Ordinance amending the Administrative Code to affirm the County Agricultural Commissioner's authority under state law to certify and inspect farmers' markets and producers, and to enforce state law governing the direct marketing of agricultural products to consumers; replace the County Agricultural Commissioner with the Director of Property as the operator of City-operated farmers' markets and flea markets; eliminate the allocation of space at farmers' markets for the distribution of surplus commodities to needy persons; increase the permit fees for certified producers and other vendors; and increase the permit fees for farmers' market operators.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Chapter 9A of the Administrative Code is hereby amended by deleting existing Sections 9A.1 through 9A.20, and adding new Sections 9A.1 through 9A.7, to read as follows:

SEC. 9A.1. ESTABLISHMENT AUTHORIZED; APPROVED SALES.

The Agricultural Commissioner is hereby authorized to establish, maintain and direct in the City and County one or more farmers' markets for the sale of food, agricultural and horticultural products.
products, fresh and dried, and for the sale of fish by the growers, producers or fishers thereof in the State.

(a) The sale of fish shall be limited to the sale of whole fish or fish filleted on the premises with properly sanitized utensils. All fish shall be stored at a temperature of 45 Fahrenheit or lower. All fish shall be sold from self-contained vehicles. There shall be proper waste disposal of any unsold fish and all fish cuttings, trimmings, wrappings and containers.

SEC. 9A.2. FINANCES FOR MAINTENANCE AND OPERATION.

Maintenance and operation of each market established under the provisions of this Chapter shall be financed by fees charged to producers who utilize the facilities of the market and by such other funds as may be appropriated therefor in accordance with the budgetary procedure of the Charter.

SEC. 9A.3. LOCATION.

(a) A market established under the provisions of this chapter may be located at any suitable site selected by the Agricultural Commissioner and owned or leased by the City and County.

(b) A market established under the provisions of this chapter may be located on property under the jurisdiction of the Recreation and Park Commission upon approval of the Commission. Upon receiving a request to locate a market on property under the jurisdiction of the Recreation and Park Commission, the Commissioner of Agriculture shall work with the Recreation and Park Department to identify possible suitable sites for approval by the Recreation and Park Commission as set forth in the Park Code.

SEC. 9A.4. ADMINISTRATION.

The Agricultural Commissioner shall administer the operation of each market established under the provisions of this Chapter.
SEC. 9A.5—ADVISORY COMMITTEE.

For each market established under the provisions of this Chapter, the Agricultural Commissioner shall appoint a committee consisting of at least 3 persons with valid permission to sell at the market. Each committee member shall hold office only at the pleasure of the Agricultural Commissioner. Each committee shall advise the Agricultural Commissioner as to the general policies under which that committee’s market shall be conducted and generally as to the character and nature of the products to be sold therein. The Agricultural Commissioner shall investigate all recommendations made by each committee and, if he or she deems them proper, shall implement said recommendations.

SEC. 9A.6—INSPECTION OF PRODUCTS; COMPLIANCE WITH APPLICABLE LAWS.

Each market and all products sold or disposed of or offered for sale in a market shall be subject to inspection under and shall comply with and be subject to all local ordinances and regulations and all State laws governing the marketing of such products or governing the inspection, quality, standardization, weights, measures, quarantine, sanitation, marketing and sale of such products offered for sale by private individuals, firms and corporations.

SEC. 9A.7—FEES.

Fees currently estimated sufficient to pay the operating and maintenance costs of each market and within a reasonable time to liquidate all capital expenditures made thereof, recommended by the Agricultural Commissioner, shall be charged to the sellers at each market, effective July 1, 2004, as follows:

(a) Certified Producers

Daily stall fee:

— Summer (June 1 through November 30) — $50.00
Winter (December 1 through May 31) $40.00
(b) Non-Certified Producers
Daily stall fee:
Summer (June 1 through November 30) $60.00
Winter (December 1 through May 31) $50.00

SEC. 9A.8. DISTRIBUTION OF SURPLUS COMMODITIES TO NEEDY PERSONS.
Whenever there exists a surplus of farm commodities available for distribution to needy persons and families in the City and County, the Agricultural Commissioner may authorize the allocation of space at any market for distribution of such surplus to needy persons and families; provided:
(a) That such distribution will not interfere with the normal operations of the market;
(b) That the distribution shall entail no expense to the City and County other than use of space at the market;
(c) That such distribution shall be for a limited period, in no case to exceed 90 days in any one calendar year;
(d) That recipients of the surplus commodities are certified as needy and eligible for receipt of the commodities by the Welfare Department of the City and County; and
(e) That the commodities are distributed free without any charges whatsoever to recipients.
No market or other fees shall be charged in connection with distribution of surplus commodities as provided in this Section.

SEC. 9A.9. RULES AND REGULATIONS.
For each market established under the provisions of this Chapter, the Agricultural Commissioner is hereby authorized to make such rules and regulations as he or she shall deem proper for the conduct of the market and for the maintenance of sanitary conditions therein and for the
identification of persons offering products for sale in the market, which rules shall not be in conflict
with the provisions of this Chapter but shall be in furtherance thereof. Such rules shall be posted in a
conspicuous place in the market and when so posted shall be deemed to be promulgated by the
Agricultural Commissioner and shall thereafter have the same force and effect as though included in
this Chapter.

SEC. 9A.10. PERSONS WHO MAY SELL AT MARKET; COMMISSION; RESALES.
Farm products may be sold or offered for sale at a market only by the grower, producer or
fisher thereof or by members of his or her immediate family or by salespeople. No commission shall be
paid by the growers or received by other persons involved in the transactions occurring at a market,
except such fees as are paid at the market for the privilege of selling the products there. There shall be
no resales made at a market.

SEC. 9A.11. OBSERVANCE OF REGULATIONS; PRODUCTS TO BE KEPT SANITARY.
All federal and State laws and regulations, as well as all local ordinances and regulations,
applicable to each market and the products offered for sale therein shall be complied with by sellers at
the market, and growers, producers or fishers utilizing the facilities of the market shall keep the
premises used by them in a clean and sanitary condition and shall remove all fruit, vegetable and fish
cuttings, trimmings, wrappings and containers at the close of each day.

SEC. 9A.12. HOURS OF OPERATION.
The days and hours during which each market shall operate shall be fixed by the rules and
regulations adopted and promulgated by the Agricultural Commissioner.

SEC. 9A.13. DESIGNATION OF PERSONS AUTHORIZED TO ENTER PREMISES.
All persons are hereby prohibited from entering or remaining on any market premises unless any such person is a person entering or remaining on the market premises with the consent of a duly authorized representative of the Agricultural Commissioner; a person making use of the market facilities with valid permission from a duly authorized representative of the Agricultural Commissioner; an actual or prospective customer; or a person accompanying any such actual or prospective customer.

SEC. 9A.14. PERMISSION TO SELL—REQUIRED; SCOPE.

No person shall sell, keep for sale or offer to sell market or farm produce, edible merchandise, or any other merchandise or product at any market established under the provisions of this Chapter except upon receipt of permission to sell at the market from the Agricultural Commissioner or his or her duly authorized representative. No person with valid permission to sell at a market nor any of his or her agents or employees shall bring onto the market premises, keep in his or her possession, offer to sell or sell any market or farm produce or any edible merchandise which has not been produced on land owned or possessed by, or, in the case of fish, caught or bred by the person. Persons with valid permission to sell at a market may bring onto the market premises, keep in their possession, offer to sell or sell only such market or farm produce and edible merchandise which has been produced on land owned or possessed by, or, in the case of fish, caught or bred by the person. Whenever a person with valid permission to sell at a market violates the provisions of this Section, the Agricultural Commissioner may immediately suspend the person's permission to sell at the market premises for a period of no less than 30 days and no more than 90 days thereafter, as in the discretion of the Agricultural Commissioner shall seem proper.

SEC. 9A.15. SAME—TERMS AND CONDITIONS.

Permission to sell at a market shall be offered only upon the following terms and conditions:
(a) The proper completion and filing of an application;

(b) Compliance with all federal, State and local laws relating to the operation, use and enjoyment of the facilities or the market premises;

(c) Compliance with all rules and regulations of the Agricultural Commissioner regarding use of the market facilities.

(d) Accept forms of payment provided to vendors or market sponsors by participants of federal, state or local food assistance programs, including, but not limited to, food stamps, WIC Farmers' Market Nutrition Programs, and Senior Farmers' Market Nutrition Programs. Such forms of payment include, but are not limited to, coupons, vouchers, Electronic Benefit Transfer (EBT) cards.

The Agricultural Commissioner shall work with market sponsors or managers who are not currently certified to accept any, or all, of these forms of payment to obtain such certification within six months of the effective date of this legislation.

SEC. 9A.16. SAME—EFFECT OF SUSPENSION OR REVOCATION.

A person whose permission to sell at a market has been suspended shall be ineligible to apply for new permission during the period of his or her suspension. Any person whose permission to sell at a market has been revoked shall be ineligible to apply for new permission for a period of two years following such revocation unless sooner allowed to qualify by the Agricultural Commissioner. Any person whose permission to sell at a market has been suspended more than twice in an 18-month period may, upon the occasion giving grounds for a third suspension, have such permission indefinitely suspended or revoked in the discretion of the Agricultural Commissioner.

SEC. 9A.17. APPEALS.

Any applicant denied permission to sell at a market or any person whose permission to sell at a market has been suspended or revoked by the Agricultural Commissioner may immediately file an
appeal in writing with the Director of Administrative Services. The Director of Administrative Services shall set a time for hearing the appeal which shall be within seven days of the date of filing thereof. The appellant shall be notified of the time and place of the hearing in advance thereof and shall be entitled to appear at the hearing and be heard. After such hearing the Director of Administrative Services may concur in the action of the Agricultural Commissioner, or he or she may overrule the Agricultural Commissioner and order that the permission be immediately granted or restored. The Director of Administrative Services shall appoint an officer to act on such appeals in his or her absence who shall have the same powers with respect thereto as are herein granted the Director of Administrative Services.

SEC. 9A.18. UNLAWFUL ENTRY UPON PREMISES.

Any person entering any market premises in violation of Section 9A.13 of this Code and any person remaining on any market premises after being ordered to leave by any duly authorized representative of the Agricultural Commissioner are hereby declared to be trespassers and guilty of a misdemeanor and upon arrest and conviction shall be punished by not more than a $50 fine or by imprisonment in the County Jail for not more than 10 days, or by both such fine and imprisonment.

SEC. 9A.19. VIOLATION OF SECTION 9A.14 OF THIS CODE.

Any person who either personally or through his or her agents or employees violates Section 9A.14 of this Code shall be guilty of a misdemeanor and upon arrest and conviction shall be punished by a fine of not more than $500 or by imprisonment in the County Jail for not more than 30 days, or by both such fine and imprisonment.

SEC. 9A.20. NEEDS ASSESSMENT.
In order to support low-income access to healthy, local produce by low-income San Franciscoans, as well as to provide additional markets for regional farmers, the Agriculture Commissioner shall conduct a needs assessment of neighborhoods in San Francisco that could support additional farmers’ markets without impacting the viability of locally owned businesses. This needs assessment shall primarily focus on identifying the best location for farmers’ markets in underserved neighborhoods. This needs assessment shall be submitted to the Clerk & Board of Supervisors on an annual basis.

SEC. 9A.1. DEFINITIONS.

The following definitions apply to this Chapter 9A:

“Agricultural Product” has the meaning set forth in Section 47000.5(a)(1) of the California Food and Agricultural Code, as may be amended from time to time.

“Certified Farmers’ Market” has the meaning set forth in Section 1392.2(a) of Title 3 of the California Code of Regulations, as may be amended from time to time.

“Certified Producer” has the meaning set forth in Section 1392.2(e) of Title 3 of the California Code of Regulations, as may be amended from time to time.

“City” means the City and County of San Francisco.

“City-Operated Farmers’ Market” means a Certified Farmers’ Market established and maintained by the City under Section 9A.6 of this Chapter 9A.

“Director of Property” means the person holding the position described in Administrative Code Section 2A.110, and includes the Director’s designee.

“Market Operator” means a Certified Producer, a group of Certified Producers, a nonprofit organization, or a City agency, that operates a Certified Farmers’ Market and adopts rules and requirements necessary for its operation.
“Producer” has the meaning set forth in Section 47000.5(c) of the California Food and Agricultural Code, as may be amended from time to time.

“Vendor” means a person who sells only products other than Agricultural Products at a Certified Farmers’ Market.

**SEC. 9A.2. AUTHORITY OF THE COUNTY AGRICULTURAL COMMISSIONER; FEES.**

(a) As set forth in Chapter 10.5 of Division 17 of the California Food and Agricultural Code and its implementing regulations, the County Agricultural Commissioner is authorized to exercise oversight of local farmers' markets by: certifying farmers’ markets and Producers, conducting inspections of Certified Farmers’ Markets, and engaging in enforcement of Chapter 10.5 and its implementing regulations through the imposition of penalties and the denial, suspension, or revocation of certifications.

(b) As set forth in Section 1.10-1 of the Administrative Code, the County Agricultural Commissioner shall impose a fee for the issuance, modification, verification, and renewal of a farmers’ market certificate for a Certified Farmers’ Market. This fee may be waived for a City-Operated Farmers’ Market administered by the Director of Property under the authority of Section 9A.6.

(c) The County Agricultural Commissioner may charge a fee in the amount of $113 per hour to defray the costs of conducting inspections of Certified Farmers’ Markets, where such inspections are unrelated to the issuance, modification, verification, and/or renewal of a farmers’ market certificate. This fee may be waived for the inspection of a City-Operated Farmer's Market administered by the Director of Property under the authority of Section 9A.6.

**SEC. 9A.3. REGISTRATION AND CERTIFICATION REQUIRED.**

It shall be unlawful to operate a farmers’ market in which Producers sell Agricultural Products directly to customers within the City without registering with the California Department of Food and Agriculture.
Agriculture, and obtaining and maintaining a Certified Farmers' Market certificate from the County Agricultural Commissioner.

SEC. 9A.4. LOCATION.

A Market Operator may operate a Certified Farmers' Market at the following locations:

(a) At any place that complies with the Planning Code, subject to approval by the owner of the real property;

(b) On property under the jurisdiction of the Recreation and Park Commission, subject to approval of the Commission, as set forth in Section 7.21 of the Park Code;

(c) On property under the jurisdiction of the Port Commission, subject to approval of the Port Commission; or

(d) On other property owned by the City, subject to approval of the Director of Property, or in cases of property under the exclusive control of a board or commission, with the approval of the board or commission.

SEC. 9A.5. OPERATING STANDARDS.

(a) All Market Operators, Producers, and Vendors shall comply with all otherwise applicable State and City laws, including but not limited to state law requirements governing Certified Farmers' Markets, as set forth in Chapter 10.5 of Division 17 of the California Food and Agricultural Code, as amended from time to time, and its implementing regulations, and all State and local laws and regulations governing food handling and sanitation.

(b) As set forth in Section 1009.22 of the Health Code, smoking is prohibited in all farmers' markets, whether on public or private property.

(c) All Certified Farmers' Markets shall accept forms of payment from participants in federal, state, or City food assistance programs, including but not limited to the Special Supplemental
Nutrition Program for Women, Infants, and Children (WIC), the Supplemental Nutrition Assistance Program (SNAP), and the Electronic Benefits Transfer Project (EBT).

SEC. 9A.6. CITY-OPERATED FARMERS’ MARKETS; FEES.

(a) Authority of Director of Property.

(1) The Director of Property is authorized to establish, maintain, administer, and manage one or more Certified Farmers’ Markets for the sale of nonagricultural and Agricultural Products.

(2) The Director of Property may adopt rules, regulations, and guidelines to carry out the provisions and purposes of this Section 9A.6 and as set forth in Section 1392.6 of Title 3 of the California Code of Regulations.

(b) Financing; Fees.

(1) Maintenance and operation of each Certified Farmers’ Market established by the Director of Property shall be financed by fees charged to Certified Producers and Vendors who utilize the facilities, and by funds as may be appropriated by ordinance in accordance with the budgetary procedure of the Charter.

(2) Certified Producers must pay a fee of $50 per day to sell at a City-Operated Farmers’ Market. Vendors must pay a fee of $85 per day to sell at a City-Operated Farmers’ Market.

(c) Permission to Sell. No person may sell products at a City-Operated Farmers’ Market without completing an annual application and receiving approval from the Director of Property. Producers that do not have a valid Certified Producer certificate issued from a County agricultural commissioner in California shall not be approved to sell Agricultural Products in a City-Operated Farmers’ Market.

(d) Suspension or Revocation of Permission to Sell; Appeal Procedure.
(1) Following notice and an opportunity to be heard, the Director of Property may suspend or revoke permission to sell at a City-Operated Market for a violation of Chapter 10.5 of Division 17 of the California Food and Agricultural Code and its implementing regulations, this Chapter 9A, or applicable market rules and regulations, and/or for lack of proper certification or licensing.

(2) No suspension may exceed 30 days. After the end of a suspension period, the approval of the Producer or Vendor shall be automatically reinstated.

(3) Upon revocation of permission to sell at a City-Operated Farmers’ Market, the Producer or Vendor shall be ineligible to reapply for permission to sell at any City-Operated Farmers’ Market for one year from the date of revocation.

(4) Any person whose permission to sell at a City-Operated Farmers’ Market has been suspended or revoked by the Director of Property may file an appeal in writing with the City Administrator, not later than 20 days after receipt of the notice of the decision.

(A) The City Administrator or the City Administrator’s designee shall set a time for hearing the appeal, which shall be within seven days of the date of filing, unless there is mutual consent to a later date for hearing the appeal.

(B) The appellant shall be promptly notified of the time and place of the hearing and entitled to appear and be heard at the hearing.

(C) After the hearing, the City Administrator may concur in the action of the Director of Property, may modify the order by reducing the penalty, or may overrule the Director of Property and order that the permission be immediately granted or restored.

(D) The City Administrator shall issue a brief, written statement of the decision, including findings supporting the decision.
(E) The City Administrator may appoint a hearing officer in lieu of the City Administrator to act on such appeals, in which case the hearing officer shall have the same powers as the City Administrator and the hearing officer's decision shall be binding.

(e) Persons Authorized to Enter Premises. Access to and use of City-Operated Farmers' Markets is subject to these restrictions:

(1) All persons are prohibited from entering, remaining, or parking on the premises of a City-Operated Farmers' Market during market hours, unless they are a Certified Producer, Vendor, customer, a person engaging in work relating to the operation of the City-Operated Farmers' Market, or a person on the premises with the consent of the Director of Property or the Director's designee.

(2) All persons are prohibited from entering, remaining, or parking on the premises of a City-Operated Farmers' Market during hours when the market is not in operation, without permission from the Director of Property.

(3) Any person in violation of this subsection (e), and any person remaining on any market premises after being ordered to leave by the Director of Property, may be charged as a trespasser and punished by a fine of not more than $500.

(f) Advisory Committees. For each City-Operated Farmers' Market, the Director of Property shall appoint a committee consisting of at least three persons with permission to sell at the market. Each committee member shall serve at the pleasure of the Director of Property. Each committee shall advise the Director of Property as to the general policies under which that committee's market should be conducted and generally as to the character and nature of the products to be sold there. The Director of Property shall consider all recommendations made by each committee and may, in the exercise of discretion, accept, reject, or modify said recommendations, and implement them as the Director deems appropriate.
SEC. 9A.7. PREEMPTION.

Nothing in this Chapter 9A shall be interpreted or applied as to create any requirement, power, or duty in conflict with any federal or state law.

Section 2. Chapter 9B of the Administrative Code is hereby amended by revising Sections 9B.1, 9B.2, 9B.4, 9B.5, 9B.6, 9B.7, 9B.8, and 9B.9, and adding Sections 9B.10 and 9B.11, to read as follows:

SEC. 9B.1. ESTABLISHMENT AUTHORIZED; APPROVED SALES.

The Agricultural Commissioner-Director of Property is authorized to establish, maintain, and direct in the City and County a Flea Market for the sale of collectibles, antiques, and other goods by the owners thereof.

SEC. 9B.2. HOW KNOWN; FINANCES FOR MAINTENANCE AND OPERATION.

The Market created under the provisions of the preceding Section 9B.1 shall be known as the Flea Market. Its maintenance and operation shall be financed under Section 9B.5 by fees charged to vendors who utilize the facilities of the Flea Market and by such other funds as may be appropriated therefor in accordance with the budgetary procedure of the Charter.

SEC. 9B.4. ADMINISTRATION.

The Agricultural Commissioner-Director of Property shall administer the operation of the Flea Market.

SEC. 9B.5. FEES.
Each vendor at the Flea Market shall pay a daily fee of $45.50 per stall for each day on which the vendor sells. A vendor who pays in advance for an entire month shall receive a 10 percent discount on the total charge for that month.

SEC. 9B.6. RULES AND REGULATIONS.

The Agricultural Commissioner-Director of Property is hereby authorized to make such rules and regulations as the Director shall deem necessary and proper for admission to the Flea Market, assignment of stall space at the Flea Market, expulsion, suspension or revocation of permission to vend at the Flea Market, maintenance of sanitary conditions at the Flea Market, and safe and orderly conduct of the Flea Market, which rules shall not be in conflict with the provisions of this Chapter 9B but shall be in furtherance thereof. Such rules shall be posted in a conspicuous place or places in the Flea Market.

SEC. 9B.7. PERMISSION TO SELL.

Every person has the right to apply for the privilege to sell at the Flea Market provided that the prospective seller meets the following terms and conditions:

(a) Files and completes an application, on a form to be prescribed by the Director of Property, which may include a hold harmless agreement and an agreement to abide by the Flea Market rules and regulations;

(b) Agrees to comply with the requirements of all ordinances relating to the operation, use, and enjoyment of the facilities or the Flea Market premises; and

(c) Agrees to comply with all rules and regulations of the Agricultural Commissioner Director of Property regarding use of the Flea Market facilities.

SEC. 9B.8. EXPULSION, SUSPENSION OR REVOCATION OF PERMISSION TO SELL.
The Agricultural Commissioner or his or her duly authorized representative may expel a vendor from the Market for up to 18 months for violating any provision of this Chapter or any rule or regulation promulgated under the authority of this Chapter. The expulsion must be in writing and must provide the grounds for the expulsion and inform the affected party of the appeal process allowed in Section 9B.9 of this Code. A vendor who has been expelled from the Market shall be ineligible to apply for permission to sell at the Market for the duration of the expulsion. Any vendor who has been expelled from the Market more than twice in a five-year period may, upon the occasion giving grounds for a third expulsion, be indefinitely expelled from the Market. (a) Following notice and an opportunity to be heard, the Director of Property may suspend or revoke permission to sell at the Flea Market for a violation of this Chapter 9B, applicable Flea Market rules and regulations, and/or for lack of proper certification or licensing. 

(b) No suspension shall exceed 30 days. After the end of a suspension period, the approval of the vendor shall be automatically reinstated.

(c) Upon revocation of permission to sell at the Flea Market, the Producer or Vendor shall be ineligible to reapply for a period of one year from the date of revocation.

SEC. 9B.9. APPEALS.

Within 10 days of the date of the written decree of expulsion, any vendor expelled from the Market for any period of time may file an appeal in writing with the Director of Administrative Services. The Director of Administrative Services shall set a time for hearing the appeal which shall be within 30 days of the date of filing thereof and the Director of Administrative Services or his or her designee shall conduct the hearing. The vendor shall be notified of the time and place of the hearing in advance thereof and shall be entitled to appear at the hearing and be heard. After such hearing, the Director of Administrative Services may by written order and findings concur in, modify or overrule the expulsion. The timely filing of an appeal shall stay the expulsion until the conclusion of the appeal. (a)
Any person whose permission to sell at the Flea Market has been suspended or revoked by the Director of Property may file an appeal in writing with the City Administrator, not later than 20 days after receipt of the notice of the decision.

(b) The City Administrator or the City Administrator’s designee shall set a time for hearing the appeal, which shall be within seven days of the date of filing, unless there is mutual consent to a later date for hearing the appeal.

(c) The appellant shall be promptly notified of the time and place of the hearing and entitled to appear and be heard at the hearing.

(d) After the hearing, the City Administrator may concur in the action of the Director of Property, may modify the order by reducing the penalty, or may overrule the Director of Property and order that the permission be immediately granted or restored.

(e) The City Administrator shall issue a brief, written statement of the decision, including findings supporting the decision.

(f) The City Administrator may appoint a hearing officer in lieu of the City Administrator to act on such appeals, in which case the hearing officer shall have the same powers as the City Administrator and the hearing officer’s decision shall be binding.

SEC. 9B.10. DESIGNATION OF PERSONS AUTHORIZED TO ENTER PREMISES.

Access to and use of the Flea Market is subject to these restrictions:

(a) All persons are prohibited from entering, remaining, or parking on the premises of the Flea Market during Flea Market hours unless they are a vendor, a customer, a person engaging in work relating to the operation of the Flea Market, or are on the premises with the consent of the Director of Property or the Director’s designee.
(b) All persons are hereby prohibited from entering, remaining, or parking on the premises of the Flea Market at any time other than during the Flea Market’s hours without consent of the Director of Property.

(c) Any person in violation of this Section 9B.10 who remains on any Flea Market premises after being ordered to leave by the Director of Property may be charged as a trespasser and shall be punished by a fine of not more than $500.

SEC. 9B.11. PREEMPTION.

Nothing in this Chapter 9B shall be interpreted or applied as to create any requirement, power, or duty in conflict with any federal or state law.

Section 3. Chapter 1 of the Administrative Code is hereby amended by revising Section 1.10-1, to read as follows:

SEC. 1.10-1. FARMERS’ MARKET CERTIFICATION FEE.

(a) Imposition of Fee. The County Agricultural Commissioner is hereby authorized to impose a fee for the issuance, modification, verification and renewal of a farmers' market certificate for any "certified farmers' market," as defined in Title 3 of the California Code of Regulations, Section 1392.2(a), as may be amended from time to time, operating within the City and County of San Francisco. Such fee shall be equal to $500 for the issuance, modification, verification or renewal of any such farmers’ market certificate. For purposes of this Section 1.10-1, a "vendor" includes persons who sell agricultural products and persons who sell non-agricultural products. The fees to be charged are:

For a Certified Farmers’ Market with fewer than 16 vendors: $500

For a Certified Farmers’ Market with 16 – 45 vendors: $1,000
For a Certified Farmers’ Market with more than 45 vendors: $1,500

(b) Procedures. The County Agricultural Commissioner may develop procedures for the collection of any fee authorized by this Section 1.10-1.

(c) Effective Date. This Section shall be effective as of October 1, 1995.

(c) Beginning with fiscal year 2019-2020 and annually thereafter, the fees set forth in this Section 1.10-1 may be adjusted each year, without further action by the Board of Supervisors, as set forth in this subsection. Not later than April 1, the Director of the Department of Public Health shall report to the Controller the revenues generated by the fees for the prior fiscal year and the prior fiscal year’s costs of operation. Not later than May 15, the Controller shall determine whether the current fees have produced or are projected to produce revenues sufficient to support the costs of providing the services for which the fee is assessed, and that the fees will not produce revenue that is significantly more than the costs of providing the services for which the fee is assessed. The Controller shall, if necessary, adjust the fees upward or downward for the upcoming fiscal year as appropriate, to ensure that the program recovers the costs of operation without producing revenue that is significantly more than such costs. The adjusted rates shall become operative on July 1.

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
additions, and Board amendment deletions in accordance with the "Note" that appears under
the official title of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: ANNE PEARSON
Deputy City Attorney
Ordinance amending the Administrative Code to affirm the County Agricultural Commissioner's authority under state law to certify and inspect farmers' markets and producers, and to enforce state law governing the direct marketing of agricultural products to consumers; replace the County Agricultural Commissioner with the Director of Property as the operator of City-operated farmers' markets and flea markets; eliminate the allocation of space at farmers' markets for the distribution of surplus commodities to needy persons; increase the permit fees for certified producers and other vendors; and increase the permit fees for farmers' market operators.

November 18, 2019 Rules Committee - RECOMMENDED

December 10, 2019 Board of Supervisors - PASSED ON FIRST READING
Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

December 17, 2019 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 190869

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 12/17/2019 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor