CITY OF BEVERLY HILLS
STAFF REPORT

Meeting Date: August 20, 2013

To: Honorable Mayor & City Council

From: Brad Meyerowitz, Recreation Services Manager
Greta Dunlap, Market Manager

Subject: Proposed Amendment to Farmers' Market Annex Rules

Attachments:
1. Existing Annex Rules with Proposed Revisions
2. Revised Annex Rules

INTRODUCTION

Staff has been approached by the Beverly Hills Weekly regarding a request to have a booth at the City's Farmers' Market to promote Be The Match, a non-profit organization it has partnered with to register potential donors in the National Marrow Donor Program. The current Farmers' Market Annex rules do not allow this type of organization to participate in the Market.

DISCUSSION

Staff receives numerous requests from groups wishing to have a presence at the weekly Market due to the exposure and number of patrons it affords access to. In order to control and regulate these requests, a set of governing rules were established and approved by City Council in 2006. These rules, entitled the Market Annex Rules, address items such as types of eligible groups, frequency of participation, and general policies and procedures. Currently, groups eligible to participate must fall under the definitions established for a "Community Group" or a "Local Business". Since the Beverly Hills Weekly and Be The Match do not qualify to participate under the existing Annex Rules, representatives from the Weekly requested that the issue be discussed by the Recreation and Parks Commission and the City Council.

The matter was discussed at the Commission's Regular Meeting on July 23, 2013. The Commission was informed that the process of registering for the National Marrow Donor Program involves a person signing a consent and release form and providing a saliva swab. The swabs and associated paperwork are sent to Be The Match, who then registers potential donors into the national registry. The Beverly Hills Weekly has been registering participants in their office but is now seeking a broader audience by participating in community events, such as the Farmers' Market.

Due to the public good that the Be The Match program affords those who benefit by its services, though not for the primary purpose of serving Beverly Hills residents, the Recreation and Parks Commission showed their unanimous support for the purpose and function of the organization and asked staff to schedule the item to be heard by City Council for their consideration. The item also was discussed at a City Council/Recreation and Parks Commission Liaison meeting on July 30, 2013. Council Liaisons Gold and Krasne requested that the item be placed on the August 20 Study Session for full Council consideration.

The City Attorney's office, working with Staff, has made proosed revisions to the Market Annex Rules that would allow "Health Organizations" to participate in the Market. Eligible organizations would have to be a corporation organized under the Nonprofit Public Benefit Corporation Law (or an equivalent statute) that has as one of its primary purposes outreach and education regarding public health. Be The Match is a nonprofit organized under this law.

FISCAL IMPACT

As stated in the revised Market Annex Rules, eligible organizations would be charged a stall fee of $25 per Market day. Organizations that participate in the maximum of four Market days a year would incur $100 in fees. There would not be any additional staff costs incurred for the implementation of the amended Market Annex Rules.

RECOMMENDATION

Staff seeks direction from City Council on the proposed amendments to the existing Farmers' Market Annex Rules to allow the participation of health related organizations in the Farmers' Market.

Nancy Hunt-Coffey for SZ

Steven Zoet

Approved By

Attachment 1

~~MARKET ANNEX RULES~~BEVERLY HILLS FARMERS' MARKET ANNEX
~~Established October 2006~~

MARKET ANNEX RULES

Revised August 2013

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. In addition, the Market Annex may be used by nonprofit entities for limited public health activities. The exclusive purpose of the Market Annex is to provide a venue for limited ~~commercial activity~~activities conducted by community groups, health organizations, 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, promote the health of the community, 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~~one of its primary ~~purpose~~purposes 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. "Health Organization." A Health Organization is defined as a corporation organized under the Nonprofit Public Benefit Corporation Law (or an equivalent statute) that has as one of its primary purposes outreach and education regarding public health.

3. "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.~~4. "Market-Compatible." Market-Compatible is defined as not competitive with a product sold or offered for sale in the Market.

~~4.~~5. "Market Manager." A person or persons empowered to implement these Market Annex Rules. The Market Manager includes the Market Manager's designee.

~~5.~~6. **"Promotional Materials."** Promotional Materials is defined as clothing or other items bearing the name, logo, or both, of a Community Group.

~~6.~~7. **"Vendor."** A Vendor is defined as a Community Group, Health Organization, or Local Business approved to engage in ~~commercial activity~~permissible activities 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 or the activity desired to be conducted 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~~Market Annex Activities.

Vendor Classification	Permissible Activities
Community Group	• Selling or Offering for Sale Books • Providing Free Promotional Materials
Health Organization	• Outreach and Education related to Public Health • Non-Invasive Medical Testing (e.g., Heart Rate Tests, Saliva Swab Testing)
Local Business	• Selling or Offering for Sale Processed Food Intended for Human Consumption or Cookware Used for Food Preparation

Only Market-Compatible products ~~permitted by this Section~~ may be sold or offered for sale in the Market Annex~~:~~. The Market Annex may not be used for fundraising activities or to advertise fundraising events.

~~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~~any 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~~stall.

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; nonprofit fundraising; and unauthorized solicitation. For purposes of this prohibition, "unauthorized solicitation" means solicitation that is not conducted from an authorized ~~selling space~~stall 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.

7. Processed Foods. Where required, processed foods (juice, dried fruits, etc.) must be validated with documentation issued by the County Health Department where Vendor processes foods and a Health Department permit may be required for any vehicle transporting processed foods that require special handling. Producers of processed foods must comply with all pertinent State and Los Angeles County Health Department requirements, including any documentation for the handling, processing and sale of processed foods. Processed food producers must complete a "Processed Foods Reporting Form" with the Los Angeles County Health Department and obtain appropriate health permits for processing and selling agricultural products.

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:

Vendor Classification	Stall Fee (per Market day)

•Community Group	$25.00
Health Organization	$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~~Stalls

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

2. Size. Vendors' ~~selling space~~stall 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~~stall 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~~stall in the Market Annex.

4. Signage. Each Vendor's ~~selling space~~stall must have ~~its firm~~the entity's 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~~stall 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~~stall 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~~stall 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~~stall 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:_____

Document comparison by Workshare Professional on Wednesday, August 07, 2013 4:10:46 PM

Input:	
Document 1 ID	interwovenSite://RWGDMS2/RWGIMAN1/1607931/1
Description	#1607931v1<RWGIMAN1> - BH - From Greta - Old market annex rules
Document 2 ID	interwovenSite://RWGDMS2/RWGIMAN1/1605700/2
Description	#1605700v2<RWGIMAN1> - BH - Revised Market Annex Rules
Rendering set	standard

Legend:	
Insertion	
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~~Moved from~~	
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Style change	
Format change	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	58
Deletions	54
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	112

Attachment 2

BEVERLY HILLS FARMERS' MARKET ANNEX

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Revised August 2013

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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:_____