CITY OF BEVERLY HILLS
STAFF REPORT

Meeting Date: October 15, 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

INTRODUCTION

Staff has been approached by the Beverly Hills Weekly regarding a request to amend the recently revised Market Annex Rules approved by City Council on September 10, 2013. At that time, the Market Annex Rules were amended to allow booth space for nonprofit healthcare organizations. Beverly Hills Weekly had requested to modify the number of times a healthcare organization can participate at the Farmers' Market and to waive the assessment of the $25.00 booth fee, but recently changed this request. After having a Market Annex booth on September 29, 2013, staff asked if they wanted to keep their same request to amend the Market Annex Rules. They responded that they would be willing to do four times a year, but still wanted the $25.00 booth fee waived.

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. At the time of adoption in 2006, groups eligible to participate must fall under the definitions established for a "Community Group" and "Local Business." The rules were recently amended and adopted by City Council on September 10, 2013 to include participation of a "Health Organization," which is defined as a corporation organized under the Nonprofit Public Benefit Corporation Law (or an equivalent statue) that has as one of its primary purposes outreach and education regarding public health. Fees for this new "Health Organization" category were recommended in the staff report at the September 10, 2013 City Council Study Session to remain consistent to those $25 fees historically charged for Community Groups, and that no other changes in the Market Annex Rules were deemed appropriate. The fees charged have never been questioned as a problem or a hardship by the participants.

Groups can participate up to four times in a 12-month period. Due to limited space, only two stalls are dedicated to the Market Annex each week.

A request had been made by the Beverly Hills Weekly to increase the number of days a group may participate in the Market Annex and to waive the assessment of the $25 booth fee. After participating in the Market Annex on September 29, 2013, the Beverly Hills Weekly would be willing to abide by the four times per year, but want the $25.00 booth fee waived.

FISCAL IMPACT

As stated in the recently revised Market Annex Rules, eligible Community Groups and Health Organizations would be charged a stall fee of $25 and Local Businesses would be charged a stall fee of $75 per Market day. There would not be any additional staff costs incurred.

RECOMMENDATION

Staff seeks direction for proposed amendments to the existing Market Annex Rules as they pertain to the assessment of participation fees.

Approved By

Attachment 1

BEVERLY HILLS FARMERS' MARKET ANNEX

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 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 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 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 one of its primary 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.

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

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

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

7. "Vendor." A Vendor is defined as a Community Group, Health Organization, or Local Business approved to engage in 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. 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 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.

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 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 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 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. Stalls

1. Number of Spaces. No Vendor can use two separate 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. Each stall shall be no larger than 10 feet by 10 feet in size. No portion of a Vendor's display may extend into the fire lane.

3. Equipment. The City shall provide each Vendor one (1) table, one (1) canopy that is 10 feet by 10 feet in size, and two (2) chairs for the Vendor's stall in the Market Annex.

4. Signage. Each Vendor's stall must have 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 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 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 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 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:_____