

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 37.
WEIGHTS, MEASURES, AND MARKETS.

CHAPTER 1.
EASTERN MARKET MANAGEMENT AND
REGULATION.

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DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 1. EASTERN MARKET MANAGEMENT AND

REGULATION.

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CHAPTER 1. EASTERN MARKET MANAGEMENT AND REGULATION.

§ 37-101. DEFINITIONS.

For the purpose of this chapter, the term:

(1) "Agricultural products" means vegetables, fruits, grains, mushrooms, honey, plants, plant cuttings, flowers, herbs, nuts, seeds, bulbs, and rootstock and includes baked or processed foods that are:

(A) Processed in some way by the market vendor; and

(B) Approved by the regulatory authorities.

(2) "Antiques" means items of personal property manufactured or made more than 100 years ago.

(3) "Artist" means an individual who created the works of art offered for sale and includes two or more individuals who work together in creating individual works of art offered for sale.

(4) "Center hall" means the 3,160 square feet of the Eastern Market building on the first and second floors that is between the South Hall and North Hall and which, on April 16, 1999, contained a pottery studio and bathrooms.

(5) "Chief Property Management Officer" ("CPMO") means the Chief Property Management Officer of the Department of General Services.

(6) "Community Arts Center" means a space operated for the promotion of the arts including performances, exhibitions, sales, demonstrations and instruction.

(7) "Community group" means any District-based not-for-profit association or organization whose mission in some way serves the interests of the District's residents.

(8) "Compatible or complementary uses" means uses similar to the other permitted uses of Eastern Market Square or uses that would enhance and not detract from those uses.

(9) "Crafter" means an individual who created the hand-crafted goods offered for sale and includes two or more individuals who work together in creating individual hand-crafted goods offered for sale.

(10) "Eastern Market" means the building at Lot 800, Square 872 in the District of Columbia.

(11) "Eastern Market Community Advisory Committee" ("EMCAC"), means the advisory committee created in § 37-111.

(12) "Eastern Market special use area" means public land near Eastern Market Square, including but not limited to the playground and parking lot of Hine Junior High School and the Capitol Hill Natatorium Plaza.

(13) "Eastern Market Square" means the area between the south curb of North Carolina Avenue, S.E., and the north curb of C Street, S.E., and between the west curb of 7th Street, S.E., and the building line with the Capitol Hill Natatorium.

(14) "Eastern Market Tenants Council" means an Eastern Market tenants' group comprised of one representative of each major activity, including, but not limited to, the farmers, South Hall stall holders, Center Hall tenants, North Hall tenants, arts and crafts market vendors, and flea market vendors.

(15) "Farmer" means a market vendor who sells agricultural products, of which at least 70%, during the April-November harvest season was: (A) grown on land owned or leased by the market vendor; (B) grown on land neighboring the land owned or leased by the market vendor; (C) obtained directly from others who have grown the product on land which is owned or leased by the producer; or (D) in the non-harvest season of December-March, a market vendor who sells agricultural products in the harvest season, of which at least 30% was either (A), (B), or (C) of this paragraph.

(16) "Farmers' line" means that portion of the Eastern Market Square (under the existing shed) and extending north to North Carolina Avenue, S.E., and south of the shed along the sidewalk of 7th Street, S.E., to C Street, S.E., as well as the portion of the Eastern Market square between Eastern Market and the curb of C Street, S.E.

(17) "Food merchant" means a market vendor who sells agricultural products or prepared food, both home-grown and food obtained from wholesalers, but primarily from food wholesalers, to retail customers.

(18) "Food wholesaler" means vendors who sell agricultural products grown by themselves and others to a food merchant for resale to retail customers.

(19) "Hand-crafted goods" means items produced or created from raw or basic materials that are changed into a significantly different shape, design, form or function using a special skill, trade or manual art.

(20) "Importers of handcrafted and indigenous goods" means market vendors who sell items that are ethno-specific and are designed, produced and representative of the country of origin and purchased by the applicant in the country of origin or imported by the market vendor.

(21) "Market manager" means the not-for-profit association or corporation contracted to provide coordinated management for the Eastern Market Square and the individual or individuals designated to provide day-to-day management of the Eastern Market Square.

(22) "Market vendor" means an individual, association or corporation (including, but not limited to, any partnership, society, club, joint-stock company, estate, receiver, trustee, assignee, or referee, and any combination of individuals acting as a unit) with a currently enforceable contract or agreement with the market manager and engaged in selling any good in or about the Eastern Market Square and includes any artist, any crafter, any farmer and any merchant.

(23) "North Hall" means the 4,500 square feet of space on the ground floor of the North end of Eastern Market.

(24) "North Plaza" means that portion of Eastern Market Square bounded by the private right of way on the west, North Carolina Avenue, S.E., on the north, the Farmers' Line on the east, and the north face of the Eastern Market building on the south.

(25) Repealed.

(26) "Sidewalk market" means the areas, covered and uncovered, between the building and the street curbs on the south, east and north sides of the Eastern Market building on the Eastern Market Square.

(27) "Sidewalk market stall" means a sidewalk space of at least 32 square feet (normally eight feet by four feet) within which a market vendor is permitted to display and sell goods.

(28) "South Hall" means the 9,500 square feet of the ground floor and basement of the Eastern Market building at the southern end of the building closest to C Street, S.E.

(29) "Tenant" means an individual, association or corporation (including, but not limited to, any partnership, society, club, joint-stock company, estate, receiver, trustee, assignee, or referee, and any combination of individuals acting as a unit) but not limited to organizations and community groups having a written contract with the market manager to occupy space inside the Eastern Market building.

(30) "Vintage goods or collectibles" means any items of personal property previously purchased at retail.

(31) "Works of art" means drawings, paintings, sculptures, photographs, ornamental textiles, ornamental glass, ornamental pottery, and any other items created primarily for aesthetic appreciation.

(Apr. 16, 1999, D.C. Law 12-228, § 2, 46 DCR 1066; Apr. 20, 1999, D.C. Law 12-264, § 22(a), 46 DCR 1066; Sept. 26, 2012, D.C. Law 19-171, § 91(a), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-301.

Effect of Amendments

D.C. Law 19-171, in par. (5), substituted "Department of General Services" for "District of Columbia Office of Property Management"; and repealed par. (25), which had read:

"(25) 'Office of Property Management' ('OPM') means the District of Columbia Office of Property Management."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(a) of Eastern Market Emergency Amendment Act of 2008 (D.C. Act 17-570, November 7, 2008, 55 DCR 12114).

Legislative History of Laws

Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on

November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Law 12-228, the "Eastern Market Real Property Asset Management and Outdoor Vending Act of 1998," was introduced in Council and assigned Bill No. 12-477, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 2, 1998, and June 16, 1998, respectively. Signed by the Mayor on July 8, 1998, it was assigned Act No. 12-416 and transmitted to both Houses of Congress for its review. D.C. Law 12-228 became effective on April 16, 1999.

Law 19-171, the "Technical Amendments Act of 2012", was introduced in Council and assigned Bill No. 19-397, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 20, 2012, and April 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to both Houses of Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 37-102. COORDINATED MANAGEMENT.

(a) The Department of General Services shall supervise and provide coordinated management over all operations in the Eastern Market Square. On April 16, 1999, the District of Columbia shall notify any extant lessees and sub-assignees with an existing lease, contract, agreement or legally binding understanding with respect to any occupant or occupants of the Eastern Market building of the status of their lease or agreement, including the date of termination or expiration of their lease or sub-assignment or any other change to an agreement or legally binding understanding with the District of Columbia that is required by this chapter. The District of Columbia shall remain responsible for capital expenditures for Eastern Market and the Eastern Market Square.

(b) The CPMO may promulgate rules to implement this chapter.

(Apr. 16, 1999, D.C. Law 12-228, § 3, 46 DCR 1066; Sept. 26, 2012, D.C. Law 19-171, § 91(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-302.

Effect of Amendments

D.C. Law 19-171, in subsec. (a), substituted "Department of General Services" for "OPM".

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

For history of Law 19-171, see notes under § 37-101.

§ 37-103. ENTERPRISE FUND.

(a) There is established the Eastern Market Enterprise Fund ("Fund"), an interest-bearing account, pursuant to § 47-373(2)(C). The Fund shall be operated by the CPMO in accordance with general accepted accounting principles.

(b) The CPMO shall deposit into the Fund all revenues, proceeds, and moneys from whatever source derived which are collected or received by the CPMO on behalf of Eastern Market. These revenues, proceeds, and moneys shall be credited to the Fund and shall not, at anytime, be transferred to, lapse into, or be commingled with the General Fund of the District of Columbia, the Cash Management Pool, or any other funds or accounts of the District of Columbia, except for funds transferred to the District of Columbia Treasurer to pay all expenses related to the management and maintenance of the Eastern Market Square.

(c) All Eastern Market accounts shall be independently audited biennially by the District of Columbia Auditor, and the audit shall be submitted to the Mayor and the Council.

(Apr. 16, 1999, D.C. Law 12-228, § 4, 46 DCR 1066; Apr. 20, 1999, D.C. Law 12-264, § 22(b), 46 DCR 1066; Dec. 7, 2004, D.C. Law 15-205, § 1192(d), 51 DCR 8441.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-303.

Effect of Amendments

D.C. Law 15-205, in subsec. (c), substituted "biennially" for "annually".

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 1192(d) of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 1192(d) of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 37-101.

Law 15-205, the "Fiscal Year 2005 Budget Support Act of 2004", was introduced in Council and assigned Bill No. 15-768, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 2004, and June 29, 2004, respectively. Signed by the Mayor on August 2, 2004, it was assigned Act No. 15-487 and transmitted to both Houses of Congress for its review. D.C. Law 15-205 became effective on December 7, 2004.

§ 37-104. MARKET OPERATION.

Eastern Market shall be operated primarily as an indoor urban fresh food market and an outdoor Farmers' Line, with a community arts center and public meeting space in the North Hall, with an arts and crafts market and a flea market on the North Plaza, and with compatible uses in the Center Hall.

(Apr. 16, 1999, D.C. Law 12-228, § 5, 46 DCR 1066.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-304.

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

§ 37-105. MARKET MANAGER.

(a) The CPMO shall consult with the EMCAC in preparing each request for proposals ("RFP") which shall be issued by the District government for the selection of a market manager. The CPMO shall submit to the EMCAC each response to the market manager RFP for its review and recommendations. The CPMO shall consider the EMCAC's recommendations in selecting a market manager.

(b) The CPMO shall contract, in accordance with the provisions of this chapter and Unit A of Chapter 3 of Title 2, with one not-for-profit association or corporation having experience operating an historic urban fresh food or farmers' market, or experience relevant to the management of the activities described in subsection (c) of this section, and having access to sufficient working capital to manage and operate the Eastern Market Square on a self-sustaining basis as the market manager.

(1) The CPMO shall lease the Eastern Market Square, including the Eastern Market building and its public land and public space to the market manager who then may sublease by written contracts all or part of the building and public land and public space to one or more persons for use in accordance with this chapter. Existing leases, contracts, agreements, and legally binding understandings shall remain valid until the date of expiration or termination in accordance with the terms of the document, unless both parties agree otherwise. Pursuant to § 37-107, the sub-lease may be renewed under substantially similar terms, subject to the requirements set out in § 37- 107.

(2) The market manager shall act as the lessor's agent on any existing lease, contract, agreement, or legally binding understanding with respect to any occupant or occupants of the Eastern Market building.

(c) Any entity having an ownership, management or fiduciary interest in any activity subject to the management of the market manager shall be ineligible to be selected as the market manager. Any entity selected as the market manager may not engage in retail or wholesale sales on the Eastern Market Square.

(d) Subject to review and advice by the EMCAC, the market manager shall manage and operate the Eastern Market Square to accomplish the following:

(1) Retain its historic character as a food market and farmers' sidewalk market while continuing the sale of arts, crafts, antiques, and other items that complement a farmers' sidewalk market;

- (2) Maintain the Eastern Market Square and building;
 - (3) Protect the environment including the trees and tree boxes; and
 - (4) Ensure public health and safety.
- (e) The market manager shall attend all public meetings of the EMCAC and shall consider the EMCAC's recommendations concerning the management of Eastern Market.
- (f) The market manager shall prepare, prior to the start of each District government fiscal year budget preparation cycle, a budget for the annual operating expenses and any capital improvements that may be required, together with any necessary cost/benefit analyses, and shall submit this budget to the EMCAC for its review and recommendations at a public meeting. The market manager shall then submit this budget, along with the EMCAC's recommendations, to the CPMO, the Mayor and the Council for inclusion in the District of Columbia budget.
- (g) The market manager shall keep copies or electronic backup, stored off-site, by hard copy or tape, of the following:
- (1) All applications for sub-leases;
 - (2) All space sub-leases issued; and
 - (3) All receipts collected for space charges for 10 years from their issuance, and for any other revenue received from any lease or agreement to occupy or use any portion of the Eastern Market Square.
- (h) The market manager shall make these copies available for public inspection in hard copy or disk format.
- (i) Within 30 days of each September 30, and April 30, after April 16, 1999, the market manager shall prepare a written report of operations for the previous 6 months including a summary of revenues by source and of expenditures by kind and shall submit a copy of this report to the CPMO and the EMCAC.
- (j) The market manager, in consultation with the Tenants Council and the EMCAC, shall determine days of operation and hours for buying and selling for the following: (1) the Eastern Market building; and (2) the sidewalk market.
- (k) Buying and selling shall not be permitted on the sidewalk market, except with the prior written approval of the market manager.
- (l) The market manager shall regulate the goods sold by the various tenants with the objective of maintaining a diverse fresh food market with specialty stands for meat, poultry and eggs, fish and seafood, dairy products, fruits and vegetables, baked goods, dry groceries, herbs and spices, delicatessen items, and cut flowers and potted plants.
- (m) The market manager may enter into a written contract with a tenant or tenants to occupy the Center Hall for purposes that are consistent with and supportive of other activities at Eastern Market and on the Eastern Market Square.
- (n) The market manager shall direct that sidewalk market stalls be located on the North Carolina Avenue, 7th Street and C Streets sides of the Eastern Market building in a manner as to:
- (1) Maintain ingress to, and egress from, the Eastern Market Building;
 - (2) Maintain access for fire fighters and to any fire hydrants;
 - (3) Maintain passageways of at least 5 feet in width for use by the public;
 - (4) Not obstruct the crosswalks on adjacent streets;
 - (5) Not encroach on trees or tree boxes; and
 - (6) Not impede use of the private right-of-way, which is adjacent to the Capitol Hill Natatorium at 639 North Carolina Avenue, S.E.
- (o) The market manager shall assign sidewalk market stalls by giving priority to the following:
- (1) Throughout the week, to farmers and other market vendors of agricultural products, the sidewalk market stalls along the Farmers' Line. Farmers shall receive first priority and food merchants and wholesalers of agricultural products shall have second priority, except that market vendors of agricultural products granted a right of first refusal pursuant to § 37-108 shall have priority to a space of the same or comparable size, frequency, and location over farmers granted a right of first refusal; and
 - (2) On Saturday and Sunday, (A) to artists, crafters, and other market vendors of hand-crafted goods; imported goods that are ethno-specific and are designed, produced and representative of the country of origin; and works of art, during the Saturday arts-and-crafts festival, and (B) to market vendors of antiques or vintage goods or collectibles; hand-crafted goods; imported goods that are ethno-specific and are designed, produced and representative of the country of origin; and works of art, during the Sunday Flea Market, priority to the sidewalk market stalls on the North Plaza, except that market vendors granted a right of first refusal pursuant to § 37-108 shall have priority to a space of the same or comparable size, frequency, and location over market vendors not granted a right of first refusal.

(p) Before a stall assignment shall be issued, the applicant shall have obtained any required business license and sales and use tax number, except that no vendor's license shall be required, and shall have paid the market manager a uniform processing fee.

(q) Each day no fewer than 5 sidewalk market stalls shall be available for use or sales by one or more community groups who have first obtained a stall assignment from the market manager to occupy the stall or stalls.

(r) The market manager may reassign a sidewalk market stall that is unoccupied as of a time determined by the market manager to a market vendor awaiting a space assignment or, if there are none, to a market vendor already occupying another space.

(s) The market manager, in consultation first with the Tenants Council and then with the EMCAC, shall set a schedule of daily space charges for sidewalk market stalls. A new space charge shall not take effect without 30-days written notice prominently posted in the North and South Halls. The schedule of daily space charges may provide a reduced daily space charge for occupying space Monday through Friday for market vendors paying a space charge on the preceding Saturday or Sunday.

(Apr. 16, 1999, D.C. Law 12-228, § 6, 46 DCR 1066; Apr. 20, 1999, D.C. Law 12-264, § 22(c), 46 DCR 1066.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-305.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(b) of Eastern Market Emergency Amendment Act of 2008 (D.C. Act 17-570, November 7, 2008, 55 DCR 12114).

Legislative History of Laws

For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 37-101.

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

§ 37-106. EASTERN MARKET BUILDING AND TENANTS.

(a) Tenants shall not occupy any space or stand inside the Eastern Market building without first having entered into a written contract with the market manager.

(b) Each contract shall require that the tenant possess the required business license and sales and use tax number and comply with the laws, regulations and rules governing Eastern Market.

(c) Tenants may not stock or sell any class of item not specified on the tenant's written contract. Tenants may not sell food prepared for immediate consumption on the premises unless specifically authorized by the tenant's written contract.

(d) The market manager may enter into contracts with one or more tenants to sell and serve food prepared for immediate consumption on premises, but no more than 15% of the gross first floor space inside the Eastern Market building may be assigned for these purposes, except that no tenant selling or serving take-out food on August 1, 1997, shall be required to modify that tenant's operations as a result of the application of this provision. The market manager shall give priority to selling prepared foods typical of the Mid-Atlantic region, while encouraging a diversity of food offerings, and to tenants who are not affiliated with any franchise or chain fast-food organizations.

(e) The market manager may enter into a written contract with a tenant to operate the North Hall as a community arts center. The North Hall shall also be available for periodic use by community groups not involved in promoting the arts, and on a space-available basis, rented for fund-raising or for-profit activities. The contract shall specify a space charge that shall reflect rents or fees charged to art galleries, dance companies, theatrical companies and other similar arts-promoting entities, and to community-based or non-profit public activities.

(f) Community groups using the space for membership meetings or public forums, other than fundraising or other income-producing activities, shall be charged a nominal fee to compensate for administrative and security costs of the event.

(g) A tenant shall not occupy more space than is assigned to that tenant, and no alteration to stands or fixtures of any kind shall be made without the written approval of the market manager. Tenants shall keep and maintain their space or stands in a manner satisfactory to the market manager. The market manager may specify the location where a tenant shall receive commodities and the doors through which commodities may be conveyed. Tenants shall dispose of all garbage and rubbish as directed by the market manager.

(h) Alcoholic beverages shall not be sold in the Eastern Market building except pursuant to the following:

- (1) An ABC license for special events; and
- (2) The written consent of the market manager.

(Apr. 16, 1999, D.C. Law 12-228, § 7, 46 DCR 1066.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-306.

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

§ 37-107. RIGHT OF FIRST REFUSAL FOR EXISTING INSIDE OPERATIONS.

(a) Any individual, association or corporation having a lease, contract, agreement, or legally binding understanding to operate one or more stalls in the South Hall, a breakfast or lunch restaurant in the Center and South Hall, a pottery studio in the Center Hall, a community- and arts-related space in the North Hall as of August 1, 1997, shall be offered the right of first refusal to sub-lease under substantially similar terms, except that:

- (1) The terms shall incorporate the provisions of this chapter and any regulations promulgated pursuant to it; and
- (2) Rents or other financial arrangements shall reflect fair market rents and practices, but rents and fees for the operator of the North Hall shall take into account that certain activities will be charged only nominal fees.

(b) Annual rent increases for any operators shall be limited to 102% of the Consumer Price Index ("CPI"), or to an additional amount to reflect the cost of additional services provided, except that in no instance shall the annual increase exceed 110% of the CPI.

(Apr. 16, 1999, D.C. Law 12-228, § 8, 46 DCR 1066.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-307.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(c) of Eastern Market Emergency Amendment Act of 2008 (D.C. Act 17-570, November 7, 2008, 55 DCR 12114).

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

§ 37-108. RIGHT OF FIRST REFUSAL FOR EXISTING SIDEWALK OPERATIONS.

(a) Any farmer or other market vendor of agricultural products who has operated one or more stalls on the sidewalk at any time within the last 2 years shall be offered a right of first refusal to continue such operations under substantially similar terms, except that:

- (1) The terms shall incorporate the provisions of this chapter and any regulations promulgated pursuant to it, provided that the farmer or market vendor of agricultural products may continue to sell the type of goods sold during the 2-year period prior to April 16, 1999; and
- (2) Space charges or other financial arrangements shall reflect fair market practices.

(b) Any non-food market vendor who, as of August 1, 1997, was a party to any arrangement to operate one or more stalls on the sidewalk shall have the right-of-first refusal to continue such operations under substantially similar terms, except that:

- (1) The terms shall incorporate the provisions of this chapter and any regulations promulgated pursuant to it, provided that the non-food market vendor may continue to sell the type of goods being sold as of August 1, 1997; and
- (2) Space charges or other financial arrangements shall reflect fair market practices.

(Apr. 16, 1999, D.C. Law 12-228, § 9, 46 DCR 1066.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-308.

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

§ 37-109. OTHER NEIGHBORHOOD VENDING.

(a) In order to maintain the theme and character of Eastern Market, any District of Columbia agency having jurisdiction over public property, including, but not limited to, the property under the jurisdiction of the District of Columbia Public Schools and the Department of Recreation and Parks, in the Eastern Market Special Use Area shall not permit retailing on such public property, except as generally is consistent with the activities at Eastern Market and with the prior written consent of the CPMO, after the review and comment of the market manager and the EMCAC, except that any contracts in place on August 1, 1997, shall be exempt from the provisions of this subsection.

(b) With the advice of the EMCAC, and after appropriate study, public hearing, and approval of the Department of Recreation and Parks, the market manager shall have the authority to extend operations and activities of the Eastern Market Square to the plaza in front of the Capitol Hill Natatorium.

(1) The CPMO shall not exercise this authority unless it is demonstrated there is sufficient demand from farmers, non-food market vendors, or the Sunday Flea Market vendors to create a viable extension of the Eastern Market Square.

(2) Any such extension shall not disturb the operations of the Capitol Hill Natatorium or impede the free flow of Natatorium users into and out of the building.

(Apr. 16, 1999, D.C. Law 12-228, § 10, 46 DCR 1066; Oct. 14, 1999, D.C. Law 13-49, § 14(a), 46 DCR 5153.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-309.

Effect of Amendments

D.C. Law 13-49, in subsec. (a), substituted "such" for "such such".

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

Law 13-49, the "Criminal Code and Clarifying Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-61, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 2, 1999, and April 13, 1999, respectively. Signed by the Mayor on May 13, 1999, it was assigned Act No. 13-69 and transmitted to both Houses of Congress for its review. D.C. Law 13-49 became effective on October 19, 1999.

References in Text

Pursuant to Mayor's Order 2000-20, the agency formerly known as the Department of Recreation and Parks shall be known as the Department of Parks and Recreation.

§ 37-110. ENFORCEMENT.

In the event that a market vendor violates any law, regulation, sidewalk market rule or condition of the market vendor's sub-lease as specified in the contract, the market manager may issue a market violation notice ("MVN") to the market vendor suspending the market vendor's sub-lease until the violation has been cured or corrected. If 3 MVNs are issued to a market vendor during the contract year, the market vendor's sub-lease shall be cancelled. If the market manager decides not to renew a market vendor's sub-lease, the market manager shall give the market vendor written notice on or before January 31. MVNs, cancellation, and any decision not to renew a market vendor's sub-lease shall be effective immediately but may be appealed to the Department of General Services.

(Apr. 16, 1999, D.C. Law 12-228, § 11, 46 DCR 1066; Sept. 26, 2012, D.C. Law 19-171, § 91(c), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

§ 37-111. EASTERN MARKET COMMUNITY ADVISORY COMMITTEE.

(a) There is hereby established the Eastern Market Community Advisory Committee ("EMCAC") to be comprised of no more than 11 voting members. The EMCAC shall be comprised as follows:

(1) Repealed.

(2) One representative of ANC 6B, who shall be a serving ANC Commissioner;

(3) One representative each of established, substantial Capitol Hill Community Organizations as follows:

(A) Capitol Hill Restoration Society, who, among other things, shall provide specific expertise in the area of historic preservation and land use policies;

(B) Capitol Hill Association of Merchants and Professionals, who, among other things, shall provide specific expertise relevant to business and retailing on Capitol Hill;

(C) Stanton Park Neighborhood Association;

(D) Eastern Market Preservation and Development Corporation, who, among other things, shall provide insights derived from its focus on Eastern Market issues; and

(E) Other organizations, which shall be determined upon a vote of 75% of the EMCAC members, to have demonstrated substantial membership, broad Capitol Hill activity focus, and longevity of establishment sufficient to warrant a representative on the EMCAC, subject to the limit on the number of EMCAC members established in this section of this chapter.

(4) One independent community resident;

(5) One member who shall be a resident of Ward 6 and who is appointed by the Ward 6 member of the Council, to serve as a voting member;

(6) One member appointed by the Mayor, to serve as a voting member;

(7) Repealed.

(8) Two food market vendors, one from the merchants in the South Hall and the other from the farmer's line, and one non-food market vendor to be selected by those market vendors, respectively, each of whom serves as a voting member.

(b) Each member of the EMCAC shall represent, and be appointed or elected by his or her constituency, in accordance with its internal procedures except that the independent member, as set out in subsection (a)(4) of this section, shall be selected by the EMCAC for such membership after such positions are advertised to the community for no less than 30 days. The initial selection shall be made as soon as practicable after formation of the EMCAC.

(c) Members of the EMCAC shall serve for 2-year terms, except that the representative from ANC 6B shall not serve for any period longer than his or her service as a Commissioner. ANC 6B shall identify the EMCAC representative within 45 days after April 16, 1999. To create staggered terms, the initial non-ANC members shall determine by lot that half shall serve for one year.

(d) With the exception of the voting representatives of the food market vendors and non-food market vendors, no member of the EMCAC shall have an economic interest in, or fiduciary responsibility for, any business or other activity operated or conducted on the Eastern Market Square, or subject to control or regulation under this chapter.

(e) All members of the EMCAC shall serve without compensation. Direct expenses may be reimbursed according to policies to be determined by the EMCAC. The EMCAC may establish a bank account and receive and disburse funds.

(f) The members of the EMCAC shall meet no later than 45 days of April 16, 1999, and shall establish suitable bylaws governing its operations, including provisions for the election of a chair, vice-chair and other offices as deemed necessary. Within 90 days after December 7, 2004, the EMCAC shall revise its bylaws to be consistent with this chapter.

(g) The EMCAC shall have the following responsibilities:

- (1)(A) Review and comment to the CPMO in preparing each RFP which shall be issued by the District of Columbia for the selection of a market manager; and
 - (B) Review and comment on all summaries of proposals received by the CPMO in response to each RFP and provide comments to the CPMO on the information reviewed by the EMCAC;
 - (2) Meet in public session at least quarterly to receive public comments on Eastern Market operations and activities;
 - (3) Review and comment in 30 days from the point that the EMCAC has notice on:
 - (A) The annual budget prepared by the market manager for the management of the Eastern Market Square;
 - (B) Any proposal by the market manager for an increase in the range of rates for vending on the sidewalk market;
 - (C) Any proposal for a capital improvement to the Eastern Market Square or the Eastern Market building; and
 - (D) Any proposal to expend monies from the Fund established in § 37-103 for the preservation and enhancement of Eastern Market and the Eastern Market Square; and
 - (4) Provide advice or comment to the market manager in the exercise of the market manager's responsibilities, for the purposes enumerated in this chapter and in regulations issued pursuant to this chapter, and specifically to provide for coordination among activities in the Eastern Market and on the Eastern Market Square, as provided for in this chapter and accompanying regulations.
- (h) The EMCAC shall be involved in any Eastern Market renovation as follows:
- (1) Any plan for the renovation or restoration of Eastern Market and the Eastern Market Square, including the Eastern Market building or Farmers' Line shed, shall comply with the standards for rehabilitation of historic buildings issued by the U.S. Secretary of the Interior and shall include comments by the EMCAC.
 - (2) The CPMO, with the advice of the EMCAC and the market manager, in accordance with the provisions of this chapter and Chapter 3 of Title 2, shall develop any RFP to be issued by the District government for the selection of any architects or contractors to work on Eastern Market or the Eastern Market Square. All contracts shall be awarded in accordance with the procedures in §§ 2620 through 2627 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements) except that the EMCAC's review shall be in addition to the architect-engineer evaluation board. The EMCAC shall review and comment on each proposal received in response to each RFP and shall comment on the proposals to the CPMO for final selection. Any EMCAC member with a personal or financial connection, or with an immediate family member with a personal or financial connection to any person or entity submitting a proposal, or to any contractor or subcontractor shall take no part in considering, evaluating, or recommending that or competing proposals, or that of any contractor or subcontractor.
- (i) The EMCAC shall create at least two standing committees as follows:
- (1) A Tenants Council comprised of one representative of each major activity, including, but not limited to, the farmers, South Hall stall holders, Center Hall tenants, North Hall tenants, arts and crafts market vendors, and flea market vendors. The Tenants Council shall meet regularly, and shall appoint a chair to conduct its meetings. The Tenants Council may report from time to time to the EMCAC and to the market manager. The Tenants Council and the market manager shall work together to arrange off-site parking for tenants and market vendors. The Tenants Council shall assist the market manager in evaluating and amending standards for the conduct of operations and activities at Eastern Market and the Eastern Market Square.
 - (2) An Application Advisory Review Subcommittee, which shall be composed of experts, drawn as appropriate from existing farmers, merchants, and market vendors, to meet as necessary to evaluate applications for annual sidewalk sub-leases for conformity to criteria for sub-lease priority with respect to farmers, artists, crafters and other market vendors. Sub-leases may be issued provisionally by the market manager pending the review and advice of the Application Advisory Review Subcommittee.
- (j) Subject to the provisions of this chapter and relevant regulation, the EMCAC may propose, and shall review and advise on recommendations by the market manager, to amend standards, operational guidelines, and rules for the conduct of operations and activities at Eastern Market and the Eastern Market Square. In making proposals, or considering recommendations, the market manager and the EMCAC shall take into account:
- (1) Preserving the historic character and atmosphere of Eastern Market and the Eastern Market Square;
 - (2) Community opinion; and
 - (3) The goal of Eastern Market economic self-sufficiency.

(k) Provided the Mayor or his designee approves gifts and donations, the EMCAC may promote and seek outside funding for the preservation and enhancement of Eastern Market and the Eastern Market Square, through fund-raising events, contributions, grants, sales, the establishment of an endowment and other appropriate activities. Any funds raised in this way shall be deposited into the Fund.

(Apr. 16, 1999, D.C. Law 12-228, § 12, 46 DCR 1066; Apr. 20, 1999, D.C. Law 12-264, § 22(d), 46 DCR 1066; Oct. 14, 1999, D.C. Law 13-49, § 14(b), 46 DCR 5153; June 19, 2001, D.C. Law 13-313, § 11, 48 DCR 1873; Dec. 7, 2004, D.C. Law 15-195, § 2, 51 DCR 7590.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-311.

Effect of Amendments

D.C. Law 13-49, in par. (a)(3), added subpar. (C).

Subsection 14(c) of D.C. Law 13-49 provides: "This section shall apply as of April 16, 1999."

D.C. Law 13-313, in subsec. (e), added "The EMCAC may establish a bank account and receive and disburse funds."

D.C. Law 15-195, in subsec. (a), repealed par. (1), rewrote pars. (5) and (6), repealed par. (7), and rewrote par. (8); rewrote subsec. (c); in subsec. (d), substituted "With the exception of the voting representatives of the food market vendors and non-food market vendors," for "With the exception of the non-voting representative of the Tenants Council and the voting representatives of the food market vendors and non-food market vendors,"; in subsec. (f), added a new sentence at the end; and in par. (1) of subsec. (i), deleted "and one member to represent the Tenants Council as a non-voting member on the EMCAC" following "appoint a chair to conduct its meetings" Prior to amendment, pars. (1), (5), (6), (7), and (8) of subsec. (a), and subsec. (c) had read as follows:

"(1) One representative of Advisory Neighborhood Commission ("ANC") 6A, who shall be a serving ANC Commissioner;"

"(5) One member appointed by the Ward 6 member of the Council of the District of Columbia, to serve as a non-voting member;

"(6) One member appointed by the Mayor, to serve as a non-voting member;

"(7) One member appointed by the Eastern Market Tenants Council, to serve as a non-voting member; and

"(8) One food market vendor and one non-food market vendor to be selected by those market vendors respectively."

"(c) Members of the EMCAC shall serve for 2 year terms, except that representatives of ANC 6A and 6B shall serve for periods corresponding to their service as Commissioners. No member shall serve for more than 4 years in any 6- year period. The ANCs shall identify their EMCAC representatives within 45 days after April 16, 1999. To create staggered terms, the initial non-ANC members shall determine by lot that half shall serve for one year."

Temporary Amendments of Section

Section 2 of D.C. Law 15-60, repealed subsec. (a)(1); and rewrote subsec. (c) to read as follows:

"Members of the EMCAC shall serve for 2-year terms, except that the representative from ANC 6B shall not serve for any period longer than his or her service as a Commissioner. ANC 6B shall identify the EMCAC representative. To create staggered terms, the initial non-ANC members shall determine by lot that half shall serve for one year."

Section 4(b) of D.C. Law 15-60 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2 of Eastern Market Emergency Amendment Act of 2003 (D.C. Act 15-116, July 29, 2003, 50 DCR 6594).

For temporary (90 day) amendment of section, see § 2 of Eastern Market Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-219, November 7, 2003, 50 DCR 10046).

For temporary (90 day) amendment of section, see § 2 of Eastern Market Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-543, October 12, 2004, 51 DCR 9836).

For temporary (90 day) amendment of section, see § 2 of Eastern Market Second Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-561, October 26, 2004, 51 DCR 10526).

Legislative History of Laws

For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 37-101.

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

For Law 13-49, see notes following § 37-109.

Law 13-313, the "Technical Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-879, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 19, 2001, it was assigned Act No. 13-574 and transmitted to both Houses of Congress for its review. D.C. Law 13-313 became effective on June 19, 2001.

Law 15-60, the "Eastern Market Temporary Amendment Act of 2003", was introduced in Council and assigned Bill No. 15-322, and was retained by Council. The Bill was adopted on first and second readings on July 8, 2003, and September 16, 2003, respectively. Signed by the Mayor on October 6, 2003, it was assigned Act No. 15-179 and transmitted to both Houses of Congress for its review. D.C. Law 15-60 became effective on December 9, 2003.

Law 15-195, the "Eastern Market Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-316, which was referred to the Subcommittee on Human Rights, Latino Affairs and Property. The Bill was adopted on first and second readings on June 1, 2004, and June 29, 2004, respectively. Signed by the Mayor on July 19, 2004, it was assigned Act No. 15-469 and transmitted to both Houses of Congress for its review. D.C. Law 15-195 became effective on December 7, 2004.

§ 37-112. INSURANCE.

(a) The market manager shall maintain appropriate liability insurance. The market manager shall require each tenant and market vendor to maintain liability insurance, individually or as part of a group policy.

(b) The market manager, each tenant and each market vendor shall indemnify and hold harmless the District of Columbia from any liability arising out of each tenant's or market vendor's and market manager's respective activity.

(Apr. 16, 1999, D.C. Law 12-228, § 13, 46 DCR 1066.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-312.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(d) of Eastern Market Emergency Amendment Act of 2008 (D.C. Act 17-570, November 7, 2008, 55 DCR 12114).

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.

§ 37-113. REPORTING REQUIREMENTS.

No later than January 2, 2004, the CPMO shall file a report with the Council for review. The report shall contain information including, but not limited to, a report on the operations and management of Eastern Market for the past 5 year period, financial operations, a summary of all contractual activities, and an assessment of management operations including EMCAC functions and procedures and a report on the Market's capital status and needs.

(Apr. 16, 1999, D.C. Law 12-228, § 14, 46 DCR 1066.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 10-313.

Legislative History of Laws

For legislative history of D.C. Law 12-228, see Historical and Statutory Notes following § 37-101.