

The following wisdom and insight regarding farmers' market governance was adapted from a handout compiled by Trina Pilonero, which she distributed at Michigan's 2004 Great Lakes Fruit, Vegetable and Farm Market Expo. Trina herself is a farmer and farmers' market vendor from New York State who has served on the Board of Directors for the Sullivan County Area Farmers' Market, Inc. She has also participated in other farm market governing bodies including the Farmers' Market Federation of New York State Board of Directors, and the Northeast Organic Farming Association-New York Governing Counsel. Thanks to Trina and the Sullivan County Area Farmers' Market, Inc. for sharing their experiences to help the rest of us.

Market Rules That Work

Trina Pilonero, Silver Heights Farm
216 Egger Road, Jeffersonville, NY 12748
(845) 482-3608 slvrhgts@pronetisp.net

Governing guidelines and rules are important for farmers' markets to provide organization and prevent a market from "falling apart." Since farmer's markets are as diverse as the communities they serve, there are not universal guidelines for "the best" set of rules for every market. However, there are general guidelines that every market can consider for developing and enforcing rules. The role of rules is to keep the market intact, define its purpose, and make it possible to administer in an effective manner.

The 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 the market? A mission statement for the market is appropriate for this purpose. In any case, a mission statement is legally required for not-for-profit groups, to specify what will happen to funds if the group disburses. A mission statement simply identifies why the market is being created and who benefits from its existence. Such a statement should be very simple and identify both the providers and the consumers of products as in the following:

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

(This market) is a showcase for (locally)(regionally) grown food and other farm-related products, providing an alternative marketing opportunity for local farmers and consumers to interact directly with each other (rather than through a third party).

(This market) provides the opportunity to preserve the connection between farmer and consumer, and to educate consumers about the benefits of preserving local agriculture and the benefits of using locally produced foods.

(This market) strives to enhance the quality of life of (this community) by creating a social opportunity to gather and interact. (This market) further strives to bring more foot traffic to the downtown, providing local merchants with opportunity to strengthen their businesses and keep the downtown economically viable.

(This market) serves as (name of association) marketplace for excess produce from local gardeners. Local value-added producers and cottage industries will be provided opportunity to directly interact with consumers in (this neighborhood) as well. Educational programs will be conducted about nutrition on a regular basis. The (marketplace) will provide a social outlet for (this community).

Notice that in all of these mission statements, both marketers and consumers are identified. The market organizers should pay particular attention to who the consumers will be that are attracted by the market.

Purpose for Market Rules

Market rules define more precisely who is eligible to participate as a vendor, can define eligible products, and enable smooth operation. When considering which vendors will be welcome at a particular market, organizers should consider several questions, such as:

- Will this market be a producers-only market?
- Will “carrying” (re-selling another’s products) be permitted?
- 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, etc.) 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, such as within a 50 mile radius, within a county or multi-county area, within the state, or within a 3 hour drive. Statements of who qualifies as an eligible vendor must be clear so that enforcement cannot be easily challenged.

In addition to outlining which vendors will be included, market rules provide the opportunity to 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 & jellies, baked goods, wine, and soaps and cosmetics be allowed?

The larger the market, the more important these parameters become. A market with three or four vendors needs as much product as possible to remain economically viable. Markets with 20 or more vendors need to ensure that all vendors have the opportunity to make money without overly intense competition when everyone is selling the same products. Such a market may benefit from having value-added products in addition to produce.

Contents of the Rule Book

Market rules need to include provisions for effective operation of the market place. Include:

- The sponsor or organizer of the market.
- The day-to-day decision maker (market manager) and a definition of that individual's responsibilities.
- A clear enumeration of the rules for market operation. This should be accompanied by a legally binding agreement between the vendor and the market, or rules cannot be enforced. As a part of the application process, have the applicant sign an agreement to abide by market rules and regulations.
- Location, days, and hours of operation.
- Definition of product and vendor eligibility. Define carrying rules or producer-only requirements. Other terms should be defined (farmer, other eligible vendors, organic, locality).
- Membership and space fees and payment requirements stated.
- The person/group reviewing membership application and the process involved. (Are there any privileges extended to prior vendors, such as a space assignment or preference in the acceptance process?)
- Selling Guidelines, which rule on the following:
 - Signs for the farm and products
 - Posting prices and pricing guidelines
 - Allowance or restriction of pre-market sales
 - Allowance (disallowance) for vendor early or arrive late on a market day
 - Arrival times for set-up and times for departure
 - Vendor-provided displays
 - Pets
 - Product quality
 - Courtesy towards customers, other vendors and the market manager
 - Restriction against deceptive advertising/packaging
 - 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/Project FRESH or Food Stamps/EBT
 - Allowances for end of market discounting (not recommended)
 - Allowances for producers to buy from other vendors before market opens
 - Requirement of vendors to comply with local, state and federal regulations and laws
- Statement that necessary licensing and permits are to be submitted to the market management as well as displayed at the market. (This fits the regulatory aspect of markets for localities and the state.)

- Enforcement procedure. This needs to be clear and acted upon or the rules become meaningless.
 - How and to whom violations should be reported
 - How to notify vendors about the violations (informal spoken, formal written)
 - Penalties after a specified number of violations or following a severe violation. (Suspension or removal from one or more market days or financial penalties.)
 - Can vendors complain about others violating rules? Is there an appeal process?
- Defined insurance requirements. Does the market itself carry insurance? Is it enough that a vendor has farm insurance, or should he or she also name the market as an additional insured?
- Are there provisions for changes in ownership of the vendors' farm or business? Are there waiting lists for eligibility (and seniority on such list)? Is there a seniority list for space assignments?
- Include a hold harmless and indemnification clause acceptable to whoever gives the market legal advice. Decide whether the locality 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.
- Provide for and conduct farm/business inspections to verify that the vendor is producing what they are selling. (This is already required by many states for participating vendors of Farmers Market Nutrition Program/Project FRESH.) 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?
- If there is a board of directors or a directing committee for the market organization, define how they can be called upon to serve. Define terms and limitations of offices and types of administrative committees.

Provide for regular review of rules so that the 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 misunderstood, 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 the market opens, be specific as in the following example:

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, expulsion, etc.)

Rule Enforcement

Enforcement of a market's rules needs to be fair and consistent. For example, Sullivan County Area Farmers' Market (SCAFM) did not have a procedure for enforcement at first, but the need was a reality. Vendors tried to sell before market opened, even though this was not permitted. A tough market manager put a stop to most early sales. Vendors tried to be completely packed up

by the official end of market, when rules required that they have their product displayed until the end of advertised selling hours.

It is discouraging to vendors to keep the wares on display when there are few customers around. However, advertised hours mean that their products should be available to their customers, should they choose to come to market. Vendors are now allowed to consolidate their displays, but complete packing up is allowed only after market officially closes. Again, a persistent, tough market manager has made the difference. In both cases (early sales and early packing up) verbal warnings have sufficed. Discipline has yet to be a real problem in these areas.

However, the need for disciplinary action has been apparent in other areas. Some SCAFM vendors tried to sell products that they misrepresented as grown by them, when the products were actually carried. When faced with a farm inspection, those vendors voluntarily withdrew from the market. Another vendor spit tobacco juices into the strolling area of the marketplace. The threat of calling the Health Department put a stop to those actions. A third vendor placed baked goods on the ground (market rules require food items to be at least a foot off the ground) and refused to cover other baked goods (Health Department regulations). After too many requests to comply, the vendor was expelled. Another vendor strolled through the market before opening and re-priced his product with considerably lower prices. The market manager stopped that practice (undercutting of prices is not allowed).

When these and other minor infractions of rules and regulations occurred, the board of directors finally decided to institute a disciplinary procedure. The procedure is still new and probably needs refinement. Basically, 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 a fourth warning, the vendor cannot attend any of the four markets they are in during the next two 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 rule violations, some are considerably more important than others. For instance, not posting prices is not as important as selling spoiled meat. The type of penalty should reflect the nature and the importance of the violation. Forgetting to post prices does not potentially kill a customer, while salmonella in spoiled meat can kill the customer—and the marketplace! 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 or expulsion may be 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 complaint-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 the managers and sponsors may disfavor certain individuals to the point of persecution. The right for a hearing helps keep management abuses in line.

Conclusion

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:

1. Mission Statement
2. General Rules (how the organization is run)
3. Items for Sale (day to day operations in the marketplace)
4. Regulatory Guide (State, local, SCAFM legal requirements)
 - a. Insurance
 - b. Sanitation

Rules that are kept simple, are pertinent to the particular market, and are reviewed from time to time can guide a market to success.



This information is provided by Trina Pilonero, revised by Kate Dennison, and distributed by the C.S. Mott Group for Sustainable Food Systems at Michigan State University. For more information about farmers’ markets see www.farmersmarkets.msu.edu For more information on the C.S. Mott Group, see www.mottgroup.msu.edu

