

# **CALIFORNIA FARMERS' MARKETS ASSOCIATION**

## **RULES AND REGULATIONS FOR**

### **CERTIFIED FARMERS' MARKETS**

#### **STATEMENT OF INTENT**

**NATURE OF THE MARKET:** The Certified Farmers' Markets (CFM) are diversified markets offering both certifiable and non-certifiable goods for sale.

The CFM provides producers with the opportunity to sell their fresh, local products directly to the consumers without the intervention of a middleman.

Each CFM is operated in accordance with regulations established in the California Administrative Code (Title 3, Chapter 3, Group 4, Article 6.5, Section 1392) pertaining to Direct Marketing. Each market is certified by the County Agricultural Commissioner as a direct marketing outlet for producers to sell their crops directly to consumers without meeting the usual size, standard pack and container requirements for such products. However, all produce must meet minimum quality standards.

The non-certifiable goods add variety and enhance the festive ambiance of the Farmers' Market. Although the State Direct Marketing regulations require the producers of fresh fruit, nuts, vegetables, flowers, honey, eggs, nursery stock, and plants be required to be certified, the same producer-to-consumer philosophy applies for all items sold at the Market. The resale of products is prohibited.

**MANAGEMENT:** Each CFM is managed, operated and controlled by the California Farmers' Markets Association. (CFMA)

#### **RULES AND REGULATIONS FOR ALL SELLERS AT THE CERTIFIED FARMERS' MARKETS.**

In order to ensure the successful maintenance of the CFM as an efficient outlet for producers to sell their products directly to consumers, the CFMA has established the following set of rules and regulations.

##### **I. INTENT AND IMPLEMENTATION**

The purpose of this set of rules is to govern the operation, administration and management of the Certified Farmers' Market under the control of this organization.

The governing body of this organization, its management and its designated agents will implement and enforce all rules and regulations pertaining to the operation of the Certified Farmers' Markets under its control in a fair and equitable manner.

## **II. STATE REGULATIONS**

The regulations of the California Department of Food and Agriculture pertaining to Direct Marketing (Article 6.5, Group 4, Subchapter 1, Chapter 3, Title 3 of the California Administrative Code) are hereby incorporated by reference to be part of these rules.

Specifically restated are the following provisions of such regulations:

- A. Producers of fresh fruits, nuts, vegetables, shell eggs, honey, flowers, and nursery stock must obtain a Certified Producers' Certificate prior to selling such commodities at a Certified Farmers' Market. The producer must have produced such commodities by the practice of the agricultural arts upon land, which the producer farms, owns, rents, leases or sharecrops.
- B. Fresh fruits, nuts and vegetables listed on a producer's certificate may be sold directly to consumers exempt from size, standard pack, container, and labeling requirements. All prepackaged, closed consumer containers of agricultural products shall be labeled with the name, address and zip code of the producer and a declaration of identity and net quantity of the commodity in the package. However, a package containing 6 or fewer items, which are fully visible, does not need a statement of count.
- C. All agricultural products sold at the market shall comply with the regulations of the California code governing maturity and quality.
- D. All agricultural products, other than exempt fresh fruits, nuts, vegetables, shell eggs, honey, flowers and nursery stock which are sold at the markets, must comply with all applicable laws pertaining to their grading and labeling.
- E. All agricultural products sold at the markets are subject to the provisions of federal marketing orders, state marketing orders, state laws and regulations enforced by any state agency, or any other local health and safety laws, regulations or ordinances.
- F. All agricultural products, including fresh fruits, nuts, vegetables, shell eggs, honey, flowers and nursery stock sold for the purpose of commercial resale must be in compliance with all applicable size, standard pack, containers and labeling requirements of state laws and regulations.
- G. Only the producer or the producers' parents, children, grandparents and grandchildren or a relative regularly residing in the producer's household or an employee of the producer may sell the producer's products at the market. An employee is any person employed by the producer at a regular salary or wage, on either a full or part time basis. It does not include a person who is reselling or show compensation is primarily based on a commission of sales. Proof of status of an employee is an authorized agreement proving that the person selling is an employee of the Qualified Seller. An employee may not sell for more than one Qualified Seller at a time.
- H. The certified producer's embossed photocopy certificate must accompany the certified agricultural products during transportation and must be conspicuously posted at the point of sale.

- I. When any agricultural product is sold by weight, the type of scale used shall be approved, tested and sealed by the County Agricultural Commissioner, Sealer of Weights and Measures.
- J. When a producer has been granted by the market the privilege of selling for up to two other certified producers, it must be under the following conditions:
  - 1) The agricultural products shall be separated at the stand and clearly identifiable by the respective certificate.
  - 2) The producer selling for the other producers must also sell or offer for sale agricultural products, which the producer selling has produced. The producer selling must start the market day with at least 50% of the total produce from his own production.
  - 3) Prior to sale, the producer selling has furnished a written letter from the additional producer(s) which verifies the selling producer's authority to sell their product on their behalf and have his name cross-referenced on the additional producer(s)' certificate.
  - 4) A grower selling under a partnership; the partnership will be considered one certificate.
- K. A producer shall provide, upon request by an enforcing officer or Market Manager, any certificate, documentation, information or identification that may be reasonably required to show that the conditions of the regulations are being met. If such conditions are not met and the market is assessed additional fees for follow-up inspections at the market, the grower(s) responsible for the follow-up inspections will be equally assessed the total cost of the follow-up inspection.
- L. When selling at the markets the producer and the producer's agricultural products shall comply with all applicable requirements of the California Retail Food Code and the California Sherman Food, Drug and Cosmetic Law, specifically:
  - 1) All produce and containers of produce must be kept at least 6 inches above the ground.
  - 2) Food preparation (except trimming and sampling) is prohibited.
  - 3) Processed foods must be processed in an approved facility, properly packaged and labeled under clean and sanitary conditions.
  - 4) Dried fruit and shelled nuts sold in an unpacked, bulk form must be displayed with a cover and conform to dispensing methods approved by the local health department.
  - 5) No live animals, birds or fowl may be kept or allowed within 20 feet of any area where food is stored or held safe. No dogs are allowed in the market.
  - 6) Vendors selling non-agricultural food products are required to have a valid health permit from the local jurisdiction and are not considered part of the Certified Farmers' Market.
  - 7) All products sold as organic must be grown, produced, or processed in accordance with California Code of Regulation, Title 3. code 1392.4 (h), which states: "Any person selling organic products or representing products as organic at a certified farmers' market shall conspicuously post at the point of sale a photocopy of his or her current State of California organic registration and, if applicable, documentation of his or her organic certification. Prior to posting organic documents, it is permissible to conceal from public view acreage and dollar amounts pertaining to annual sales. A complete

photocopy of the original, unaltered, current organic document(s) shall, upon the request of an enforcement officer, be made available for review at any time during participation in a certified farmers' market.

This documentation requirement does not apply to individuals who sell \$5,000.00 or less of organic produce in a given year.

- 8) Smoking is not permitted in produce display and immediate sales area.
- 9) If the local health authority approves, distribution of samples in a manner which will insure safe, unadulterated samples for the public, may be allowed. In such, each grower should regard the following as suggested guidelines:
  - (a) Keep samples in clean covered containers approved by the local health agency.
  - (b) Use toothpicks, tongs, rubber gloves or disposable utensils to distribute the samples.
  - (c) Dispose of pits, peels, food waste and rubbish in leak-proof garbage receptacles with close fitting lids.
  - (d) Use clean disposable plastic gloves when cutting produce for samples and provide temporary handwashing and utensil cleaning facilities.
  - (e) Produce intended for sampling must be washed and cleaned so as to be safe for consumption.
  - (f) Utensils and cutting surfaces must be washed and sanitized (use a chlorine solution of one teaspoon or capful of liquid bleach per gallon of water).
  - (g) Cutting surfaces must be smooth, non-absorbent and easily cleaned.
- (10) If a grower or food purveyor is not in compliance with California Retail Food Code (CalCode) or the California Sherman Food, Drug and Cosmetic Law and the market is cited for non-compliance, the grower(s)/food purveyor(s) responsible for the infraction(s) will be equally assessed the total amount of the fine imposed upon the market.

### **III. ADMISSION OF A PRODUCER TO THE MARKET**

Admission to sell at any market shall be at the reasoned discretion of the market manager. In making any determinations in this regard, a manager should consider the following:

- A. Producer's positive or negative history of compliance with state, local government and market rules and regulations.
- B. Producer's history of market participation. When practical, significant weight, priority and preference should be given to member growers returning from previous seasons.
- C. The competitive availability and number of sellers of producers' product present within the market. If practical, monopolies and surfeits (gluts) should be avoided.
- D. Whether the present number of sellers of producer's product are adequately supplying consumer demand.

E. The number of unreserved spaces and other limitations of the market.

Period of attendance time and limitations of type and quantity of product allowed may condition admission of a producer.

Any producer aggrieved by the manager's decision may appeal for review by the Director of the Association as outlined in section **VII**. A decision by the Director shall, as to this organization, be final.

#### **IV. ADMISSION OF PRODUCTS TO THE MARKET**

Unless otherwise specifically listed as an additional authorized agricultural, processed agricultural or non-agricultural product in this section, only fresh fruits, nuts, vegetables, shell eggs, honey, flowers and nursery stock listed on a producer's certificate may be sold at the markets.

Admission of any agricultural or processed agricultural product to the market or non-agricultural product to an area adjacent to the market shall be at the reasoned discretion of the Market Manager. In making any determination in this regard, the Market Manager shall consider the following:

- A. Producer's history of selling such product within or adjacent to the market. When practical, significant weight and preference should be given to products sold by producer in previous seasons.
- B. The present competitive availability (number of sellers) of producers product within or adjacent to the market. If practical, monopolies and surfeits (gluts) should be avoided.
- C. Whether the present sellers or producer's product are adequately supplying consumer demand.
- D. The type of relative quality of product intended to be offered for sale by the producer. Field run produce shall be encouraged. Culls or lowest grade only sales shall not be allowed. At the most, 10% of the produce intended for sale by the producer shall be less than number 2 grade.

Admission of a product to be sold by a particular producer may be conditioned by period of sale, location of sale, variety, quality, quantity and other general or specific limitations as deemed necessary by the Market Manager.

Any producer aggrieved by the manager's decision may appeal for review by the Director of the Association as outlined in section **VII**. A decision by the Director shall, as to this organization, be final.

Additional authorized non-processed agricultural products which may, under stated conditions, be admitted by the Market Manager for sale within the Certified Farmers' Market are:

- 1) Fresh herbs and spices
- 2) Fish raised in California controlled waters.

The producer must have produced all such products by the practice of the agricultural arts upon land, which the producer farms and owns, rents, leases or sharecrops.

Producers wishing to sell a non-processed agricultural product other than those listed immediately above must submit a written application for approval to the Association.

Additional authorized processed agricultural products, which may, under stated conditions, be admitted by the Market Manager for sale within the Certified Farmers' Market, are:

- 1) Dried beans, grains, fruits, nuts and vegetables listed on producer's certificate.
- 2) Shelled nuts, including those, which have been roasted, salted or flavored.
- 3) Dried herbs and spices.
- 4) Fresh orange juice, fresh apple juice.
- 5) Flower arrangements and wreaths.

All such raw products must have been produced by the producer by the practice of the agricultural arts upon land which the producer farms and owns, rents, leases or sharecrops.

All processed certifiable agricultural products must have and be accompanied by a verifiable listing of the fresh product on producer's certificate of the producer selling.

Seller must be able to show location and capability of processing or, if processing is done by a second party, the method used to insure that the processed product returned is the original source product submitted by the producer for processing. Receipts, volume data, and letters verifying methodology may be requested or required.

Seller must show that all processing was accomplished under safe and sanitary conditions and, if applicable, obtain, furnish and display any and all health permits necessary.

Producers wishing to sell a processed agricultural product other than those listed immediately above must submit a written application for approval to the Association.

Additional authorized processed non-agricultural products which may, under stated conditions, be sold in an area adjacent to the area designated as the Certified Farmers' Market but under the auspices of the market management are:

- 1) Ocean fish and shellfish
- 2) Bakery products
- 3) Meat products
- 4) Kettle corn, crepes and other Association approved on-site prepared foods.

Individuals wishing to sell a non-agricultural product other than those listed immediately above must submit a written application for approval to the Association.

## **V. STALL RESERVATIONS AND ASSIGNMENT OF SELLING SPACE**

Stall reservations are considered commitments by farmers and food purveyors to participate in the markets on either a weekly, biweekly or space availability basis. Below is a short description of each reservation category.

**WEEKLY:** Growers/Food Purveyors reserve a stall for every week of the month.

**BIWEEKLY:** Through design of production or employment scheduling, Growers/Food purveyors can only attend the market every other week.

### **SPACE**

**AVAILABILITY** If Growers/Food purveyors cannot commit to attending market on a regular basis they may call 2 days prior to the market day to inquire about space availability. Their stall space will not be reserved each week and the Association may search for a similar Grower/Food purveyor to fill their stall reservation on a more consistent weekly or biweekly basis.

The producer's location, space size and other factors of assignment of selling space within a market shall be at the reasoned discretion of the Market Manager. A typical stall space is 10 feet wide by 24 feet deep. Sellers must accept the stall space assigned to them by the Market Manager. A seller's stall space in the market is not guaranteed to be in the same location every week. In making any determination of the assigned space, the Market Manager shall consider the following:

- A. The maintenance of positive, present and past consumer/producer relationships.
- B. The maintenance of good product mix and consumer traffic flow.
- C. The principles of good market and product promotion.

- D. In the event a producer/seller is removed or suspended from a market(s) due to either State, County or CFMA Rules and Regulations violation(s), the producer/seller will be placed at the bottom of the waiting list for their requested markets.

Any producer aggrieved by the Manager's decision may appeal for review by the Director of the Association as outlined in section **VII**. A decision by the Director shall, as to this organization, be final.

## **VI. STANDARDS OF CONDUCT**

Producers and employees representing producers must be:

- A. Knowledgeable about product, how it is used, grown or produced and communicate that clearly to the customers.
- B. Courteous, professional and presentable at all times.
- C. Able to display products in a sanitary, presentable and attractive manner.
- D. Honest and to conduct themselves at all times in a courteous and business-like manner. Participants are expected to dress (shirt, pants and footwear) and behave in an appropriate manner. Drinking, yelling, swearing, name-calling, slanderous remarks and other rude behavior will not be tolerated.
- E. Able to refer matters to a market manager when experiencing difficulty with customers.
- F. Expected to treat each other, staff, customers and officials with respect.
- G. Able to refer complaints about other participants or the Market Rules and Regulations in writing to the Market manager, the Executive Director, or to the Board of Directors.
- H. Aware that harmful remarks made about producers or the market are subject to legal liability for damages.

## **VII. SUSPENSION OR REMOVAL OF A PRODUCER FROM THE MARKET**

A producer may be suspended or removed from any market or markets or have selling privileges in the market conditioned, modified or limited by a Market Manager for any of the following reasons:

- A. Failure to obey and conform to state, local government or market rules and regulations.
- B. Causing or maintaining an unsafe or unsanitary condition at the market.
- C. Unreasonable or outrageous conduct considered detrimental or prejudicial to the purposes and interest of the market or the Association.
- E. Failure to attend at a previously reserved market space without adequate prior notification.
- F. The occurrence of any condition or limitation which was placed on the admission of the producer's product to any market.

G. Behavior that obstructs any other vendor's commerce or ability to transact business at the market.

The severity of any penalty or discipline imposed by the Market Manager shall be directly related to the gravity or repetition of the violation.

A producer is responsible for the actions of the producer's representatives, employees or agents.

Whenever a Market Manager decides that a violation has occurred of such seriousness that it warrants the suspension or removal of a producer from one or more markets, the Market Manager will provide the producer with a written notice to the intention to suspend or remove the producer. The notice of intent to suspend or remove the producer will state the reasons for the proposed action and offer the producer an opportunity to be heard by the Executive Director before the imposition of the suspension or removal from the market. The Market manager will deliver the notice of intention to the producer in person or mail it to the producer by first class or registered mail to the last known address of the producer in the Association's records.

The notice of intention to suspend or remove a producer shall advise the producer that he or she may ask to be heard, either orally or in writing, by the Executive Director prior to the imposition of the suspension or removal. The request for a hearing must be received by the Executive Director no later than fifteen calendar days after the date of the issuance of the notice of intent to suspend or remove the producer.

If the producer does not request a hearing with the Executive Director, or if the producer fails to request a hearing within fifteen calendar days of the date of issuance of the notice of intent to suspend or remove the producer, the Market Manager may take action to suspend or remove the producer from one or more markets.

If the producer does request a hearing with the Executive Director and the Executive Director does receive the request for a hearing within fifteen calendar days of the date of the notice of intent to suspend or remove the producer, the Executive Director shall schedule a hearing with the producer. The purpose of the hearing will be for the Executive Director to hear and consider the producer's evidence and argument regarding the action proposed by the Market Manager. The Executive Director will notify the producer of the date, time and place of the hearing. The Executive director may elect to have the hearing conducted by a third party, an officer or Board member of the California Farmers' Markets Association.

The Executive Director will consider the evidence and arguments submitted by the producer, the Market Manager and any other interested parties in attendance prior to or during the hearing and shall weigh this evidence and argument in making his or her decision whether or not to suspend or remove the producer. The Executive Director will notify the producer in writing of his or her decision. The Executive Director's decision shall be delivered in person or mailed by first class or registered mail to the producer. The Executive Director's decision is final and there is no further appeal of this decision available from the California Farmers' Markets Association.

## VIII. OTHER MARKET RULES, POLICIES AND REQUIREMENTS

- A. Product Limitations.
- Only California grown produce may be sold in the market.
  - Sales of out-of-season (California) produce are allowable only to the extent of their reasonable and normal storage life or proof that such produce was produced by producer in greenhouse facilities operated by such producer.
  - All second certificate produce and second certificate non-certifiable ag product sales must be authorized by CFMA prior to sales.
  - Any certifiable, non-certifiable agricultural processed or non-agricultural processed products sold in the market may be placed under limitations by the Market Manager at any time.
- B. Certificates. Producer certificates with two or more names listed as producer must provide acknowledged evidence of partnership or other legitimate business agreement unless the additional names are for second certificate purposes.
- C. Load Sheets. Return your completed load sheet with your farm name to your Market Manager no later than ½ hour after the close of the market. If you fail to turn in your load sheet prior to this time you will receive a verbal warning. The second time (per year) you fail to turn in a load sheet you will be assessed a \$10 fine. The third time you fail to turn in a load sheet and every time thereafter you will be assessed a \$50 fine. Further failure to turn in a load sheet three times in one year may result in expulsion from the market(s).
- D. Prices. All prices must be clearly marked or posted in 2” minimum height letters/numbers. Collusion and deceptive pricing practices are prohibited.
- E. Market Hours: Arrival and Departure. The hours for any market shall be set by the Association. Sellers shall arrive at least 30 minutes prior to the published opening time of the market and leave or have their set-up packed up and cleaned up, to the side of the market within one hour and 15 minutes after the published closing time of the market. The opening and closing times for the markets are as follows: Mountain View/9am-1pm, Blossom Hill/10am-2pm (vehicles must be inside market by 8:30am), Morgan Hill/9am-1pm, Bayfair Mall/9am-1pm, Saratoga/9am-1pm, Daly City Sat. and Thurs/9am-1pm, Villages/9:30am-11:30am, Rossmoor/9:30am-11:30am, Moraga/9am-1pm, Diablo Valley/9am-1pm, Crocker Galleria/11am-3pm, Park Merced/10am-2pm. Failure to leave your stall and common area in a clean manner and/or set off to the side of the site within this time frame will result in a \$100 fine for the first offense. Additional offenses within a 12 month period may result in expulsion from the market(s). Sellers may leave the market site prior to the published closing time for emergencies only and upon the approval of the Market Manager who will assess public safety and welfare at that time.
- F. No Stall Coverage by Market Managers. Market Managers are not allowed to sell for growers and vendors while they take personal breaks. Please make arrangements to visit the bathroom before the start of market or have a neighbor watch your stall when you

are temporarily out.

- G. **Set-ups, Safety and Sanitation:** All display table frontage must be behind the set-up line designated by the Market Manager. No boxes or produce displays may extend into the common customer traffic aisles without the prior approval of the market manager. Producers who display produce on a side table must allow at least 24 inches of side aisle in producer's space for customer ingress and egress. Tables and other display fixtures must be sturdy, stable and not overloaded. All shades and shelters must be tied down and completely secured at the beginning of the market or the producer will be subject to immediate removal from all Association markets. Seller's vehicle use must not endanger customers or other sellers.

Before transacting any sales, the grounds of the customer traffic aisle and selling area of the producer must be cleared and cleaned of any produce trimmings or droppings. Any trimming of produce must be done so trimming will fall in a box or container and not on the ground. Before leaving the market, all matter in producer's selling area, including an area extending half way into the common customer traffic area, must be completely removed and taken away with the producer. Failure to do so may result in revocation of the sellers stall space reservation and/or a \$20.00 fine. If a producer or vendor leaves any refuse identifiable to be his/hers in a City or sponsors garbage container without the City's or sponsor's permission an initial fine of \$100.00 will be enforced. A second violation may result in expulsion from the market(s).

**Noise, Disturbance and Intrusion:** No loud noises will be allowed at any market during set-up hours prior to 7:30am. Radios are not allowed to be played during market sales hours. Although no loud hawking, barking or shouting to promote product is allowed, occasional product broadcasting into the market aisle in a conversation level voice is allowed and encouraged. All product promotion must occur within the space assigned or immediately adjacent to the producer and not in any common area. Disruptive action and the throwing of anything in the market are prohibited.

- H. **Identification Signs:** All producers must display a sign identifying their name or the name of their establishment and the city or town where their production occurs.
- I. **Bags and Litter:** Every stall will have a trash box for public use. Sellers using plastic bags for the convenience of their customers shall insure that such bags do not litter the market under windy conditions. Sellers using T-shirt style plastic bags shall insure that the connecting tabs are fastened securely or are removed prior to the presentation for customer use. Sellers of dry garlic and dry onions shall insure that the skins of such produce do not litter the market.
- J. **Membership and Selling Assessments:** All sellers must be a member of this organization. All memberships and selling space assessments shall be set by the Association. Elimination or downward adjustments of stall space allotments may be made by management at its discretion.
- K. **Qualified Sellers** shall observe all fire lanes while loading and unloading.

- L. Qualified Sellers shall sell/market their goods in a manner satisfactory to the Market.
- M. Qualified Sellers shall sell/market their goods in a manner satisfactory to the Market Manager and in an honest, conscientious and business-like way.
- O. Qualified Sellers must wear shirts and shoes while on the market premises.

## **IX. APPLICATION AND RESERVATION PROCESS**

- A. To become a QUALIFIED SELLER at the CFM, a prospective seller must initiate and complete an Application-to-Sell packet. The completed Application-to-Sell packet includes:
  - 1) The completed Application and membership form.
  - 2) Copies of the grower's most recent Certified Producer Certificate(s).
  - 3) Any appropriate copies of health permits as required.
  - 4) Hold Harmless agreement
  - 5) Membership fee
- B. All sellers must pay stall fees according to the current fee schedule set by the Association. The fees will be collected on the first and second week of the month for the entire month to cover the reserved space for the entire month. If a month has 5 market days, the total month's stall fees will be collected by the third week of the month. Refunds for cancellations will occur if the Association office is notified of cancellations with at least 72 hours notice as shown in section X, CANCELLATIONS.
  - 1) Membership dues are on an annual basis, January 1 through December 31.
  - 2) Membership packets and the membership fees are due postmarked 21 days after the date of the enclosed packet's cover letter. A late fee of \$50 will be applied and collected prior to any market participation for any packets received after this 21 day period.
  - 3) Membership fees for all 4-h or FFA groups are waived and are to be considered members upon their participation in the markets.

## **X. CANCELLATIONS**

- A. Sellers are required to cancel 3 days prior to each market day to help avoid stall fee charges for late cancellations.
  - 1) Certified producers and food purveyors who cancel less than 3 days before market day are responsible for the stall fee unless the stall can be filled. (Generally, a 3 day notice is sufficient to allow for filling the space. A one to two day notice is not sufficient.)
  - 2) The Association does not accept stall cancellations due to rain or other inclement weather, grower/food purveyor personnel conflicts or vehicle breakdowns.

- B. Cancellations due to holidays or holiday weekends are not sufficient to avoid stall fee charges regardless of the amount of lead time offered. It is very difficult to fill in behind grower/food purveyor stall cancellations with similar crop/product during holidays and holiday weekends. Under these conditions a one or two week cancellation notice may not result in a stall fee credit the following month.
- C. Sellers who fail to notify the Market Manager of more than two cancellations may lose their stall spaces in all the Association's markets.