

Creating Market Rules

One of the most concrete and enduring legacies of the first board of directors and manager is the creation of a set of rules for the market. Market rules play an important role in defining and positioning the market and in establishing its character. They cover such issues and concerns as stall fees, membership requirements, allowable and desirable products, and the times and dates of operation.

This chapter will enable you to:

- ▶ **Be aware of issues addressed in the market rules.**
- ▶ **Understand common controversies that arise in farmers markets and how the rules can help the manager and board avoid or handle such issues.**
- ▶ **Create a workable, useful set of market rules.**

The Purpose and Functions of Market Rules

The rules created by the first board of directors will affect the market for a long time to come. If the board chooses to appoint a committee to draft rules for its approval, it is important to include a diverse group of stakeholders and especially to include vendor representation so that the rules address the needs and concerns of all stakeholders. Vendors can be represented by some of the first farmers to commit to the market, and some may be found among the original organizing committee. An effective approach to creating the rules is to first gather input from various stakeholders, especially vendors and consumers; develop draft rules; and then go back to the stakeholders for further feedback before revising and finalizing rules for approval by the board of directors.

Market rules have a tradition in America that is as old as the markets themselves. William Penn's markets in Philadelphia opened in 1693 under a proclamation that the market would open with the ringing of a bell twice a week and that there would be no buying or selling on the way to market or before opening. Other rules at colonial markets stated that all producers were guaranteed equal access and that attempting to create a monopoly to control the price of an item and buying items to resell them at the same market were punishable offenses. Today, market rules cover similar issues, though, fortunately, the vendor who breaks a rule is no longer locked into a pillory for public ridicule.

Each market must create its own set of market rules that reflect the market's particular vision and mission. Market rules help define the who, what, when, and how of a market.

Starting a New Farmers Market

- What does the market hope to accomplish?
- During what seasons, days, and hours will the market operate?
- Who is eligible to sell?
- What are the requirements to maintain membership?
- What kinds of products can be sold?
- Who are the decision-makers?
- How and by whom are grievances handled?



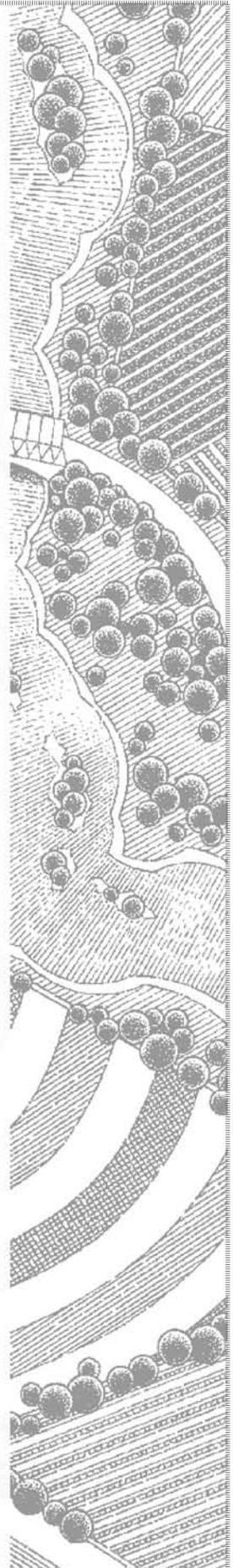
Market rules also are important in establishing guidelines for relationships among and between members of the board, the vendors, and the market manager. It may seem tedious to go over the details of crisis management in advance, but it is much easier to consider a problem when it is still hypothetical as opposed to trying to be objective when friends and business partners are involved. A thorough set of guidelines lets all of the parties know where they stand, provides a clear understanding of what is and what is not allowed at the market, and outlines how infractions will be handled.

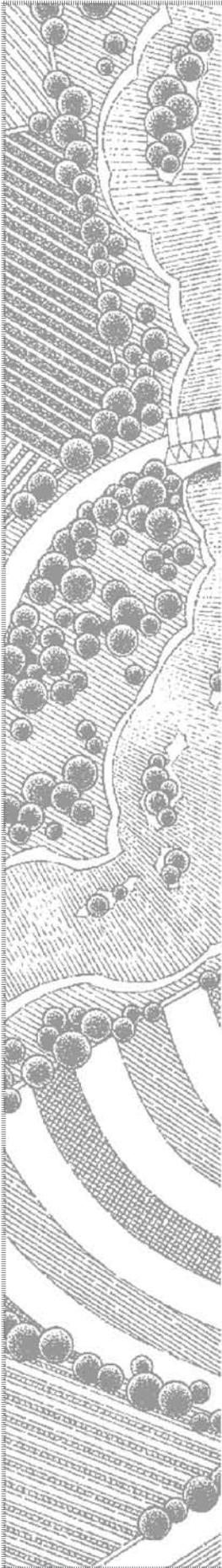
Chris Wychorski of the Federation of Massachusetts Farmers Markets points out that, at first, vendors may think they do not need rules, which they may perceive as an unnecessary and constricting formality. "Some new vendors may grumble, but after they have been at the market for a while, they see that it helps to have structure, to have procedures to fall back on, and how the rules can help protect them."

You can use the following template as a guide for developing your market's rules. If there is already a market in the area, you also may want to ask the manager for a copy of its rules for review. In addition, your state's farmers market representative may have suggestions. When creating the market rules, be sure to address the following points.

Dates and times. Determine whether the market will be year round or seasonal; if seasonal, determine the opening and closing days. Determine the regular opening and closing hours. Specify the day or time when stall fees are due, what time vendors may begin setting up, and what time they must arrive each day to participate.

Agreement. Make it clear that, through their applications and signatures, vendors agree to the conditions detailed in the market rules. Example: "By signing this contract, vendors agree to allow inspection of their farms to assure compliance with . . ."





Products. Define what products are to be sold at the market. Do state or local laws control what is allowed or how products must be handled? Example: "All agricultural products listed must comply with California's code governing . . ." Items may have to follow guidelines regarding such things as grading and packaging, organic certification, maturity, quality, labeling, and health and safety laws.

Admission of new vendors. How will the market decide who can join and when? Will it be a decision by the manager, the board, or vote? Example: "If growers/vendors meet the following criteria, they will be admitted based on the availability of space, the diversity that their products add to the market, and their position on the waiting list."

Market fees. State the procedure by which stall fees will be collected. Are there seasonal rates or early-sign-up discounts? Will the market charge a flat rate stall fee or a fee based on a percentage of gross sales?

Membership. Membership can be based on and can mean many different things. Will membership be limited to local or in-state growers only? To be voting members, must growers have participated for a certain length of time each season? Will local supporters/officials be allowed to vote on some larger issues but not be considered regular members? Example: "There will be two categories of members in this association, the first referred to as . . . and the second as . . ."

Responsibilities of members. These guidelines cover issues such as consistency and timetables at the market, product quality, and overall expectations regarding stall areas, including behavior and cleanliness. Example: "Vendors are required to maintain their stands in a neat and orderly fashion, ensuring safety by . . ."

Assignment of stall space. Stall assignments can be based on seniority, products, history of consumer/producer relationships, and the size of the space. More than likely, assignment of stalls will involve a mixture of all those conditions. How will vendors apply for new spaces?

Grievances. Complaints are a fact of life at every farmers market, so begin with a good plan for dealing with them. Alex Hitt of the Carrboro Farmers market in North Carolina said that his market has a strict rule of accepting written grievances only. This rule allows him to avoid unofficial verbal arguments and deal objectively with official written complaints.

Enforcement. Market rules must have established courses of action for dealing with infractions. Will vendors be allowed one, two, or three chances before

they are expelled from the market? Will the expulsion be temporary or permanent? How may vendors submit appeals if they disagree with expulsion? What legal rights do managers have to investigate complaints and enforce market rules?

WIC coupons and food stamps. Management will have to decide whether to participate in the USDA FMNP and Food Stamp Programs. If so, vendors will be affected in terms of postings, turning in coupons, etc. For more information, see the Chapter Three on organizing a farmers market in a low-income area.

Miscellaneous: Do you want to establish sign requirements for each vendor? For example: “Any product not grown by the vendor requires a sign indicating the farm and county from which the product came” would be a requirement for a local-vendors-only market.

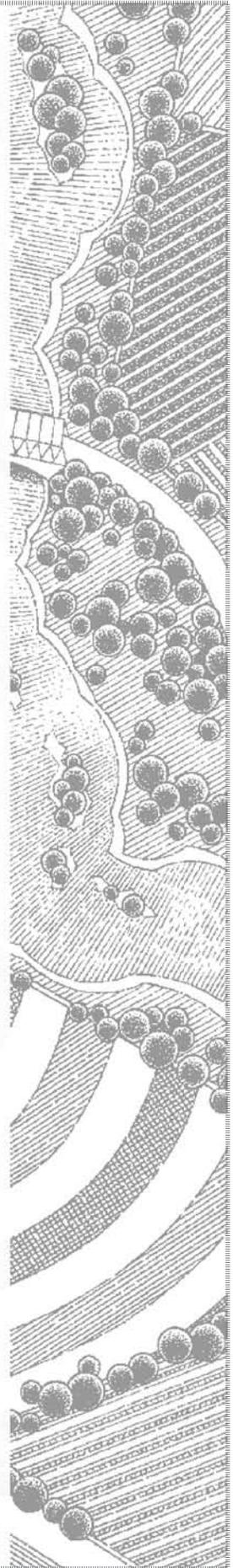
Being Proactive in Making the Market’s Rules

The preceding list outlines issues commonly addressed in rules for farmers markets. By anticipating possible sources of controversy and dissension and formulating rules and policies to address those issues proactively, the board of directors and market manager may avoid problems that interfere with the market’s establishment as a successful, stable entity. The next section describes some of the sources of controversy that the board and manager can manage or avoid by being proactive in writing the market rules.

Locally Grown Products

Certified farmers markets in California exist for certified producers to market their produce directly. Because they sell relatively small volumes of produce direct to consumers, vendors at farmers markets are exempt from many packing and labeling requirements that would otherwise apply. One of the most troublesome issues for markets and managers derives from the possibility that a vendor may attempt to use the market to sell something she or he has not produced.

Disputes often arise over whether or not all the vendors are selling their own crops. Sometimes growers make honest mistakes, thinking, “Well, this is just from my friend next door and I helped him with seeding some of it,” not realizing that this violates the market’s contract and possibly violates state regulations as well. Ideally, no vendor will buy produce at a wholesale outlet and claim it as his or her own, but that is one of the major challenges facing markets, managers, and those in county and state government agencies that oversee farmers markets. For this



reason the board, the manager, and vendors need to prepare themselves for this contingency by having a clearly written procedure outlined in the market rules and understood by all vendors.

Vendors at the market need to understand that the market's producer-only rule is a legal requirement for certification. Otherwise, they may not see the danger in misrepresenting the origin of their products. If locally grown products are what the market promotes, then that is what customers expect.

Polls have shown that consumers who patronize farmers markets do so primarily because they like to know who grows their food and feel that they can trust farmers they see face to face. This is important to preserve the integrity of the market and keep the trust of the public. Freshly picked foods sold by the person who grew them are viewed as being of higher quality than ones that have been transported long distances. Every farmer at the market should realize the value of this perception to the market's prospects.

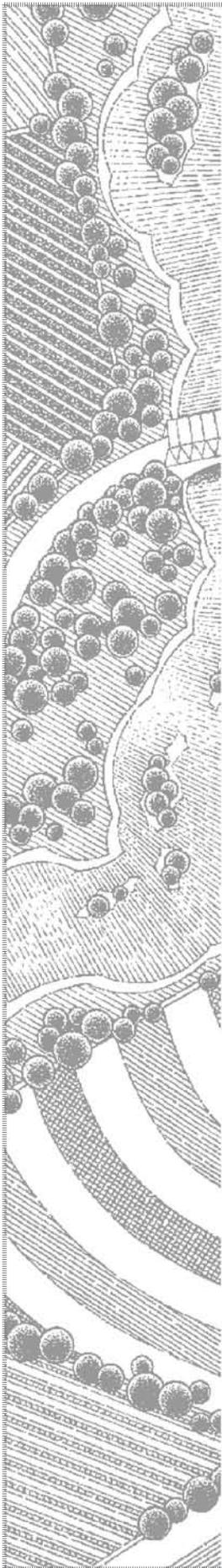
Quintin Carpenter of Capitol Square Market in Madison, Wisconsin, deals with a serious complaint about a farmer bringing others' products to market by following the farmer home that day to see the fields for himself. His market has a producer-only rule, and a farmer who breaks that rule can never sell at the market again. However, in some states, farmers have questioned the market manager's right to set foot on their property. Therefore, managers must be careful about trespassing suits and the board of directors should add a clause regarding the right to inspect farms in the market's vendor contract.

Clearly written market rules, vetted by an attorney who knows relevant laws and regulations, can help provide managers with the legal backing they need to deal with complaints of unfair or illegal sales. Market managers can do their best to avoid these problems by:

- Explaining the importance of upholding producer-only standards and maintaining the market's integrity.
- Knowing what is in season in the area.
- Being familiar with vendors and their products so that vendors are comfortable with the manager and the manager knows vendors' farms well enough to know what they can and do grow.

Stall Assignments

Another issue that often sparks dissension is allocation of stalls. Vendors know that an ideal location can make a difference of hundreds of dollars a day. If possible,



Starting a New Farmers Market

begin with a market design that makes every stall space visible and easily accessible to customers.

To assign spaces equitably, market managers use a variety of techniques, including giving first choice to the first vendor who pays the fees, drawing straws, and basing stall assignments on seniority. Of course the last is only feasible after the market has been in operation long enough to have vendors with different tenures. Make sure the plan is transparent, widely shared, and in place before the season starts. Once stall assignments have been established, adhere to the rules and make sure committees and procedures are in place to deal with disputes.

Transfer of Title

Transfer of title is another hotly debated issue. What happens if a farmer sells his or her business to a grower who does not already have a space in the new market? Is that grower permitted to sidestep a market's waiting list and enter immediately? Some markets establish detailed rules outlining the procedure by which space and membership in the market may be transferred. Transfer is often limited only to immediate family members or legally recognized business partners.

A Final Note about Market Rules

Market rules need to be written to ensure that they meet the market's goals. However, the market will not be well served by rules that are so restrictive that only a few vendors wish to participate. A good approach to including representative opinions is to have a diverse market-rules committee. Everyone's input and concerns should be considered in an effort to strike a balance among the various interests and ensure that the rules represent an optimal outcome for all of the groups involved.

