

MEMORANDUM

TO: Public Market Advisory Commission

FROM: Sarah DeWitt, Farmers Market Manager

DATE: November 13, 2014

SUBJECT: Public Market Operating Rule Updates

In response to vendor input regarding the proposed increase to the minimum attendance requirement (Section II.3), staff has withdrawn the recommendation proposed at the October 23, 2014 Public Market Advisory Commission meeting to increase the requirement from 15 to 20 times within a fiscal year. Staff recommends that the Market Commission review and revisit this recommendation during the 2016 fiscal year (July 2015 – June 2016) in order to assess options for change and to gather additional input from market vendors and staff.

The following Public Market Operating Rule changes are proposed in order to further align the Market Operating Rules with staff procedures, to support fair and efficient market processes, to foster a continually committed vendor base and to expand our efforts to provide a vibrant local food experience for the community.

Vendor definitions (Section II.2) have been updated to reflect clearer categories for acceptable products and the category of Food Cart Vendor has been revised to Mobile Food Vendor. This vendor definition corresponds with the newly created Vendor Status of Daily Mobile Food Vendor (Section II.3), which describes the space availability for Mobile Food Vendors within the market.

Other areas of the Market Rules which have been updated to reflect the revised Mobile Food Vendor category include Seniority (Section II.4.D), Stalls (II.5.E), Applications (III.1.D), Fees (III.2.E), Stall Assignment (IV.3), Parking (IV.5) and Vendor Operations (V.1.M).

More specific attendance waiver deadlines have been included in Section II.3.

Master Vendor Lists (formerly Section II.4) have been recommended for removal from the rules as the Sign-In Sheets specified in the rules (Section IV.2) already provide for the tracking of attendance, seniority and stall assignments.

Details have been added to the Assignment of Annual Stalls and Parking (Section III.3) in order to reflect current staff procedures which have substantially improved the efficiency and transparency of the process in the past two years.

Clarifications for inspection payments (Section III.4) have been added in order to align the Market Rules with sound financial practices.

Traditionally no market has been held on the Wednesday following Christmas day; thus the Market Hours (Section IV.1) have been updated to align current practice with the Market Rules.

A track-changed version of the proposed changes for the Market Operating Rules has been provided for your reference. Additionally, the following pages outline each of the rule changes with supporting information regarding the reasons for the changes.

Section II.1. Vendor Definitions currently include the following:

Producer: A Producer is a vendor who grows and offers for sale one or more of the following items: edible grains, fruits, vegetables; live plants, trees, shrubs, cut flowers; apiary products; maple syrup and sugar; general farm products such as eggs and poultry; and, food prepared from such produce, including baked goods, jams, and jellies. A Producer who offers for sale a majority of Artisan products on more than 33% of the Market days that he/she attends in any fiscal year shall be recategorized as an Artisan and shall lose his/her Annual Vendor status, if any, and be placed in the last position of seniority on the Daily Vendor List.

Artisan: An Artisan is a vendor who uses creative skills in manufacturing, writing, or arranging materials resulting in a finished product, and offering for sale one or more of these created products such as: toys, furniture, jewelry, decorative items, holiday greens items, apparel, pottery, candles, cook books, or other books pertaining to Market activities, etc. Vendors must use considerable time and effort to produce a finished product, as determined by the Market Manager. An Artisan who offers for sale a majority of Producer products on more than 33% of the Market days that he/she attends in any fiscal year shall be recategorized as a Producer and shall lose his/her Annual Vendor status, if any, and be placed in the last position of seniority on the Daily Vendor List.

Food Cart Vendor: A Food Cart Vendor is a vendor who sells food items for immediate consumption that are made or prepared at the Market or prior to the Market by the vendor and offered for sale at the Market from a licensed cart. Food Cart Vendors may not offer products that directly compete with items offered for sale by Producers or Artisans.

In order to provide more clarification on allowable products, and in an effort to increase the presence of ready-to-eat food options at the market, we propose the following updates to Vendor Definitions, which includes a revised category titled "Mobile Food Vendor":

Producer: A Producer is a 1) vendor who grows and/or raises and offers for sale one or more of the following items: fresh produce, edible fungi, edible grains, meat, fish, dairy, eggs, live plants, cut flowers, apiary products, maple syrup and sugar, and/or 2) a vendor who makes and offers for sale value-added and prepared foods. A Producer who offers for sale a majority of Artisan products on more than 33% of the Market days that he/she attends in any fiscal year shall be recategorized as an Artisan and shall lose his/her Annual Vendor status, if any, and be placed in the last position of seniority on the Daily Vendor List.

Artisan: An Artisan is a vendor who uses creative skills in manufacturing or arranging materials resulting in a finished product, and offering for sale one or more of these created products such as: toys, furniture, jewelry,

decorative items, holiday greens, apparel, and pottery, etc. Vendors must use considerable time and effort to produce a finished product, as determined by the Market Manager. An Artisan who offers for sale a majority of Producer products on more than 33% of the Market days that he/she attends in any fiscal year shall be recategorized as a Producer and shall lose his/her Annual Vendor status, if any, and be placed in the last position of seniority on the Daily Vendor List.

Mobile Food Vendor: A Mobile Food Vendor is a vendor who sells food items that the vendor produces for immediate consumption which are prepared by the vendor at the Market in a licensed unit or prior to the Market in a licensed kitchen.

Section II.3. Vendor Status currently articulates the following information regarding attendance waiver parameters for Annual and Daily vendors:

Annual Vendors: Annual Vendors are Producers or Artisans who are assigned a stall or stalls on an annual basis and who pay stall fees annually.

- A. An Annual Vendor shall attend Market at least 15 times in any given fiscal year in order to maintain their seniority and Annual Vendor status.
- B. An Annual Vendor who does not attend Market at least 15 times in any given fiscal year due to extenuating circumstances may petition the Community Services Administrator or his/her designee for a waiver of attendance requirements.
- C. An Annual Vendor who does not attend Market at least 15 times in a fiscal year, and has not received a waiver, shall lose his/her Annual Vendor status and be placed on the Daily Vendor List in the last position of seniority, effective the following fiscal year.

Daily Vendors: Daily Vendors are Producers, Artisans, or Food Cart Vendors who are assigned a stall or stalls on a per Market day basis, and may pay stall fees on each market day or annually.

- A. A Daily Vendor shall attend Market at least one time in any given fiscal year to remain on the Daily Vendor List and at least 15 times in any given fiscal year in order to maintain their seniority.
- B. A Daily Vendor who does not attend Market the minimum number of times due to extenuating circumstances may petition the Community Services Administrator or his/her designee for a waiver of those requirements.
- C. A Daily Vendor who does not attend Market at least 15 times in any given fiscal year, and has not received a waiver, shall be placed in the last position of seniority.
- D. A Daily Vendor who does not attend Market at least one time in any given fiscal year, and has not received a waiver, shall be removed from

the Daily Vendor List and must submit a new vendor application the following year.

In order to clarify the process for seeking an attendance waiver, more specific waiver deadlines have been added, as is a new Vendor Status to accommodate the updates to the Mobile Food Vendor category:

Annual Vendors: Annual Vendors are Producers or Artisans who are assigned a stall or stalls on an annual basis and who pay stall fees annually.

- A. An Annual Vendor shall attend Market at least 15 times in any given fiscal year in order to maintain their seniority and Annual Vendor status.
- B. An Annual Vendor who does not attend Market at least 15 times in any given fiscal year due to extenuating circumstances may petition the Community Services Administrator or his/her designee for a waiver of this attendance requirement. Petition for waiver of the attendance requirement must be submitted to the Market Manager by the June 30th of the fiscal year for which the waiver is requested.
- C. An Annual Vendor who does not attend Market at least 15 times in a fiscal year, and has not received a waiver, shall lose his/her Annual Vendor status and be placed on the Daily Vendor List in the last position of seniority, effective the following fiscal year.

Daily Vendors: Daily Vendors are Producers or Artisans who are assigned a stall or stalls on a per Market day basis, and may pay stall fees on each Market day or annually.

- A. A Daily Vendor shall attend Market at least one time in any given fiscal year to remain on the Daily Vendor List and at least 15 times in any given fiscal year in order to maintain their seniority.
- B. A Daily Vendor who does not attend Market the minimum number of times due to extenuating circumstances may petition the Community Services Administrator or his/her designee for a waiver of this attendance requirement. Petition for a waiver of the attendance requirement must be submitted to the Market Manager by the June 30th of the fiscal year for which the waiver is requested.
- C. A Daily Vendor who does not attend Market at least 15 times in any given fiscal year, and has not received a waiver, shall be placed in the last position of seniority.
- D. A Daily Vendor who does not attend Market at least one time in any given fiscal year, and has not received a waiver, shall be removed from the Daily Vendor List and must submit a new vendor application the following year.

Daily Mobile Food Vendors: Daily Mobile Food Vendors are Mobile Food Vendors who are assigned a designated mobile food stall by the

Market Manager on a per Market day basis, and may pay stall fees on each Market day or annually.

- A. A Daily Mobile Food Vendor may only attend market on predetermined dates as assigned by the Market Manager.
- B. At the discretion of the Market Manager, a Daily Mobile Food Vendor who does not attend Market on an assigned date may lose the ability to attend the market for the remainder of the year.

Section II.4 currently describes Master Vendors Lists for the purpose of tracking seniority and attendance. As Section IV.2 already provides for Sign-In Sheets which can be used to track attendance and seniority, we recommend that the Master Vendors Lists in Section II.4 be eliminated.

Section II.3 (which will become Section II.4 under these revisions) determines the seniority status for market vendors. The addition of Section II.4.D will address the seniority status of Mobile Food Vendors:

Daily Mobile Food Vendors shall not be eligible for seniority. The Market Manager may give preference for application acceptance and stall assignments to those Daily Mobile Food Vendors who previously operated under the Mobile Food Cart category at the Market.

Section II.5.E provides certain guidelines for Food Cart Vendors:

The total number of stalls available for use by Food Cart Vendors may not exceed four on any given Market day.

In order to provide appropriate space assignments to Mobile Food Vendors, we propose the following revision:

Daily Mobile Food Vendors may only use designated stalls as assigned by the Market Manager.

Under Sections III.1.C, III.1.D and III.2.E we propose the addition of “Mobile Food Vendors” to account for this third vendor category. The additions are noted below with underlining:

1. Vendor Applications

A. Annual Vendors and existing Daily Vendors must have submitted a vendor application for the upcoming fiscal year by March 1st. Applications shall include a list of all products that will be offered for sale at the Market, copies of all current licenses and inspections pertaining to the business and operations of the vendor, a signed and notarized affidavit, and other relevant information as determined by the Market Manager. Any changes or updates to the yearly application must be submitted on a Vendor Application Update Form and approved by the market manager prior to the date on which the changes take effect. Vendors whose

application is not received by the Market Manager by March 1st shall forfeit their vendor status effective July 1st of the upcoming fiscal year. Any vendor who has missed the application deadline may reapply at any time as a new Daily Vendor with a new seniority date.

B. A vendor may petition the Community Services Administrator or his/her designee for a waiver of the application deadline based on extenuating circumstances. A petition for waiver of the application deadline must be received by the Market Manager within 10 days of the application deadline.

C. New Daily Vendors and Mobile Food Vendors may complete a vendor application at any time.

D. Daily Mobile Food Vendors must reapply for stalls every year.

2. Fees for Annual and Daily Vendors

A. Annual Vendors shall submit payment for annual stalls and parking fees by June 30th. Annual Vendors whose stall and parking fees are not received by June 30th shall lose their annual seniority and shall be placed in the last position of seniority on the Daily Vendor List.

B. Annual Vendors may petition the Community Services Administrator or his/her designee for a waiver of the payment deadline based on extenuating circumstances. A petition for waiver of the payment deadline must be received by the Market Manager within 10 days of the payment deadline.

C. Stall and parking fees for Daily Vendors shall be paid by 10 a.m. on each Market day. Daily Vendors may also pay stall and parking fees annually.

D. Fees for additional stalls and parking spaces that are assigned to vendors on individual Market days shall be paid by 10 a.m. of the same day.

E. Fees for Mobile Food Vendors shall be paid when they arrive on each Market day. Mobile Food Vendors may also pay stall and parking fees annually.

Section III.3 describes the yearly process of assigning stalls to new and existing annual vendors. The current process is written:

Assignment of Annual Stalls and Parking

If additional Annual Vendor stalls and parking spaces become available at the beginning of each fiscal year due to vendors leaving the Market or vacating stalls, the Market Manager shall assign the additional stalls in the following progression:

A. Annual Vendors shall be assigned their existing stalls and parking, unless they wish to relocate.

B. Annual Vendors who wish to relocate their stalls and parking shall be reassigned stalls and parking based upon availability and order of seniority.

C. One half of the additional stalls shall be assigned to existing Annual Vendors, and one half shall be assigned to new Annual Vendors. If there are an odd number of stalls available, the one additional stall shall be assigned to a new Annual Vendor.

D. Existing Annual Vendors with less than the maximum number of stalls, who wish to add an additional stall, shall be assigned one additional stall in order

of seniority up to the maximum number of stalls allowable until all available stalls are assigned.

- E. Daily Vendors, who are not Food Cart Vendors, shall have the option to become new Annual Vendors based upon seniority. New Annual Vendors shall be assigned one stall each in order of seniority as established by the Daily Vendor List, until all available stalls are assigned.

In order to align the Operating Rules with current procedure, the following details are proposed for Section III.3 in the numbered lists following each lettered rule:

If additional Annual Vendor stalls and parking spaces become available at the beginning of each fiscal year due to vendors leaving the Market or vacating stalls, the Market Manager shall assign the additional stalls in the following progression:

- A. The Market Manager shall select the Annual Vendor Move Up Day and shall inform all existing and new Annual Vendors of the selected date. The Move Up Day shall be a Saturday.
- B. Annual Vendors shall be assigned their existing stalls and parking, unless they wish to relocate.
 - 1. All Annual Vendors wishing to move to another stall location must be present during the move up process on the Annual Stall Move Up Day.
 - 2. Vendors may also send a representative on their behalf if they are unable to attend the Move Up Day. The name of the representative shall be communicated to the Market Manager prior to the Move Up Day.
- C. Annual Vendors who wish to relocate their stalls and parking shall be reassigned stalls and parking based upon availability and order of seniority.
 - 1. At 3:30 p.m. on the Move Up Day, all Annual Vendors shall have 10 minutes to walk through the market to view all available stalls.
 - 2. At 3:45 p.m. the Market Manager shall begin with the first Annual Vendor with highest seniority according to the Annual Vendor Move-Up Sheet. When it is a vendor's turn to select stalls, the vendor may either relocate or wait until new stalls become available.
 - 3. Following a vendor relocation, the Market Manager will resume the Move Up process beginning with the Annual Vendor with highest seniority who has not yet relocated.
 - 4. Each Annual Vendor shall be permitted to relocate only once during the Move Up Day.
- D. One half of the additional stalls shall be assigned to existing Annual Vendors, and one half shall be assigned to new Annual Vendors. If there are an odd number of stalls available, the one additional stall shall be assigned to a new Annual Vendor. Daily Vendors shall have the option to become new Annual Vendors based on seniority. New Annual Vendors shall be assigned one stall each in order of seniority as established by the Daily Vendor List, until all available stalls are assigned.
 - 1. Once all existing Annual Vendors have finished moving, the new Annual Vendors shall have 10 minutes to review the available stalls.

Each Annual Vendor shall choose their one permanent stall in order of their seniority on the Daily Vendor Sign-In Sheet.

- E. Existing Annual Vendors with less than the maximum number of stalls, who wish to add an additional stall, shall be assigned one additional stall in order of seniority up to the maximum number of stalls allowable until all available stalls are assigned.
 - 1. Once all new Annual Vendors have chosen their permanent stall, any existing Annual Vendors wanting additional stalls shall have 10 minutes to review the available stalls. Existing Annual Vendors in this category shall then choose from the remaining available stalls.

Section III.4 currently outlines Vendor Inspections as follows:

- A. Any new vendor who submits a vendor application shall have an inspection of his/her place of making, growth, or production of food or products offered for sale at Market within 60 days of the Market Manager's receipt of the application, or within 60 days of when products offered for sale are in production.
- B. All vendors shall be inspected at least once every two years to ensure compliance with the Market Rules and Chapter 31 of Ann Arbor City Code.
- C. Inspections shall be conducted at times that are reasonable for the various products listed on the vendor application by a Market Inspector who is knowledgeable about the various products and the means of producing them, or by the Market Manager.
- D. Vendors must pay the designated inspection fee at the time of inspection, and an inspected vendor shall be provided with a copy of the inspection report within 30 days of its completion.
- E. A vendor who has been found to offer for sale articles that are not made, grown, or produced by the vendor shall be immediately expelled from the Market and shall forfeit all fees.
- F. If a vendor refuses to be inspected, that vendor shall be expelled immediately from the Market and shall forfeit all fees.

In order to comply with the recommendations of the City's finance staff as well as to ensure timely and appropriate payment for inspections, we propose the following changes to Section III.4:

- A. Any new vendor who submits a vendor application shall have an inspection of his/her place of making, growth, or production of food or products offered for sale at Market within 60 days of the Market Manager's receipt of the application, or within 60 days of when products offered for sale are in production.
- B. All vendors shall be inspected at least once every two years to ensure compliance with the Market Rules and Chapter 31 of Ann Arbor City Code.

- C. Inspections shall be conducted at times that are reasonable for the various products listed on the vendor application by a Market Inspector who is knowledgeable about the various products and the means of producing them, or by the Market Manager.
- D. Vendors shall pay the designated inspection fee within 30 days of the invoice date, and an inspected vendor shall be provided with a copy of the inspection report within 30 days of its receipt by the market manager.
- E. Vendors who do not appear at the scheduled time of inspection shall pay the inspection fee and inspector mileage for the cancelled inspection within 30 days of the invoice date. The vendor shall also pay the inspection fee for the date on which the inspection is completed.
- F. A vendor who has been found to offer for sale articles that are not made, grown, or produced by the vendor shall be immediately expelled from the Market and shall forfeit all fees.
- G. If a vendor refuses to be inspected, that vendor shall be expelled immediately from the Market and shall forfeit all fees.
- H. Any vendor that has overdue inspection fees shall not be allowed to sell at the Market until such fees have been paid.

In Section IV.1 we propose an additional clarification to the market hours in order to align the Operating Rules with current practice:

There will be no market on the Wednesday after Christmas Day (December 25).

Section IV.2 gives the definition for the Daily Vendor Sign-In Sheets as follows:

- B. Daily Vendor Sign-In Sheet: This vendor sheet shall be used to track Daily Vendor attendance and to assign Daily Vendor stalls.

In order to clarify that the Sign-In Sheets will also function to track seniority, the following additions are proposed:

- B. Daily Vendor Sign-In Sheet: This vendor sheet shall list Daily Vendors in order of seniority, shall be used to track Daily Vendor attendance and to assign Daily Vendor stalls.

Additionally in Section IV.2, we recommend the removal of item D which refers to the Daily Move Up Sheet. The Daily Vendor Sign-In Sheet sufficiently tracks the seniority and assignment of stalls.

Section IV.3 includes the following explanation regarding the assignment of stalls:

During stall assignment, Producers may be assigned a maximum of three stalls, Artisans a maximum of two stalls, and Food Cart Vendors a maximum of two stalls, except for vendors who shall have a greater maximum based on the number of stalls assigned to them prior to the adoption of these Market Rules.

Once stall and parking assignments have been made, a vendor shall not move to other stalls or parking spaces without the Market Manager's prior approval in accordance with the move-in procedure.

We recommend the following updates to accommodate the proper assignment of Mobile Food Vendor stalls, at the discretion of the Market Manager and based upon space availability:

During stall assignment, Producers may be assigned a maximum of three stalls, Artisans a maximum of two stalls, except for vendors who shall have a greater maximum based on the number of stalls assigned to them prior to the adoption of these Market Rules.

Once stall and parking assignments have been made, a vendor shall not move to other stalls or parking spaces without the Market Manager's prior approval in accordance with the move-in procedure.

Daily Mobile Food Vendors shall arrive at the time determined by the Market Manager and shall set up only in their designated stall, which shall be assigned by the Market Manager upon their arrival.

Section IV.5 determines the assignment of vendor parking within the market. Mobile Food Vendors will be assigned parking in the same manner as Daily Vendors. These additions have been noted as underlined:

- A. Parking spaces assigned to Annual Vendors shall be allotted at the same time annual stalls are assigned.
- B. Daily Vendors and Daily Mobile Food Vendors shall be assigned parking spaces as available on any given Market day.
- C. Daily Vendor and Daily Mobile Food Vendor vehicles must remain outside the Market parking lot until they have been assigned a stall and/or parking.
- D. Any time that there are parking space vacancies, the Market Manager may reassign those spaces at his/her discretion. Vendors may be assigned these spaces on a daily basis and may be required to pay a daily parking fee.
- E. Any disputes over parking shall be resolved by the Market Manager and may result in the immediate loss of parking for the day or for up to a 12 month period at the discretion of the Market Manager.

Within Section V.1, the Market Rules specific the following attendance requirement:

- M. Vendors shall attend Market from open to close (7 a.m. or 8 a.m. until 3 p.m.) on a Market day that they are in attendance. Leaving early from Market

without providing the Market Manager with a reasonable explanation may result in loss of attendance for that day. Reasonable explanations for leaving early include, but are not limited to selling out of food or products, extreme weather, and schedule conflicts.

In order to accommodate the market arrival and departure times for Mobile Food Vendors, which may not coincide with the entirety of the market day, the following update is recommended:

- M. Vendors shall attend Market from open to close (7 a.m. or 8 a.m. until 3 p.m.) or for a different time period designated by the Market Rules or by the Market Manager on a Market day that they are in attendance. Leaving early from Market without providing the Market Manager with a reasonable explanation may result in loss of attendance for that day. Reasonable explanations for leaving early include, but are not limited to selling out of food or products, extreme weather, and schedule conflicts.