



Memo

To: City Council
From: Katy Haima - Community Planning Intern
Date: May 19, 2014

Re: Ordinance Establishing Licensing Requirements and Fees for Public Markets

Background

Building upon the success of the Second Street Market the City seeks to establish new licensing requirements for public markets that may occur on public or private property to provide improved clarity for the establishment and management of public markets.

The proposed ordinance establishes licensing requirements and fees for public markets. Public markets are established as follows

"Public market" shall mean an indoor and/or outdoor retail market open to the public for more than three days in a calendar year and consisting of two or more independent vendors, with each vendor operating independently from other vendors and subleasing booths, stalls or tables for the purpose of selling farm-grown or home-grown produce, food, flowers, plants or other similar perishable goods, and/or new wares, used goods or merchandise.

Public market license

A public market license is issued to the sponsor that provides, sale spaces, either directly or indirectly to vendors. The issuance of a public market license to a sponsor serves as a master license for vendors renting or leasing space at the market. Individual vendors are not required to obtain a separate business license, unless they engage in other business activities subject to licensing provision. City Sponsors must supply the City with a list of vendors on the application, and update the list prior to any changes of vendors.

Applicants for a public market license shall pay a \$100.00 fee that will serve as a business license for the entire market operation. The license is limited to number of days approved for operation, and expires on December 31 of the year of issuance.

Public market locations

Under the licensing requirements, public markets are allowed to locate in the Central Business District and on public land on temporary sites with authorization from the Council.

The Planning Official shall approve applications for public markets on private property.

The Council shall approve applications for public markets operating within a public right of way or on public property. Public markets on public lands must operate one day a week or less. Licenses to conduct public markets on public right-of-ways or public property shall only be issued to nonprofit community organizations. The Council has discretion in approving or denying the application based on public interest, and may place conditions on the approval of the application to address potential negative impacts. Applicants must provide information regarding event management, including a supervising market manager, locations of facilities, waste management, and signage.

Recommendation:

The City Attorney has reviewed the ordinance and staff recommends the City Council approve ordinance 1001 establishing licensing requirements and fees for public markets in Title 5 of the Langley Municipal Code.

**CITY OF LANGLEY
ORDINANCE NUMBER 1001**

**AN ORDINANCE OF THE CITY OF LANGLEY, WA ESTABLISHING
LICENSING REQUIREMENTS AND FEES FOR PUBLIC MARKETS IN TITLE 5
OF THE LANGLEY MUNICIPAL CODE**

WHEREAS, The success of the Second Street Market has shown that such markets can have a positive effect on the lives and prosperity of the community; and

WHEREAS, This ordinance will enable licensing of public markets that operate in the City of Langley; and

WHEREAS, Public market vendors contribute to diversity of retail options and a more vibrant retail business climate; and

WHEREAS, Public markets provide low-cost business opportunities to help local and regional entrepreneurs develop a loyal clientele; and

WHEREAS, Public markets may seek opportunities to locate operations in a way that contribute to Langley's character and quality of life.

NOW THEREFORE, be it obtained by the City Council of the City of Langley, Washington as Follows:

Section 1. New Section 5.30 establishing licensing requirements for public markets.

**Chapter 5.30
Public Markets**

5.30.010 Definitions

5.30.020 Locations.

5.30.030 Activities requiring a license.

5.30.040 Exemptions.

5.30.050 Compliance with business licensing provisions.

5.30.060 Sponsor licensee – Business license required when.

5.30.070 License fee.

5.30.080 Term of license.

5.30.090 Application for license.

5.30.100 Records.

5.30.110 Administration.

5.30.120 Violation of the provisions of the chapter – Civil infraction.

5.30.010 Definitions.

A. “Public market” shall mean an indoor and/or outdoor retail market open to the public for more than three days in a calendar year and consisting of two or more independent vendors, with each vendor operating independently from other vendors and subleasing booths, stalls or tables for the purpose of selling farm-grown or home-grown produce, food, flowers, plants or other similar perishable goods, and/or new wares, used goods or merchandise.

B. “Vendor” shall mean any person, association, group, partnership, corporation or firm who exhibits goods or services in a public market provided through a duly licensed sponsor, for the purpose of selling, bartering, trading, exchanging or advertising such goods or services for sale.

C. “Sponsor” shall mean any person, association, group, partnership, corporation or firm engaged in the business of providing to any vendor, directly or indirectly, sale spaces, areas or structures within a site licensed for a public market for the purpose of using such location during the term of the market’s license.

D. “Temporary Site” shall mean a market location that is seasonal and operates one day a week or less.

E. “Market Manager” shall mean the designated contact person responsible for the supervision, management, and control of the public market.

5.30.020 Locations.

A. Public markets may be licensed in the Central Business District and on publically owned right-of-ways, parks and open spaces.

B. Public markets may be permitted in public areas on temporary sites as authorized by the city council.

C. A public market may not be established in any manner that impedes or impair emergency response service ingress and egress, or impedes or impairs any emergency response service access to any fire hydrant or building. No public market vendor or any vehicle shall be located within fifteen feet of [insert?].

5.30.030 Activities requiring a license.

It shall be unlawful for any person to own, use or permit property to be used as a public market until the market and site have been licensed under this chapter. No person shall then sell or offer for sale products at any location in conjunction with a market activity until sponsor has been duly licensed and each vendor submitted to the city. Nothing in this chapter shall be deemed to authorize activities to be conducted in accordance with the market's activities unless appropriately licensed as required under another provision of this code; provided, however, that business license requirements are limited to the public market activities. Individual vendors operating within a properly licensed public market and with the permission of the market manager need not obtain a separate business license from the city to sell goods within the market.

A. It shall be unlawful for any person to sell or offer for sale goods at a public market unless such person has been listed on the application of the public market licensee and has paid the processing fee specified herein.

B. All structures employed on the site shall comply with the requirements of the State Building Code, including but not limited to the Uniform Building and Fire Code elements.

C. The activities of outdoor public market shall be limited to daylight hours, PROVIDED THAT such limitation shall not apply to activities that take place within a fully enclosed building.

5.30.040 Exemptions.

The provisions of this chapter shall not be applied to:

- A. Require any farmer, gardener or other person who sells any fruits, vegetables or other farm produce or edibles produced by such person, and exempt pursuant to RCW 36.71.090 from paying any fee or application. Such persons are exempt from the licensing and fee requirements but may be listed by the licensee as a vendor when sales are conducted in conjunction with a public market.
- B. Temporary Business Activities in accordance with LMC chapter 5.10.

5.30.050 Compliance with business licensing provisions.

Licenses to conduct public markets on public rights-of-way or public property shall be issued only to nonprofit community organizations. "Nonprofit community organizations" are hereby defined to mean: bona fide nonprofit organizations recognized by the United States Internal Revenue Service as a charitable institution exempt from taxation under Section 501(C)(3) of the Internal Revenue Code and whose principal offices or meeting place is located within the City of Langley.

Sponsors that do not qualify as non-profit organizations must comply with all applicable Business License provisions set forth in the LMC including, but not limited to, Chapter 5.04 LMC.

5.30.060 Sponsor licensee – Business license required when.

The issuance of a public market license to the sponsor is intended to serve as a

master license authorizing limited business activities within the market. Vendors at the markets renting or leasing space from the master licensee are not required to have a city business license unless they engage in other business activities subject to licensing under the provisions of this title.

5.30.070 License fee.

An applicant for a license to operate a public market shall pay a \$100.00 fee. This fee is based upon the cost to the city of reviewing and processing the application and shall be submitted in conjunction with the application. The license fee is in addition to the fee associated with a parade/event permit that covers the costs to the city for events that occur on public property. No application shall be deemed complete until all fees have been paid.

5.30.080 Term of license.

Each license issued under this chapter shall be limited to the number of days approved for operation for the public market for which the license was issued within the same calendar year. Licenses shall expire on December 31 of the year of issuance unless an earlier date is specified in the license.

5.30.090 Application for license.

Each applicant for a license to operate a public market shall file an application with the city clerk accompanied by the license fee. The application shall be in writing and submitted on a form prepared by the city clerk and signed by the applicant.

In addition to such other information as the city clerk shall require, the application shall be accompanied by a list of each and every vendor participating or anticipated to participate in the market for which the license is sought. The listing shall include the vendor's name, address and business phone number together with a general description of goods and/or services offered by each vendor. Any

changes in the list of vendors shall be provided to the city clerk in a minimum of three business days prior to the date of the proposed change (i.e., the first date at which the new vendor will participate in the market).

A. Applications for a public market on private property shall be approved by the Planning Official following consultation with other city departments.

B. Applications for a public market operating within a public right of way or on public property for more than three days in a calendar year shall be approved by the city council. Public markets operating within a public right of way must obtain an event/parade permit. The city council has full legislative discretion in approving or denying an application for a public market within a city right of way or on public property based on the public interest. The council may place conditions on the approval of the application to address any negative impacts that may result from the operation of the public market.

The application shall give the applicant's nonprofit organization's business address and principal business location, a copy of documents demonstrating its charitable nonprofit status as well as the residence address and phone number of the applicant's agent. In addition to such other information as the city clerk shall require, the application shall be accompanied by:

1. A plot plan showing the location of any outdoor facilities or activities.

Adequate parking and ingress and egress shall be maintained during the course of this temporary special event. Adequate precautions shall be put in place to prevent vehicular access to pedestrian pathways within the confines of the activity. Applications to utilize a site or lot already occupied by an existing business shall show on the plot plan the location of all parking required to be provided under LMC 18.22.130. '

2. A designated market manager who is responsible for the supervision, management, and control of the licensed market. The market manager or

designee is responsible for the operation of the public market, and must be present on site during all hours of operation.

3. Provisions for event management and garbage control shall be addressed in a management plan. All tables, tents, booths, signs and other structures associated with the market shall be removed from public rights-of-way at the end of each day; provided, however, that approved outdoor storage may be provided between the close of business the day a public market is held and commencement of business the following morning on public land not located within public rights-of-way or on private property.

4. Garbage receptacles shall be strategically located and have sufficient capacity to accommodate the vendors and estimated members of the public in attendance. In addition the area shall be kept clean of rubbish, garbage, junk, waste paper, plastic, styrofoam cups, sacks, food and other waste. The city of Langley encourages the use of recycling receptacles and products whenever possible. The license holder shall be responsible to keep the area clean. The area to be kept clean shall include the area immediately surrounding sidewalks and public streets.

5. Temporary signage announcing the event shall be approved on the site in the licensing process.

6. The fire marshal shall designate appropriate fire lanes through the licensed area on the plot plan. These fire lanes are intended for pedestrian use and shall be kept free of structures, debris or other blockage. Failure to maintain appropriate fire lanes shall be cause for immediate revocation of the license. The police chief may, in his or her sole discretion, require that security personnel be provided by the public market during times and in a number designated by the police.

5.30.100 Records.

The named licensee sponsor of the public market shall maintain a record of all vendors participating in the public market. Such record shall be available for inspection by the city clerk or a designated agent during normal business hours of city offices.

5.30.110 Administration.

The license for a public market may be revoked at the discretion of the mayor or designee at any time for failure to comply with the provisions of this chapter or for violation of any other provision of the city code. Notice of revocation shall be served personally 24 hours prior to the date such revocation shall be effective. The licensee may appeal the revocation within ten days of service of the notice, by requesting a hearing before the Langley city council; provided, however, that in the interim no activity shall be conducted until such time as the Langley city council has heard the appeal of the licensee from the original determination of the mayor or designee.

5.30.120 Violation of the provisions of the chapter – Civil infraction.

Any person violating any of the requirements of this chapter shall have committed a civil infraction and shall be punishable by a fine of up to \$1,000.