

Appendix II

Market Rules That Work

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Direct Marketing. 1999. By Katherine Adam, Radika Balasubrahmanyam, and Holly Born. 36 p.

Market Gardening: A Start Up Guide. 2008. By Janet Bachmann.

Postharvest Handling of Fruits and Vegetables. 2000. By Janet Bachmann and Richard Earles. 28 p.

Adding Value to Farm Products: An Overview. 2006. By Holly Born and Janet Bachmann. 12 p.

Keys to Success in Value-Added Agriculture. 2001. By Holly Born. 20 p.

Appendix 1

Market rules that work

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Farmers' markets come in all sizes, with a multitude of purposes, organized by many different groups and individuals, and serve many different kinds of communities. Without some form of guidance, markets can become highly disorganized and fall apart.

Mission statement

Before developing any rules, the organizers of a market need to answer several questions about their particular market. Why is this market being created? What is the purpose or philosophy of this particular market? Who will benefit from this market? A mission statement for the market answers these questions:

- (This market) is here to serve (this community) by providing locally grown, fresh, high quality produce and products, and to provide an opportunity for local farmers, producers, and artisans as an economic outlet within (this community.)

- (This market) is a showcase for locally grown food and other farm-related products, providing an alternative marketing opportunity that allows farmers and consumers to interact directly with each other.
- (This market) provides the opportunity to preserve the connection between farmers and consumer, and to educate consumers about the benefits of preserving local agriculture and the benefits of using locally produced foods.

A mission statement is a statement of purpose. It should be brief, but communicate your values and future vision. Consider who will see your mission statement and bear this in mind as you write. Will you post it somewhere visible for customers to read, like a label or brochure? Notice that in all of these mission statements both providers and consumers of products are identified. The market organizers should understand who the market will be serving on the consumer end.

Rules and regulations

The role of rules is to keep a market intact, define its purpose, and make it possible to be administered in an effective manner. There are no universal guidelines for "the best" set of rules for every market, but there are some general guidelines that every market can consider for developing and enforcing rules.

Market rules define who is eligible to participate as a vendor. Will this be a producer-only market? Will re-selling another's products be allowed? Will value added products be allowed? Will artisans or cottage industries be allowed? Will drop-in vendors be permitted? Will local groups (churches, not-for-profits, 4-H, ...) be permitted to participate on an occasional basis? Will take-home foods be permitted? Will there be entertainment or education? Some markets define what locality the vendors must come from—within a 50-mile radius, within the county or multi-county area, within the state, within a 3-hour drive. Statement of who qualifies as an eligible vendor must be clear so that enforcement cannot be easily challenged.

Market rules define eligible products. Some markets are very specific about what produce and products can be sold. Is the market a produce-only market? Can more than one vendor offer the same produce? Are plants (herbs, bedding, landscape) and cut flowers allowed? Will eggs, meat, honey, maple syrup, jams and jellies, baked goods, wine, soaps and cosmetics be allowed? The larger the market, the more important this parameter becomes. A market with 3 or 4 vendors needs as much product as possible to remain economically viable. A 20-plus vendor market needs to ensure that all vendors have the opportunity to make money without allowing overly intense competition when everyone is selling the same products. So a 20-plus market could benefit from having a value-added aspect beyond produce.

Market rules need provisions that address effective operation of the marketplace.

1. Identify the sponsor or organizer of the market.
2. Identify the day-to-day decision maker (market manager) and define that individual's responsibilities.
3. Enumerate the rules for market operation. Agreeing to abide by the market rules should be part of a legally binding agreement between the vendor and the market, or rules cannot be enforced. Have the applicant sign an agreement

to abide by the rules and regulations in the application process. (See #8 for specific kinds of rules.)

4. Vendor and product eligibility are defined. Producer-only or re-sale requirements are defined. Other terms (farmer, other eligible vendors, organic, local) should be defined.
5. Locations of markets are identified. Hours and days of operation are established.
6. Membership fees, space fees, and payment requirements are stated.
7. The application process is clear. The vendor needs to know who reviews each application. Are there any privileges extended to prior vendors, such as space assignment or preference in the acceptance process?
8. Guidelines for selling should include signage for the farm and products, posting of prices and pricing guidelines, whether or not pre-market sales are acceptable, whether a vendor can leave early or arrive late on a market day, arrival times for set-up and times for departure, display space, pets at the market, acceptable representatives of the vendor at the market, cleanliness of the selling space, product quality, courtesy towards customers and other vendors and the manager, deceptive advertising, parking, sampling, hawking, smoking, non-attendance and notification of inability to attend, use of legal scales, specific rules for food handling that may not be covered by local or state regulations, participation in Farmers' Market Nutrition Program (FMNP), allowance for end-of-market discounting (not recommended), compliance with local, state, and federal regulations and laws.
9. Necessary licensing and permits are to be submitted to the organizers as well as displayed at market. (This fits the regulatory aspect of markets for localities and the state.)
10. Define a clear-cut procedure for dealing with violations of rules and

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Make a provision for a regular review of rules so that rules remain effective.

regulations. If rules are not enforced, they become meaningless. Establish how and to whom violations are reported and how to notify vendors about the violations (informal spoken, formal written). Establish penalties (suspension or removal after X number of violations, fines). Compliance with rules should be incorporated into the application approval. Can vendors complain about others violating rules? Is there an appeal process?

11. Define insurance requirements. Does the market itself carry insurance? Is it enough that vendors have farm insurance, or should they also name the market as an additional insured? Do vendors also need product liability insurance?
12. Are there provisions for changes in ownership of a vendor's farm or business? Is there a waiting list for eligibility, and seniority on such a list? How are spaces at the market assigned?
13. Develop a hold harmless and indemnification clause acceptable to whoever gives the market legal advice. Decide whether the community should be included. As part of the application process, the vendor should agree that the market organizers and other sponsors are protected from legal and financial liability in accidents and other incidents at the marketplace.
14. Provide for and conduct farm/business inspections to verify that the vendor is producing what they are selling. Decide if a detailed farm plan is necessary for this process. Is there a fee if violations are found with inspection of facilities? Who conducts the inspections?
15. If there is a board of directors for the market organization, how are they elected or appointed to serve? Terms and limitations of offices and types of administrative committees should be defined.

Make a provision for a regular review of rules so that rules remain effective. Rules can be

dropped, changed, and added as needs present themselves. Keep rules as simple as possible. Complicated rules are confusing, often not understood, and hard to enforce if vendors get a headache trying to interpret their meaning. For instance, if absolutely no selling is allowed before market is open, say so. If there are exceptions to selling before market opens, be specific:

Sales before market opens are allowed in the following instances only:

1. Sales to other vendors.
2. Sales to customers who have placed an order at a prior market, and the market manager is notified before the customer is allowed to get the order.
3. Sales with market manager approval only.
4. Violations to these rules will result in a written notification, which can lead to suspension.

Enforcement of a market's rules needs to be fair and consistent. The market manager is given the discretion to issue verbal warnings that have no "teeth" so that the vendor can fall back into compliance without being penalized as long as compliance is immediate. (People do forget rules and regulations, and a reminder is usually all that is necessary.) However, if the market manager decides that the vendor is not responding to the verbal warnings or that the violation is blatant and important, two written warnings in a market season are issued before true financial impact to the vendor is enforced. With the issuance of a third written warning, the vendor is not allowed to attend the market the following week. With the issuance of another warning, the vendor cannot attend any of the four markets they are in during the next 2 weeks. With the issuance of a final warning, the vendor is expelled from the market for the remainder of the season. The vendor continues to owe fees for stall space when suspended.

If you stop and think about rules violations, some violations are considerably more important than others. For instance, not posting prices is not as important as selling spoiled meat. Forgetting to post prices does

not potentially kill a customer, while salmonella in spoiled meat can kill the customer—and the market place. Rules should provide a sliding scale of penalties based on numbers and severity of violations. Markets need to decide if fines should be paid, suspension from whatever number of market days, and expulsion are appropriate.

Furthermore, markets need to provide an opportunity for non-frivolous complaints to be filed by other vendors and by customers without threats of recriminations. Usually, a “heads-up” stated to a market manager should be sufficient, if there is an appropriate enforcement policy handy. Some markets attach a fee that is refundable only if the violation is proven and results in discipline of the offender. This helps cut down on frivolous complaints.

Vendors also must have the right to defend themselves against accusations in front of whatever enforcement group is set up by the market. And those found in violation ought to have the opportunity to appeal decisions. Not all individuals are “nice” to be around, and managers and sponsors may disfavor certain individuals enough to the point of persecution. The right for a hearing helps keep management abuses in line.

When SCAFM was being set up in 1995, we reviewed copies of rules and regulations from other farmers’ markets throughout the state. We earmarked every rule we thought would be pertinent to our market in each set of rules we found. Then, we re-ordered the rules into the following framework:

Mission Statement

General Rules

(how the organization is run)

Items for Sale (Day-to-day operations in the marketplace)

Regulatory Guide (State, local, SCAFM legal requirements)

Insurance

Sanitation

Products

Deceptive Advertising is

Not Acceptable

Deceptive Packaging Is Illegal

Definitions

The rules are reviewed and revised every January by the newly elected Board of Directors. State and local regulations and contact phone numbers are reviewed and updated. Rules can also be revised or added anytime during the year by the Board of Directors.

The application is revised every year. On the application, we have added size of vehicle to help the Market Manager decide where to assign appropriate spaces. We also have requested permission to post appropriate vendor Web sites or e-mail addresses on the SCAFM Web site. The application asks for appropriate information for our database. It includes a checklist so that we receive a complete application from the get-go:

- Completed application
- Completed listing of produce and products
- Membership fees
- Two-week stall deposit fee
- Photocopy of Sales Tax Certificate if you sell taxable items
- Copy of Certificate of Insurance for general (premises and product) liability naming SCAFM, Inc., as an additional insured. (Name & phone of SCAFM insurance agent included.)

The application also includes a Vendor Compliance and Indemnity Agreement with a required signature:

I (we), the undersigned, have read the Rules and Regulations of SCAFM, Inc., and do agree to abide by all these rules and regulations.

I (we) further agree to operate my (our) stall in accordance with these rules and regulations and to pay all applicable fees as set out in the rules and regulations. I (we) do understand that the stall fee, length of season and hours of operations are set in the rules and regulations, and I (we) will abide by them.

Enforcement of a market's rules needs to be fair and consistent.

Rules help interested parties identify the purpose and philosophy of a market.

I (we) further understand that failure to comply with the rules and regulations of SCAFM, Inc., could mean dismissal from the market.

As a vendor wishing to participate in SCAFM, Inc., located in (names of communities), I (we) agree to SAVE, HOLD HARMLESS AND INDEMNIFY, SCAFM, Inc., Cornell Cooperative Extension of Sullivan County and the Town(s) of (names of various local towns) from any an all liability or responsibility pertaining to any damages to person or property on the site assigned to me (us) by SCAFM, Inc., when such damages or liability arise out of acts of my (our) own, or of my (our) employees or associates, located at such site.

The applicant's signature represents a legal binding agreement between the

vendor and the market once the application is approved.

So, rules have a good function in the operation of viable farmers' markets. They help interested parties identify the purpose and philosophy of a market. They set up a framework for day-to-day administration. They provide for disciplinary procedures. The application process creates a legal binding agreement between market and vendor. Rules that are kept simple, are pertinent to a particular market, and are reviewed from time to time can guide a market to success.

SCAFM, Inc., Rules and Regulations can be read on the Web site, www.scafm.org. Using any search engine, type in "farmers' market rules" and you will get many choices.