth edges and remain stable when loaded with products. Canopies must be tied down or weighted. Canopy poles must not obstruct traffic flow and care must be taken when setting up or taking down displays.

2. Removal of Canopies. By determination of the Market Manager, removal of canopies may be required at any time during Market hours due to wind. Canopy removal shall take precedence over sales activities. Frame assemblies may remain in place as long as they are securely tied down.

3. Market Safety. All Vendors must comply with the daily Market safety program, which requires:

- No display tables filled over carrying capacity
- Tables must be free of splinters
- Product arrangements must be stable and not ready to fall
- All connecting rods of the shade set-ups must be secure in their fittings
- Canopy assemblies must be tied or weighted down
- No pets
- No vehicles shall be parked in the Market Annex

4. Arrival and Departure. Vendors shall arrive no later than thirty (30) minutes before the Market Annex's scheduled opening time. A Vendor may not leave the Market

Annex until the close of Market at 1:00 p.m. If there is an emergency, a Vendor may leave early, but only with the prior approval of the Market Manager.

VI. Violations.

1. Violations & Penalties. A Vendor who violates any provision of these Market Annex Rules may be given a verbal or written warning, fined (for violations of Section IV(5)), suspended or expelled from Market Annex in the discretion of the Market Manager. Any verbal warning shall be followed by written notice of such action within seven (7) days. A Vendor is responsible for the actions of its employees.

2. Customer Complaints. A customer wishing to file a complaint concerning treatment by a Vendor may file a written complaint with the Market Manager. Written complaints will be investigated by Market management, and may result in issuance of a penalty as set forth above. In any dispute between the consumer and Vendor, the decision of the Market Manager shall prevail.

3. Appeals. A Vendor may appeal any disciplinary action of the Market Manager to the Farmers' Market Committee by submitting a written notice of appeal stating the reasons therefore. The notice of appeal must be submitted within ten (10) days of the Market Manager's disciplinary action, and shall be filed with:

Director of Community Services
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Fax: (310) 385-0840

Within thirty (30) days of receipt of the notice of appeal, a hearing shall be scheduled with the Farmers' Market Committee to review the Vendor's case, unless both parties otherwise extend such time. Written notice of the hearing shall be provided to the Vendor at least ten (10) days prior to the hearing. Final decisions concerning any disciplinary action of the Market Manager, and the reasons therefore, shall be set forth in writing and shall rest with the Farmers' Market Committee.

4. Removal from Market Annex. While under investigation for a violation of these Market Annex Rules, Vendors may be temporarily removed from the Market Annex at the discretion of the Market Manager to protect the public health, safety or welfare.

5. Fair Application of Market Annex Rules. All Market Annex Rules will be applied in a fair and equitable manner.

I hereby state that I have read, understand and agree to follow all rules and procedures outlined in the Market Annex Rules for the Beverly Hills Farmers' Market Annex. I also understand that failure to conform to said rules may result in financial penalties, and/or suspension or expulsion from the Market Annex.

Print Name: _____ Signature: _____

Date: _____