

## **FARMERS MARKET RULES\***

Once the markets' mission is in place, it's time to set up your market rules. Many use the term "rules" and "by-laws" interchangeably. They are similar but have basic differences. By-laws define the structure of the governing body, which operates the farmers market, and once in place are rarely amended. They generally include a definition of officers and their job descriptions and powers, the general purpose of the group, what to do with assets upon dissolution of the market, and so forth. All markets need clear rules to be effective and fair to the market and its vendors. The legal structure of your market will determine whether or not your market needs by-laws. Independently incorporated markets (for-profit) always have both rules and by-laws.

### **Defining the Rules**

A well-run market looks seamless and easy, but as every market manager knows, it is not. Those involved in farmers markets know that putting an effective set of rules in place is part of the foundation of good management so when conflicts arise there are processes in place to assess the situation and resolve the problem. The rules should include effective means for dealing with conflicts, whether they are between vendors or with the market management. By understanding the rules, each vendor is aware of what is expected of them, i.e., the standards of conduct, what can be sold, and how to handle grievances. The rules also provide a basis to resolve disputes and a defense against suits brought against markets for issues that arise in rules violations and their consequences.

### **Tips for Creating Effective Market Rules**

There are several things to consider when establishing rules for farmers markets. First, the rules define the market and complement its mission. The market mission can include such aims as creating opportunities for local agriculture, creating vibrant public spaces, revitalizing a local economy, meeting social and economic goals, reclaiming and/or revitalizing public space, providing food access to otherwise food-insecure neighborhoods, etc. For example, if the impetus of the market is to provide a venue for local farmers, then the rules should reflect that by limiting the vendors to farmers only. Likewise, limiting the geographic region where participating farmers reside supports a local theme. If your mission is to provide local residents with access to fresh foods, then your rules may be broader in regard to who may sell in the market, and may include a broader range of products.

Market rules should be fair, equitable, and enforceable. Each vendor must be treated equally, with no one receiving special treatment. In addition, each rule should be enforceable. Rules should be reviewed and revised by the market management on a regular basis. Situations change and new issues arise. A review of the rules by the market's governing body will assure that the rules reflect the current state of the market.

### **Basic Elements of Effective Market Rules**

The rules are an important market document that requires careful consideration with input from the vendors. The rules represent an agreement between the vendor and the market and establish each participant's rights and responsibilities within the market. One way to ensure that your vendors read and agree to abide by the market rules is to include a copy in the vendor application. In the application, ask the applicant to read, agree to abide by them, and then sign that they've been given a copy of the rules and will agree to abide by them. The applicant's signature then becomes a legally binding contract stating that the vendor will comply with the market rules.

## **Who's In Charge?**

The rules should identify the governance of the market. It says who operates the market, who sets the policies and procedures of the market, and who applies those policies and procedures. It's important that market vendors know who has the authority to implement the rules of the market on a daily basis.

Since some markets operate under the sponsorship of another organization—be it a financial arrangement, where the sponsor provides a degree of funding for the market, or a sponsor has taken the market under its wing to extend its non-profit status, or the market is a project of the sponsoring agency, complete with authority to develop the policies of the market and provide management to the market—it should be spelled out in the rules so that all vendors understand the sponsor's role in the market.

The market's mission should also be stated in this section. Since the rules are meant to support the mission of the market, it is important that everyone understand the mission.

## **Hours of Operation and Important Dates**

Let your vendors know the season of operation and the days and hours of the market so they can be prepared. Include dates for the first and last market day of the season as well as the due date or schedule of fees. This section will also give the vendors the information they need about set-up times and when they are allowed to leave. All details of operations should be clearly defined in the rules so there is no ambiguity and all market participants know what is expected of them.

## **Who Can Sell**

Is this a producer-only market? Will reselling be allowed? Do local producers have priority? Do the producers need to be the sellers? Are there geographic restrictions for producers/vendors? Are crafters allowed? This section is critical to market operations and to fulfilling the market's mission. The definition of who can sell needs to be written in a way that can be verified and enforced.

If a market requires that products being sold must be 100% grown by a local producer, say so. To verify that the products are 100% self-grown, a farm inspection may be necessary. The authority to conduct such inspections should be stated in the rules. And define what 'local' means, e.g., Virginia grown, within 100 miles of the market, etc. If you have a loose definition of local, such as mid-Atlantic region, be aware that you may invite vendors from areas that challenge a common understanding of local. As long as you define it and everyone is aware of the 'who can sell' rules, problems should not arise.

Likewise, there are markets that allow the resale of products. When this is allowed, it is important to define where the products for resale may come from, procedures for allowing for resale products, and what amount of reselling is allowed.

The rules should also include a definition of the products that can be sold at the market. While some markets may choose to define each individual product, other markets identify products by category. For example, all farm products grown by the producer can be sold at the market.

But crafts and baked goods may require additional explanation. If crafts are allowed in the market, what constitutes an acceptable craft? Will crafts be juried to be accepted, and by whom? Can kits be used? Must all components of the craft be from a local source? The same applies to baked goods. Must the product(s) be made from 'scratch', made from 100% local ingredients?

In addition to what products can be sold in the market, the rules should make clear that each market participant must comply with all local, state, and federal laws and regulations dealing with the products they are selling. It is critical that all food safety regulations are adhered to for the safety of the customers and to protect the market from liability. It is also important that every vendor selling a product that requires some form of licensing or permit keep these current and on file with market management.

## **Guidelines for Selling**

When everyone participating in the market adheres to the same guidelines for selling in the market, then all vendors are given an equal opportunity to present their products for sale. Customers will be treated fairly and courteously. For example, some markets require that vendors post signage that identifies who they are and where they're from, and/or require vendors to post price signs.

Other rules will govern how vendors must conduct themselves to ensure that the market is a comfortable environment for customers and a fair place for all vendors to participate. For example, the rules may call for no smoking, no alcoholic beverages, no dogs, or dogs allowed only on a six-foot leash.

## **Space Assignment and Fees**

Specify how space assignments and fees will be made. Most often the market manager will assign spaces to vendors. This may be on a first-come, first-serve basis or on a lottery basis. Assignment of space for daily vendors is usually on a space-availability basis, with no guarantees of space or reserved space.

The rules should clearly state the fees involved in participating in a market, the size and location of a selling space, and the rights of vendors in stall selection and retention. While some rules don't necessarily spell out the dollar amount of stall fees, they do indicate who makes the decisions on fees and when payments must be made. The rules will also spell out how stalls can be rented—seasonally, daily, or shared. For those renting on a seasonal basis, they are usually given privileges such as a permanent location.

In determining your fees keep in mind that there is no overarching formula for determining what is charged—markets throughout the commonwealth determine their fees based on their markets' individual needs and/or circumstances. Some charge a percentage of gross sales per market day, others have seasonal fees based on the size of the space provided with a separate per market drop-in fee. Space fees usually fall into these categories:

*Annual Membership Fee:* markets charge vendors a predefined fee at the beginning of the season. Paying upfront will encourage vendors to continue their participation while ensuring that the market is funded. Fees are often based on the size of space, e.g., the fee for two parking spaces is \$100; one parking space is \$50, etc. Depending on the size of your market and the amount of product your vendors wish to sell, space fees can run anywhere from \$1,100 to \$5. This is sometimes combined with a percentage daily fee charged for each market day. This set-up provides the market with start-up capital at the beginning of the market when it's most needed. Some markets may allow new vendors the option of not paying this fee but may instead charge a higher percentage of their daily sales or a higher flat fee per market, or both.

*Monthly Flat Fee:* vendors pay one set amount per month. Small and large producers are charged the same regardless of the volume of their product and subsequent sales.

*Daily Flat Fee:* vendors pay one set amount for each market day. Fees can be collected as vendors enter the market. Some markets have different flat fees based on vendor type, e.g., produce vendors are charged one fee and crafters and/or bakers are charged a different (often higher) fee. Small and large producers are charged the same regardless of the volume of their product and subsequent sales.

*Percentage Daily Sales:* a fixed percentage of daily gross income. Some markets charge a percentage of gross income with a minimum/maximum amount, e.g., 5% of gross sales with a \$10 minimum and \$35 maximum, others just a percentage based on daily sales (3%, 5%, 6%, etc). Some markets also charge a percentage plus a flat fee, 3% of gross income plus \$10.

## **Vendor Performance**

What is expected of your vendors? Are they required to attend any meetings or trainings before, during, or after the season? Are they required to volunteer any time to the market? Are they required to stay for the duration of the market even if they sell out? Are they expected to provide any year-end or season-end stats, reports, etc.?

## **Compliance**

How does market management handle complaints, rules violations, and grievances? It is important to provide participants with a full understanding of what to expect when issues arise. Most markets require that complaints be delivered, in writing, to the market manager before involving the full market governing body. However, in the event that the manager is unable to resolve a complaint, there should be provisions for bringing the matter to the full governing body for resolution.

The compliance section must also outline the ramifications of violating the market rules. This typically includes a series of verbal and written warnings, suspensions, and expulsion from the market. The intent is to make it clear to vendors that the rules will be enforced and there are consequences to non-compliance.

Finally, the rules need to provide a means for vendors to aggrieve their violations. The rules should set a procedure for any vendor, having had action taken against them, or in disagreement over any rules, to take the issue to the full governing body for resolution. In this case, both the market manager and the vendor should have equal opportunity to present their case, including any evidence each side may have to justify their actions. The market's governing body must listen with an open mind and make a ruling to resolve the dispute.

## **Additional Considerations**

Each market must determine situations that are unique to their market or market organization and develop rules that support those situations. For example, farmers markets that have a waiting list for vendor space must develop a policy for determining how space that becomes available will be allocated.

Many farmers markets participate in EBT/SNAP (i.e., food stamps). Participation provides access to fresh local foods to low-income customers and provides vendors with an additional customer base. To ensure a high level of vendor participation in EBT/SNAP, and to ensure sufficient choices for customers, some markets choose to require that all eligible vendors participate. By putting this requirement in writing within the framework of the market rules, all the vendors are aware of their responsibility upfront.

Some farmers markets are managed by a membership organization that requires each vendor to join the organization and pay a membership fee, pledge volunteer time or labor, or a combination. The market rules should be clear to all participants just what is expected of them to be a member in good standing with the market. It is also important that the market define the benefits of market membership to all participants.

Market rules regarding risk management deal with the cleanliness of the selling space, the safety of display and display materials, and requirements for liability insurance, which ensure a safe environment for customers and vendors, and minimizes the risk of lawsuits for the vendor and the market.

*\* The information provided in this document was sourced primarily from the Farmers' Market Training Manual, written and produced by the Farmers Market Federation of New York.*