

Starting a Seasonal Open-Air Market in Kansas

A MARKET ORGANIZER'S FIELD GUIDE



Kansas State University
Agricultural Experiment
Station and Cooperative
Extension Service

Introduction

More than 70 Kansas communities now host some type of farmers' market. Farmers' markets provide multiple benefits to the residents in and around these communities. For instance, they provide an effective marketing system for regional agricultural producers that include part- or full-time farmers and backyard gardeners alike. Consumers benefit from farmers' markets by receiving fresh, high quality products and the opportunity to interact directly with producers. Retailers in the business district benefit from increased foot traffic and sales generated by the market. The entire community benefits from the taxes and fees associated with the enterprise.

Other benefits of farmers' markets include the provision of social interaction, a focal point for community spirit, educational opportunities for children and youth, incubators for small businesses and a meaningful way for citizens to be involved in community life.

Farmers' market defined

The term farmers' market is often used to apply to a variety of different structures. For instance, it is common to find a sign bearing the words "farmers' market" at a roadside stand, the produce section at a supermarket or a flea market. For the purpose of this manual, however, *a farmers' market is defined as a building, structure or place used by two or more vendors assembled together on select days of the week to sell products directly to consumers*. The use of the term also implies a communal effort, in which vendors have some measure of democratic control.

Other terms used in this manual:

Seasonal markets — operate for some portion of the year, typically from May or June through September or October.

Vendor — is the retail seller at a stand or stall.

Producer — the farmer, rancher, grower, baker or maker that produces and processes the products for sale.



Member — any person who is an official participant in the association of vendors.

Reseller — a non-farming vendor who buys products at wholesale prices and resells them at retail prices.

Organizing the farmers' market

The effort to organize a farmers' market may be initiated by a number of different individuals, including a producer, a community member or an agricultural professional from the private or public sector. The purpose of this manual is to help guide these efforts, although it may also be useful to market vendors as well.

Steps to organizing a farmers' market

- 1) Identify potential vendors and community partners.
- 2) Draft operational guidelines for the market.
- 3) Form committees to divide the numerous tasks associated with organizing a market.
- 4) Select a location
- 5) Promote the market.
- 6) Compliance with regulations.
- 7) Open the market.

Organizing and running a farmers' market is a dynamic process with many components. Any given step may overlap with the other steps listed.

A farmers' market is a building, structure or place used by two or more vendors assembled together on select days of the week to sell products directly to consumers.

A mission statement reflects the purpose of the proposed market and the farmers' market association.

Identifying potential vendors and community partners

Vendors are the most critical component of a farmers' market. The first step in organizing a farmers' market is to identify potential vendors. Community partners can be invaluable in establishing a farmers' market. They include chamber of commerce staff, county extension personnel or community organizations such as downtown business associations.

After the organizer identifies a group of potential vendors and community partners, the group is invited to a meeting to discuss organizing a farmer's market. (An example of an invitation to such a meeting is provided on page 18).

Ideally, the first meeting should be scheduled well before the proposed market season. The organizer of this meeting should be prepared to introduce himself/herself, encourage introductions of each meeting participant, and explain that the purpose of the meeting is to discuss organizing a farmers' market. The organizer may prompt the group with the question "Is there any interest in forming a seasonal open-air market in this town?"

Potential vendors will often be a diverse group of individuals with varying degrees of experience in direct-farm marketing. For instance, some people may simply be investigating the market opportunities available in their area as they develop a product for sale. Others may have considerable experience selling their products at farmers' markets. It is important to respect the diversity of the group; while seasoned veterans may be more sensitive to local market conditions, new marketers may have excellent marketing instincts and valuable insights to share.

It is the organizer's role to create a safe environment in which a variety of opinions may be voiced confidently. While organizers may have a strong interest in a certain outcome, it is important that they do

not guide the process to that end. Instead, they must facilitate the discussion so any outcome reflects the will of the group. Consider asking a third, uninvolved party who excels at facilitating to lead the discussion.

If there is sufficient interest in organizing a market, further meetings should be scheduled. These meetings should be no more than one month apart. As the market season approaches, anticipate meeting every two weeks. The organizer must be careful to collect the contact information for each meeting participant, including name, address, phone number and e-mail address.

Organizing into an association of vendors

It may be useful to organize potential vendors into an association. This strategy identifies those individuals who are committed to developing a market and willing to apply their resources to the effort. Defining membership in the association is most easily accomplished by requesting dues. The amount of these dues should reflect the projected financial needs of the market, which are often considerable, without being cost prohibitive.

Once membership is defined, the association should outline the procedure for decision making. This begins by identifying the appropriate participants in any decision-making process. This may include all members who have been conferred voting rights with the payment of dues, or a subset of the membership, represented by a board of directors and its officers. Next, determine how decisions will be made, such as by parliamentary procedure. The principles of parliamentary procedure are



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outlined below. Finally, the group should consider ways that non-voting persons who may be affected by their decisions can voice their questions, comments or concerns in a meaningful way.

The association may find it useful to draft a mission statement that reflects both the purpose of the proposed market and the purpose of the association itself.

For example:

“The purpose of the Anytown Farmers’ Market is to provide consumers with high quality food and farm products at a convenient location; to provide producers with a profitable, well-organized and operated retail marketplace; and, to promote direct market relationships between consumers and producers. The purpose of the Anytown Farmers’ Market Association is to ensure the orderly operation of the market while striking a fair balance between all participants.”

Some markets choose to designate one of the farmers’ market association members or another interested party as a market manager. The market manager coordinates daily management of the market and settles any grievances between vendors. The decision to select a market manager is important. If there are tasks that must be performed at the start of every market, such as collecting daily stall fees, distributing aprons, buttons and educational materials, or directing entertainers to the appropriate location, then a market manager should be designated or hired. Managers are often friends or family members of a vendor, a local Extension agent or other agricultural professional, a member of the chamber of commerce or downtown association, or a supportive community member. The market must consider whether this person will be a volunteer or compensated. This decision will be a function of the time and energy demands placed on the individual and the financial resources available to the market.

Parliamentary Procedure

The purpose of parliamentary procedure is to make it easier for people to work together effectively and to help groups



accomplish their purposes. Rules of procedure should assist a meeting, not inhibit it.

A meeting can deal with only one matter at a time.

All members have equal rights, privileges and obligations. One of the chairperson’s main responsibilities is to use the authority of the chair to ensure that all people attending a meeting are treated equally — for example, not to permit a vocal few to dominate the debates.

A majority vote decides an issue. In any group, each member agrees to be governed by the vote of the majority. Parliamentary rules enable a meeting to determine the will of the majority of those attending the meeting.

The rights of the minority must be protected at all times. Although the ultimate decision rests with a majority, all members have such basic rights as the right to be heard and the right to oppose. The rights of all members — majority and minority — should be the concern of every member, for a person may be in a majority on one question, but in minority on the next.

Every matter presented for decision should be discussed fully. The right of every member to speak on any issue is as important as each member’s right to vote.

Every member has the right to understand the meaning of any question presented at the meeting, and to know what effect a decision will have. A member always has the right to request information on any motion he or she does not thoroughly understand. Moreover, all meetings must be characterized by fairness and by good faith. Parliamentary strategy is the art of using procedure legitimately to support or defeat a proposal.

The purpose of parliamentary procedure is to make it easier for people to work together effectively and to help groups accomplish their purposes.

Operational guidelines should clearly communicate the expectations of all persons at the market including vendors, patrons and managers.

Drafting operational guidelines for the market

It is strongly recommended that every new market draft guidelines for the operation of the marketplace. Although every market participant hopes that such a document will be unnecessary, it can be a useful tool if and when a conflict arises. A positive way to regard this set of rules is to consider its purpose: to clearly communicate the expectations of all persons, including vendors, patrons and managers, at the market.

A study of Kansas farmers' markets published in 1992 indicates that vendors at markets with written rules had fewer complaints and a greater sense of the market's success than vendors at markets without such rules.

Guidelines may be as brief as one page or more lengthy. At minimum, they should address the following topics:

- location
- days of the week and time of day for the market
- length of the market season
- selling space
- stall fees (payment structure)
- defining permissible products
- source restrictions
- compliance
- grievance procedure

Once the guidelines have been drafted, consider having them reviewed by an attorney. Whether that person is a supporter of the market willing to provide the service pro bono, or paid for the work, he or she can revise the document to adhere to legal standards. This may ultimately prove to be a worthwhile investment should a legal dispute arise.

Location, days of the week, time of day, and length of the market season

The guidelines should clearly define the location of a market.

For example:

“The location of the Anytown Farmers' Market is a portion of the privately-owned parking lot located on the north-west corner of 7th and Iron streets.”

Additionally, it should define the days of the week and time of day during which the market operates and the length of the market season.

For example:

“The market will begin on a date in June to be determined annually, and will continue through September on Saturdays from 7 to 11 a.m. Vendors may setup their stalls and display produce no earlier than 6 a.m. Vendors shall not begin to trade with the public until the market opens at 7 a.m., as signified by the market manager. Vendors may not dismantle stalls until the Market closes at 11 a.m., as signified by the market manager.”

Having a guideline that prevents selling before the market opens and dismantling before the market closes can prevent problems later. In some instances, allowing sales before the starting time can result in customers showing up earlier and earlier to get first pick of that market day's merchandise. This undermines any advertising efforts, because new and established customers who arrive later during the advertised time might be disappointed in the products for sale. Delaying the stall dismantling of stalls until the end of the market maintains the image your market wants to present — a market with a number of vendors selling a variety of products.

Selling space

The selling space policy should clearly



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define the available unit (stall, stand, etc.) in concrete terms.

For example:

“Selling spaces may be setup in the designated market area only. Spaces, equivalent to one parking stall (10’ x 10’), will be assigned on a first-come, first-served basis.”

Stall fees

Stall fees can be an important source of revenue for a market. These fees may be assessed on a daily or seasonal basis. Seasonal stall fees, paid in a lump sum in the early season, provide needed income at a critical time. Market organizers should consider providing an incentive, such as a discount, to vendors who opt to pay seasonal, rather than daily stall fees. Both stall fees may be a fixed figure, such as \$5 per stall per day or a percent of gross sales. In either case, a description of the payment structure should be included in the guidelines, as well as a brief explanation of how stall fees are spent.

For example:

“Daily and seasonal stall fees will be assessed at a fixed rate and determined annually. Income generated from daily fees will be used for advertising, insurance purchases, and other expenses associated with the function of the market.”

For example:

“Stall fees will be assessed at the rate of 2% gross sales and are collectible at the end of each market day.”

Defining permissible products

It is important to identify the products that are permitted at the market and those that are not.

The following example clearly limits the products sold to agricultural products and by-products only. However, many markets permit the sale of other, non-agricultural goods such as crafts. It is challenging to determine which kinds of products should be permitted. While crafts may add to the depth and width of the product line offered at the market, they may also undermine its ultimate purpose to provide high-quality food and farm products directly to the consumer. Although the presence of crafts may attract a greater number of customers to the market, these customers may not be



interested in the non-craft items offered at other stalls — that is, the food vendors may not share the same target customer with craft vendors. It is at discretion of each market to determine what kinds of products will be permitted for sale.

For example:

“The following products may be sold at the market: vegetables, herbs, fruit, jams, jellies, honey, cider, baked goods, hay, straw, Christmas trees, ornamental produce, bedding plants, potted plants, cut or dried flowers, fruit or plant arrangements, eggs, retail-ready frozen meats, wool, fleece and natural personal products. Products not sanctioned above must receive board approval before sale.

Product source restrictions


Many markets place restrictions on the source of the products offered for sale. For instance, some markets exclude resellers, as below:

“The market is restricted to those actively engaged in the production of accepted products, whether on a full or part-time basis. All items displayed must be produced by the vendor, members of his/her family, or by persons in his/her employment. Any item not produced by the vendor may be approved for sale by the board of directors on an individual, weekly basis.”

Markets may also restrict the area from which products sold at the market originate.

Some markets reserve the right to inspect vendor farms to ensure products are being raised in the vendor farm and raised in the

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Price undercutting is the single biggest threat to the health of a market as a whole.

manner stated and sold by. This is a time consuming and expensive requirement, but it sometimes becomes necessary.

“Vendors may only sell products raised in the area commonly referred to as “north central Kansas”; that is, the area including the counties: Smith, Jewell, Republic, Washington, Osborne, Mitchell, Cloud, Clay, Ottawa, Lincoln, Saline, Dickinson, and Ellsworth Counties. Any produce not raised in these counties must be approved for sale by the board of directors on an individual, weekly basis.”

Note that both of the guidelines concerning source restrictions provide for exceptions at the discretion of the board. A board may elect to permit products generally prohibited by these regulations when they are non-competitive and/or non-seasonal. Non-competitive products are those products that could be grown locally, but are either not grown or are not being provided to the market by a local grower. Similarly, non-seasonal products may be locally grown but cannot be provided by a local grower in a certain part of the season. Non-competitive and non-seasonal products may be used to supplement, or round out, other produce offered at the market in order to manage supply, particularly in the early part of the season when locally-grown produce may be sparse, and to provide customers with the greatest diversity of product.

Regulatory Compliance

Operational guidelines must clearly articulate the expectation of regulatory compliance to potential vendors. This may be done with language similar to the following:

“All vendors must have a tax schedule and collect taxes or tax exemption certificates from customers during the sale of tangible products. The method of tax collection (“plus tax” or “tax included”) is at the discretion of the vendor.

Additionally, vendors **MUST** comply with ALL applicable local, state, and federal regulations, including but not limited to:

- Approval seal on weighing devices
- Pesticide licensing and safe use
- Participation in mandatory

commodity orders for agricultural commodities

- Organic certification on claimed products
- Food safety, sanitation, and health permits
- Labeling for packaged products

The vendor must be able to document compliance with laws, regulations and market bylaws to the market manager and/or any customer.”

Grievance procedure

Every market, regardless of its organizational structure and the completeness and clarity of its rules will suffer from conflict at one time or another. It is important to include details of the procedure that must be followed whenever grievances arise.

There are several other topics that may be addressed in guidelines, including but not limited to:

- pricing policies
- conduct
- displays
- membership fees

For example:

“Any grievances regarding the pricing habits, displays or conduct of another vendor should be immediately directed to the market manager and NOT directed to the vendor in question. If the market manager fails to settle the grievance, it shall be directed to the board for discussion and vote.”

Pricing policies

Pricing is one of the most challenging tasks for both individual vendors and a group of vendors collaborating at a market. While it is important to recognize the rights of each vendor to establish prices for products, it is equally as important to recognize the effect of pricing on the market as a whole.

Vendors, particularly those selling produce, are vulnerable to a practice called price undercutting. Price undercutting refers to the action of one or more vendors to establish prices for their products that are markedly



below those of comparable products sold by other vendors at the market. It is a tactic often used to dump large quantities of vegetables quickly; it is also used to create a loss leader that attracts the attention of the customer to a particular stall where they may purchase other, more expensive items.

Experienced farmers' market vendors identify this practice as the single biggest threat to the health of a market as a whole. The association of vendors must carefully consider whether it should dictate the terms by which prices are established. Sometimes, in congenial marketplaces, this can be done informally. Vendors may peruse each other's stalls and even confer about the appropriate prices for produce. Other markets elect to formalize this process, using language within the guidelines to make the point:

"Vendors are strongly discouraged to price products below the floor established by the local supermarkets. Prices must be set in keeping with customer satisfaction and consideration of other vendors at the market. All vendors must post a list of products and prices in full view of the consuming public; lettering must be clearly legible."

Conduct

Clear expectations for the conduct of a vendor during hours of operation should be expressed, as in the following:

"Vendors at the market shall at all times conduct themselves in a pleasant and courteous manner. Vendors shall avoid using all unduly loud, vulgar, profane or otherwise disagreeable language. They shall further avoid all appearance of having been or being in a drinking or intoxicated condition. They shall further avoid any belligerent action or actions that lead to or promote disputes, disagreements or altercations with other vendors, prospective customers, visitors or any other persons on the market premises."

Displays

The importance of product displays cannot be overestimated. Displays have considerable influence over not only the customer's perception of the individual products for sale, but also the market as a whole. For instance, a vendor that hopes to convey a sense of purity and integrity could cover the selling table with the classic red and white checked cloth often found in the kitchens of country homes. This simple gesture will associate the vendor and the products offered with the wholesomeness of rural life. For a market that hopes to convey quality, attractive displays that offer flawless products in a clean environment may be crucial.



Variety and creativity are hallmarks of farmers' markets.



Having a market membership fee creates a commitment between the market and the vendor.

Some language incorporated in the guidelines may establish minimum requirements for displays. However, be careful that these requirements do not enforce strict uniformity among displays, as variety and creativity are hallmarks of farmers' markets and shouldn't be limited by regulation.

For example:

“Each seller is to provide scales of demonstrable accuracy, display racks or tables, sacks, and change (money). Additionally, each vendor must post a visible sign in the stall area that identifies the producer by name.

Stands are to be kept hazard-free and reasonably attractive. The vendor must remove trash and litter around the stand from any source before his/her departure.

Vendors must be dressed in clean, presentable clothing and footwear.

Produce should be mature, but not over-ripe, void of decay, and free of contamination. All produce must be stored and displayed at a reasonable distance above the ground (minimum of 18 inches), with the exception of watermelons, pumpkins, flowers in containers, or other items in water for freshness.

Vehicles used in the transportation of produce for the market shall be clean, with no solid waste or foreign matter on the vehicles.”

Membership

Finally, the details of membership, including the payment of dues, should be incorporated in the guidelines, if applicable. Some markets have a market membership fee due on the first market day or the first time a vendor comes to the market in a given season that is substantial, but not restrictive. The fee commits the vendor to the market, provides resources for advertising and capital improvements and reduces the incidence of one-time vendors who flood the market or dump produce.

The method in which decisions about the market are made should be clearly defined in the guidelines or bylaws. Examples include:

- Define board member selection, length of term and the responsibilities of the board.

- Define quorum. Some define quorum as a majority vote, others as requiring a 2/3 vote.
- Define the decisions affecting the market that the manager or board make without a vote by the membership. Examples include purchase of insurance for the market or negotiating the lease fees or permits for the farmers' market site.
- What issues, such as changes to the bylaws or guidelines, require a majority or two-thirds vote?

It is wise to define how decisions regarding the market are made before opening a market. Waiting until conflict arises only increases tension among members.

For example:

“All vendors at the Market must be members of the Anytown Farmers' Market Association. Membership dues, determined annually by the board of directors, must be paid before the first market day at which the vendor sells.

Membership in the Association entitles each vendor to one vote. Advance notice of discussion and vote shall be made to all members.

A majority of the board of directors shall constitute a quorum for the transaction of business at any meeting of the board. If less than a majority of the directors are present at a meeting, a majority of the directors present may adjourn the meeting to another time.

Market-related issues should be decided based on at least 51 percent of votes cast by a quorum. Types of issues requiring a vote include adding or ejecting vendors, changing the sales period or location, electing officers, setting seasonal and daily fees, making purchases or entering agreements, and terminating the Market. Changes to the bylaws (or guidelines) shall be decided based on 66 percent or greater of the votes cast by a quorum.

The terms of officers of the board of directors shall be limited to one year. Elections are to be held at the first meeting to prepare for the next season of the Market. The president will chair meetings, serve as contact for outside groups,

appoint committees and conduct votes. The secretary maintains correspondence, up-to-date by-laws, a list of members, applications and minutes of meetings. The treasurer collects fees, pays bills, keeps financial records, ensures tax reports are filed and makes a financial report of the farmers' market association. Officer positions can be combined.

The Market will be intact as long as two members remain active in good standing. Failing that, or if facility or municipal arrangements close the Market, the treasury is to be maintained for the period of time required to meet all outstanding bills, taxes and obligations. The remaining funds should be split among all current members of the Market in good standing, prorated according to their length of participation. All tax and reporting requirements must be satisfied prior to this."

Vendor Agreements

Once the operational guidelines of the market have been committed to paper and distributed to its participants, it may be useful to collect signed vendor agreements. This document simply confirms that a vendor has read the guidelines and agrees to abide by them.

For example:

"My signature below indicates that I have read and agree to abide by the Operational Guidelines of the Anytown Farmers' Market. It further indicates that I understand that a violation of any part of these guidelines may result in my expulsion from the Market and forfeiture of fees paid."

Forming Committees

As with any organization, each member should expect to participate in at least one active committee. It is probable that committees will be formed to address location and promotion. There are several other areas, such as entertainment, permits/licenses, and screening that may also be addressed by ad hoc committees. Regardless of the topic, it is important that the numerous tasks associated with organizing a market, particularly if it is a new one,

are divided among the membership. Not only does this spread the burden of these tasks across the many but it also provides an opportunity for vendors to exercise real democratic control over decisions made about the market.

Selecting a location

The selection of the market site is perhaps one of the most critical decisions any new market can make. There are several points to consider:

- Where is it located?
- Does it provide adequate space for the market at its current size?
- Does it provide adequate space for growth?
- Is it publicly or privately owned?
- What are the zoning regulations that apply to it?
- What permits will be required to use it?
- What liability policies must be purchased to insure it?
- Does it have convenient parking nearby?
- Is it handicapped accessible?
- Is it highly visible?
- Is it in or near an area with lots of pedestrian and/or vehicular traffic?
- Does it provide certain amenities (such as shade trees, electricity or a restroom)?
- Is it in the downtown area?
- Can it still be used if the season and/or hours of operation are expanded or otherwise changed in the future?
- What are the advantages and disadvantages of using this site?

Securing the location

If the location chosen is publicly owned, the market will need to secure an agreement with the city or county manager's office. If the location chosen is privately owned, the market will need to secure an

The selection of the market site is one of the most critical decisions made by a market.



Promotion is essential to a market's success.

agreement with the private party that owns or represents the property.

In either case, it is highly likely that the owner will require a release from liability. This is easily achieved by a simple agreement called a liability waiver. The owner may also require the market to purchase additional liability insurance for the location.

Ideally, any policy purchased will cover liability associated with both the premises and the products sold. Direct-writers are often unable to underwrite such policies, particularly if the applicant does not purchase the entire product line of insurance (health, home, auto and life). Working with independent agents who regularly handle commercial policies might bring greater success. Also consider purchasing directors' liability insurance (also called errors and omissions or E&O insurance) to protect the directors from claims made against them while serving on the board.

The use of a site, publicly or privately owned, for activities not described in its title must be accompanied by a temporary use permit assigned right of way. The application for this permit or right of way will describe the intended use of the site and require information regarding noise levels, trash removal, vehicular and pedestrian access and handicapped accessibility. Typically, a temporary use permit may be secured from the building services department of the city office for a nominal fee. If the site is owned by the county rather than the city, county officials must be consulted with to obtain any necessary permits or releases.

Regulations vary widely from city to city and county to county. In all instances, check carefully with local authorities to abide by laws or regulations regarding the market site.

Promoting the Market

Promotion can be time-consuming and expensive. Nevertheless, many vendor associations regard it as essential to the success of their market.

There are several media that may be employed to promote the market. Promotion in print may be secured by purchasing advertising, by soliciting mention in a calendar of events, writing a letter to the editor, or requesting a local interest story in the

newspaper, calling in ads to local radio stations or by submitting press releases.

Purchased advertisement

A rule of thumb used by many market organizers is that it takes 800 people to support one vendor. Therefore, when purchasing print advertising, it is important to consider the reach, frequency, and impact of the medium. What is the reach (or trade area) of the newspaper or periodical and does it have an audience that might also be interested in the market's products? How frequently must the market advertise for the effort to be effective? Does the ad make an impression?

Soliciting mention

There are several sections in a newspaper that can highlight the market at no cost. Many newspapers have a calendar of events within the community that may list the market on a weekly basis. Additionally, encouraging a satisfied customer to write a favorable letter to the editor can provide a stirring testimonial to other potential customers. Finally, public interest stories that focus on the market or its vendors attract considerable attention and often generate new customers. This mechanism of promoting the market relies heavily upon a good relationship with someone at a newspaper, whether a section editor or reporter. An empathetic individual in the right place is an invaluable asset to the market.

Press releases

Press releases are an excellent way to provide area newspapers and periodicals information about the market with no money and little time expended. A press release should clearly identify the source of the story, date, requested release date, a short and compelling headline, a concise and appealing story, pictures if available, and contact name, phone, and e-mail for further information. Press releases may be sent by mail, faxed or e-mailed.

Promotion on air

Radio advertisements can be an extremely effective way to promote the market. As with print advertising, it is important to consider the reach, frequency and impact that the ad will have. Although individual ads may seem expensive, radio stations will often provide packages — a large number of ads at reduced cost per ad. Work with your radio station's sales representative to

carefully select the appropriate times for your ad to broadcast. Additionally, ask the radio station if they will match a part or all of the expense of ads purchased by non-profit organizations.

Also consider using remote broadcasts or live radio broadcasts from the market site to promote the grand opening and other special events throughout the season. Remote broadcasts can be expensive, especially in more urban areas. Radio stations may donate remote broadcasts to nonprofits, although there may be an announcer talent fee associated with the broadcast.

Public service announcements (PSAs) may be recorded and broadcast at no charge to the market. However, this is contingent upon the time and capacity of the radio station to perform these tasks, and there is no guarantee that the PSA will air.

Guests on local radio talk shows can also promote the market at no cost. Typically, talk radio is anxious to highlight new and exciting events in the community and is willing to devote a portion or all of a show to the topic. As with public interest stories, the key to frequent appearances on radio talk shows is a good relationship with someone within the industry, whether a sales representative, station manager or radio personality.

Other forms of promotion

There are many other ways to promote the market. Consider using banners, posters and signs (supported by the appropriate permits), flyers, buttons, silk-screened bags, ball caps and aprons, and other printed material such as business cards and balloons, all with markings that clearly identify the market. Include information about the market days, dates and time. Consider developing a logo to provide visual consistency and increase the impact of all promotional materials.

Finally, word-of-mouth advertising is widely recognized as the best and cheapest way to promote a market. This type of promotion relies upon the willingness of satisfied customers to voice their opinion about the market. It is up to vendors, managers and even other guests of the market to ensure every customer has a positive experience. Friendly service, topped with simple phrases such as, “thank you for shopping with us,” “see you again next week,” or “tell your

friends about us,” will encourage faithful customers to spread the word.

Complying with Regulations

Business licenses

It may be necessary for each vendor to secure a business license, a requirement that varies from place to place. The city clerk in the host community will be able to inform potential vendors about the specific requirements regarding business licenses.

Rules and regulations regarding the sale of products at a market

There are several public agencies with regulatory oversight of the sale of food and farm products at open-air markets. These agencies are:

- Kansas Department of Agriculture
- Kansas Department of Revenue
- County Health Departments

Each agency has its own set of rules regarding the sale of food and/or farm products, though they may not have been tailored to suit farmers’ markets. The following section attempts to outline the most critical information that every market organizer and vendor must know. Nevertheless, it will be inadequate, particularly for those situations that vary from county to county. Market managers and vendors are encouraged to regularly investigate the relevant regulations.

A reasonable effort has been made to ensure the statements below are accurate as of September 21, 2008. Rules and regulations can change, so check with the appropriate agency for current regulations.

Identifying prohibited and restricted products

The Kansas Department of Agriculture (KDA) regulates the sale and production of food products. Its objective is to ensure that all foods offered for sale are safe and wholesome.

KDA identifies several products that are strictly prohibited for sale at farmers’ markets. Products prohibited for sale at farmers’ markets include fresh meat or meat products, fresh seafood and poultry, homemade ice cream, flavored oils and home canned products, with the exception of jams and jellies.

The Kansas Department of Agriculture’s objective is to ensure that retail food products offered for sale are safe and wholesome.

Vendors marketing frozen meat and meat products at farmers' markets must register with the Kansas Department of Agriculture.

Table 1. Guidelines for Food Sales at Farmers' Markets in Kansas

Items acceptable for sale at farmers' markets

- fresh fruits and vegetables
- nuts
- fruit pies not requiring refrigeration
- honey
- baked goods
- breads (yeast and quickbreads)
- cakes (except cream-filled or cheesecakes)
- cookies
- cupcakes (except cream-filled)
- candies
- dried fruits
- flavored vinegars
- herbs
- muffins
- brownies
- spices

Items restricted for sale at farmers' markets

- foods that consist in whole or in part of milk or milk products
- eggs
- meat
- poultry
- fish

Items prohibited for sale at farmers' markets

- fresh meat or meat products
- fresh seafood and poultry
- home canned products, with the exception of jams and jellies
- flavored oils
- homemade ice cream
- home processed salsa
- home processed pickles
- cheesecake
- pumpkin, cream, or custard pies
- cream-filled cupcakes or doughnuts

Similarly, KDA identifies potentially hazardous foods that are restricted by regulation to protect the public from foodborne disease. Potentially hazardous foods include milk, milk products, eggs, meat, poultry and fish. If products are sold that require being maintained at a specific temperature, it is recommended the vendor selling those products have a thermometer at the market to monitor the temperature. Ready-to-eat potentially hazardous foods may be sold from a vendor in compliance with all applicable KDA regulations.

The sale of nonhazardous food is allowed at farmers' markets. Certain baked goods are acceptable for sale while others are not. All baked goods offered for sale must be proportioned and prepackaged in clean, new, food-grade wrappings or bags.

A summary of the guidelines for food sales at farmers' markets is located in Table 1. See also *Focus on Food Safety* on page 19.

Eggs

Producers who sell graded eggs, regardless of flock size, are required to be licensed with the KDA Food Safety Program and purchase egg stamps, or pay quarterly fees. Producers who sell un-graded eggs and have 50 hens or less are not subject to the requirements of the Kansas Egg Law. Producers who sell un-graded eggs and have a flock size of under 250 hens do not need to obtain a license or pay for egg stamps or pay quarterly fees as long as the following requirements are met:

- Eggs are washed and clean
- Eggs are prepackaged and labeled as



un-graded with the name and address of the producer

- Cartons are not reused unless all brand markings and other identification is obliterated and the carton is free of foreign material
- Eggs are maintained at a temperature of 45 degrees Fahrenheit or below
- Eggs are only sold to consumers and not to retail businesses

No matter the flock size or selling graded or un-graded eggs, all eggs for sale must be kept at 45 degrees Fahrenheit or below from the time of packaging until the time of sale.

Other state laws apply to all vendors selling eggs. Weights and Measures law requires the cartons labeled with the name and address of the business/individual, labeled with grade and size if selling graded eggs, the quantity and a net weight statement. If eggs are sold in previously used cartons, all false information is to be obliterated.

More information about the requirements of the Kansas Egg Statute and access to the application forms for egg permits and egg stamps are available at the KDA Web site. Contact information for KDA is available in the resources section of this publication on page 16.

Meat Products

The sales of frozen meat or meat products, seafood and poultry is permitted when they are from an inspected source, properly labeled and maintained frozen.

Producers marketing meat and meat products must register with KDA and submit documentation of the processing facility used. An inspection by a KDA compliance officer may be required if the meat is being stored in a dedicated freezer in the vendor's home.

To register with KDA, contact the Meat and Poultry Inspection Program.

There are currently three different types of meat processing facilities in the state of Kansas: custom, state-inspected, and federally-inspected. The retail sale of meat processed at a custom facility is not permitted. However, meat processed at state- or federally inspected facilities is permitted when bearing the appropriate mark of inspection.

Meat sales across state lines must be processed at a federally inspected facility while meat sold within the state of Kansas may be processed at a federally or state inspected facility.

Fruits and Vegetables


KDA's Division of Weights and Measures dictates the method of sale of whole fruits and vegetables. The intent of these guidelines is to protect the uninformed purchaser from misleading information. The standards of the National Institute of Standards and Technology are to be followed when selling commodities by weight, measure (also referred to as volume) or count. The weight of commodities sold by weight must be assessed using a certified scale. Commodities sold by measure must be sold in containers standardized by the "Berry Basket and Box Code." To determine the methods by which certain fruits and vegetables must be sold, please refer to National Institute of Standards and Technology Web site or contact KDA Weights and Measures.

Samples and food service

Generally, samples of potentially nonhazardous foods (i.e. fresh fruits excluding melons, vegetables, nuts, honey or baked goods) may be distributed to farmers'



The method of sale for whole fruits and vegetables — weight, measure and/or count — is dictated by national standards.



The producer and vendor are under legal obligation to be truthful about any product claims made.

market customers. Vendors should note that samples, although allowed by specific methods, are of concern to KDA inspectors.

The distribution of potentially hazardous foods, including samples containing potentially hazardous foods, is only allowed by a licensed food vendor that is in compliance with the KDA Food Code. To obtain this license, the licensee would need required equipment and facilities to produce and serve the item safely. The type of equipment and facilities varies with the type of food.

For vendors who regularly set up at multiple locations, a mobile licensed unit might be advisable and most economical. Once the mobile unit is licensed, it can be set up at any vending location in the state, as long as the unit is properly set up with the equipment required to obtain the license.

Some local governments require a special license for temporary event food vendors as well. This may be determined by contacting the local health department or city offices.

General labeling policy

According to the Kansas Department of Agriculture, (K.S.A. 83-201(h) Kansas Weights and Measures Law) every food in package form must be labeled. The term package refers to any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. Each label must bear the following information:

- the common and usual name of the product, or the name under which a standard of identity has been adopted
- the name and address of the manufacturer or distributor
- the net contents of the package
- a list of ingredients in the order of descending predominance by weight
- the name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient.

Major food allergens are defined by the FDA as milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such

as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient that contains protein derived from a food as specified in the list of major food allergens.

This information must be printed in English or English subtitles on the label in sufficient type size and prominence to be easily read under the normal conditions of sale and display. It should be printed on the main part of the label in a color that contrasts with its background and must be legible.

Live plant sales

A Live Plant Dealer license is required for vendors who grow and/or sell live plants. This includes bedding plants and potted plants. Cut flowers and seeds or sets of any kind are exempt. Contact the Kansas Department of Agriculture to apply for the license. The license assists the state in excluding or controlling destructive pests, diseases and weeds.

Product claims

Often, products and labels include claims about the produce offered for sale (e.g. organic natural, free range). However, these terms must be used cautiously as many are regulated. A producer must be able to support any claims made about their product.

The United States Department of Agriculture (USDA) Food Safety and inspection Service is the agency responsible for ensuring the truthfulness and accuracy in labeling of meat and poultry products. Meat products have specific terms that are regulated such as free range, natural, no hormones and no antibiotics.

Additionally, the term organic or any derivation thereof (such as organically grown) is strictly reserved for use by producers who are certified organic in accordance with federal law. Producers selling less than \$5,000 annually are not required to be certified, but must still meet all of the requirements of the law to use the word organic when selling products.

For laws and standards related to organic production, processing, packaging and sales refer to the USDA National Organic Program Web site.

Regardless of the product claims used, the producer is always under the legal obligation to be truthful.

Taxation

Sales tax (or tax exemption certificates) must be collected from customers during the sale of tangible products and filed by individual vendors. As sales tax varies from county to county, tax must be assessed at the rate at the point of sale (county that hosts the market), not the rate at the place of business (county of origin of products). Vendors may either add tax to the purchase price (plus tax) or include it in the purchase price (tax included).

Business tax identification numbers must be secured for any entity reporting the collection of sales tax. An application for the business tax ID number may be secured from:

Kansas Department of Revenue
Division of Tax Operations
Docking State Office Building
915 SW Harrison Street
Topeka, Kansas 66612-1585

or by calling KDOR's forms order line at (785) 296-4937 and asking for Publication KS-1216, *Kansas Business Tax Application*.

Inspection

Farmers' markets are subject to inspection by personnel from any of the agencies with regulatory oversight listed above. When infractions are found, the personnel may make recommendations for improvement rather than take punitive action. A demonstrated effort on the part of a vendor to comply with regulations may be an important consideration for agency personnel.

Opening the market

It may be useful to fledgling markets to do a dry run before opening for the season. A planning meeting scheduled at the market site can help vendors and the market manager to visualize the layout of stalls. Considerations such as the size of vehicles, the available pathways between and around stalls, access to electricity, and the placement of complimentary products can all be addressed at this time. As the market season approaches, some markets may elect to have a soft opening — an early-season opportunity to work out the kinks — one or two weeks before a more heavily promoted grand opening.

Record keeping

The collection of membership dues and stall fees, the presence of vendors and the

placement of their sales stalls, the temperature at various points during the day, the gross sales receipts, and the number of visitors to a market are all examples of information that a market manager and vendors may choose to record. The process of record keeping should be guided by three questions:

- What do we really need to know?
- How much detail do we need to know about it?
- Is it worth the cost of getting it?

As these questions are answered, the type of information gathered, the quantity and quality of the information gathered, and the best tool to gather it all become clear. Good records not only provide historical information, but can be prescriptive as well. For instance, a mid-season lag in customer participation as noted in a record of attendance suggests that additional funds from the budget should be dedicated to promotional activities at that time of year.

Coordinating events

A widely acknowledged benefit of farmers' markets is the provision of a unique atmosphere in which to trade goods that is at once relaxing, inviting and fun. Markets must be intentional about creating this atmosphere by coordinating events with the market day. For instance, carefully selected live music can provide a pleasant backdrop to other market activities. Events specifically geared towards children, such as clowns and pony rides, encourage young parents to bring the whole family. Drawings for prizes such as a basket of fresh veggies, value-added products, or market bags, caps or aprons, can attract playful customers. There are any number of creative ideas that a special events committee can implement that will make the market an entertaining destination.

Managing conflict

Unfortunately, a market season will never be completely free of conflict. Disputes may arise between two customers, a customer and a vendor, two vendors, or a vendor and the market manager. The guiding principle for a manager who must intervene in a conflict is to ensure the safety of all persons present. If a particularly noisy dispute arises, the manager shouldn't hesitate to request the removal of one or more of the persons involved from the

Good records provide historical information and can be prescriptive for future market activities.

market area. Although the parties may resent the request and potentially never return, the manager is responsible to a much greater number of individuals, including himself/herself, every vendor present, and all the customers in the market.

Losing steam

A common ailment that afflicts most market participants is called losing steam. As a season grows old and is marked by dark and chilly mornings, low customer turnout and reduced sales, the interest and enthusiasm of vendors and managers alike often begins to wane. It is important, however, to fulfill the market's commitment to the clientele by maintaining a strong presence on every market day of the designated season. Late season events such as pumpkin carv-

ing or cider-making demonstrations can help to sustain the energy of both customers and vendors at this challenging time.

Celebrating success

Shortly after the market season closes, consider gathering once more to celebrate the shared experience. Since any group of vendors will invariably start to plan subsequent seasons, be certain to devote a specific period of time to reflection and socializing. This practice of identifying and honoring the positive aspects of the market can reinforce the purpose and pleasure of the endeavor.

Resources

Personnel

Ted Carey
Extension Horticulturist
**Department of Horticulture, Forestry
and Recreational Resources**
K-State Research and Extension
Center – Olathe
35125 W 135th
Olathe, KS 66061
913-856-2335 ext 120
FAX 913-856-2350
tcarey@ksu.edu

Jana Beckman
Coordinator
**Kansas Center for Sustainable
Agriculture and Alternative Crops**
K-State Research and Extension
3029 Throckmorton Plant Sciences Center
Kansas State University
Manhattan, Kansas 66506
785-532-1440
FAX 785-532-6290
<http://www.kansassustainableag.org>

Public Agencies

**Kansas Department of Agriculture
Food Safety Programs**
109 Southwest 9th Street, 3rd Floor
Topeka, Kansas 66612–1215
785-296-3511
http://www.ksda.gov/food_safety/

**Kansas Department of Agriculture
Division of Weights and Measures**
PO Box 19282
Topeka, Kansas 66619–0282
785-862-2421
http://www.ksda.gov/weights_measures/

**Kansas Department of Agriculture
Division of Meat and Poultry
Inspection**
109 Southwest 9th Street, 3rd Floor
Topeka, Kansas 66612–1215
785-296-3511
http://www.ksda.gov/meat_poultry/

**Kansas Department of Agriculture
Agricultural Commodities Assurance
Program**
Issues licenses and registrations for
selling feedstuffs and pet foods.
P.O. Box 19282
Topeka, KS 66619–0280
785-862-6574
http://www.ksda.gov/feed_seed/

**Kansas Department of Agriculture
Plant Protection and Weed Control
Program**
P.O. Box 19282
Topeka, KS 66619
785-862-2180
http://www.ksda.gov/plant_protection/

**Kansas Department of Revenue
Division of Tax Operations**
Docking State Office Building
915 SW Harrison Street
Topeka, Kansas 66612-1585
<http://www.ksrevenue.org>

Taxation Assistance Center –
1-877-526-7738

KDOR Tax Form Request Line –
785-296-4937

**Kansas Insurance Department
Attn: Consumer Assistance Division**
420 SW 9th Street
Topeka, Kansas 66612
<http://www.ksinsurance.org/>

Consumer Assistance Hotline:

Topeka Office:
1-800-432-2484, 785-296-3071

Wichita Office:
1-800-860-5260, 316-337-6010

Nonprofit Organizations

Kansas Rural Center
PO Box 133
Whiting, Kansas 66552
785-873-3431
<http://www.kansasruralcenter.org>

Kansas Farmers Market Web site
<http://www.ksfarmersmarket.com>

Trade Associations

Kansas Association of Insurance Agents
815 SW Topeka Boulevard
Topeka, Kansas 66612
Phone: 785-232-0561
Toll-Free: 800-229-7048 (Kansas Only)
Fax: 785-232-6817
info@kaia.com

Publications

Food-A-Syst, available at:
<http://www.oznet.ksu.edu/library/fntr2/samplers/FOODASYS.asp>

**The Legal Guide to Direct Farm
Marketing** by Neil Hamilton
Copies of the book may be purchased from
<http://www.growingformarket.com>

**Reference Guide for Kansas Food
Processors**, available at the Kansas
Department of Commerce 785-296-3737

**Extension Publications on Meat Science,
Processing Technology, and Food Safety**
[http://www.oznet.ksu.edu/meatscience/
publications.htm](http://www.oznet.ksu.edu/meatscience/publications.htm)

**Current Good Manufacturing Practice
in Manufacturing, Packing or Holding
Human Food** [http://www.accessdata.fda.
gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.
cfm?CFRPart=110](http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?CFRPart=110)

**Kansas Department of Agriculture
Food Code** [http://www.ksda.gov/
includes/document_center/food_safety/
Food%20Safety/Kansas_Food_Code.pdf](http://www.ksda.gov/includes/document_center/food_safety/Food%20Safety/Kansas_Food_Code.pdf)

**Cooking Demonstrations At Farmers'
Markets** [http://www.kansasruralcenter.
org/publications/ChefDemo.pdf](http://www.kansasruralcenter.org/publications/ChefDemo.pdf)

Marketing the Market [http://www.
kansasruralcenter.org/publications/
MarketingTheMarket.pdf](http://www.kansasruralcenter.org/publications/MarketingTheMarket.pdf)

Web sites

USDA Farmers Market Web site
<http://www.ams.usda.gov/farmersmarkets>

Kansas Department of Revenue
<http://www.ksrevenue.org/>

**Kansas Department of Commerce
Agriculture Marketing**
<http://www.kansascommerce.com>

K-State Research and Extension Sites

Food Science Institute
<http://foodsci.k-state.edu/DesktopDefault.aspx>

**Value-Added and Product Development
Lab**
[http://www.foodsci.k-state.edu/
DesktopDefault.aspx?tabid=623](http://www.foodsci.k-state.edu/DesktopDefault.aspx?tabid=623)

Meat Science
<http://www.oznet.ksu.edu/meatscience/>

Food Safety
<http://www.oznet.ksu.edu/foodsafety/>

**Kansas Center for Sustainable Agriculture
and Alternative Crops**
<http://www.kansasustainableag.org>



Example Organizational Meeting Invitation

(Letterhead of initial organizers)



TO: Potential Anytown Farmers' Market Vendors
FROM: The City of Anytown and the Anytown Downtown Association
DATE: February 1, 2008
SUBJECT: An Anytown Farmers' Market

The City of Anytown and the Anytown Downtown Association have recently partnered to investigate the option of organizing a farmers' market in Anytown. We would like to invite you to an exploratory meeting and planning session, scheduled for

(Day and date)

(time)

(location)

The goal of this meeting is to share our ideas to date, answer any questions you might have, and give you the opportunity as a potential vendor to share your ideas. Growers who raise fruit, vegetable, herbs, eggs, bedding plants, flowers, fiber and honey, make canned or baked goods, seasonal decorations, personal care products, or produce and package meat in retail-ready cuts are all welcome to attend.

In the event that there is sufficient interest in organizing a market, we will then discuss details such as the location, day of the week, time of day and length of the market season. Therefore, it would be helpful for you to consider these points in preparation for the meeting. Please also consider:

- Your desire to become a vendor at the new market
- Products to be permitted at the market and other rules of the marketplace, and
- Ideas for entertainment to be included each week of the market

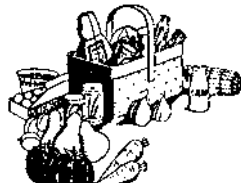
No reservations are needed for this meeting, but we would appreciate you input by phone or e-mail if you cannot attend. Please contact (organizer) at (telephone number) or (e-mail address) with any questions or suggestions you might have.

We look forward to hearing back from you!

Sincerely,

Contact person
City of Anytown

Contact person
Anytown Downtown Association



Focus on Food Safety

Guidelines for Food Sales at Farmers' Markets

Retail sales of food are regulated by the Kansas Department of Agriculture. The objective is to assure that all foods offered for sale are safe and wholesome.

The sales of potentially hazardous foods are restricted to protect the public from food-borne diseases.

Potentially hazardous foods are foods that consist in whole or in part of milk or milk products, eggs, meat, poultry or fish. Examples would include cream or meringue pies, hamburgers, hot dogs, burritos, egg rolls, jerky, summer sausage and similar products.



The sale of non-potentially hazardous foods is allowed at farmers' markets. Non-potentially hazardous foods include baked goods, such as cookies, breads, cakes, cinnamon rolls and fruit pies. Other non-potentially hazardous foods include fresh fruits and vegetables, nuts and honey.

- Ready to eat potentially hazardous foods may only be sold from a vendor in compliance with all applicable regulations.

- Packaged potentially hazardous foods must be from approved sources.
- The sales of fresh meat or meat products, fresh seafood and poultry are prohibited.
- Sales of frozen meats are allowed if from an inspected source, labeled properly and maintained frozen.
- Eggs may be sold if maintained at 45 degrees F. Egg producers should register with the Kansas Department of Agriculture
- Home canned products, with the exception of jams and jellies, are prohibited.
- Home grown produce may be sold, provided that any pesticide use complies with label directions.
- Packaged products must be labeled with the common name of the product, and the name and address of the producer.
- All foods while on sale or display are required to be effectively protected from contamination.



A safe eating fact sheet brought to you by the
KDA Division of Food Safety
109 SW 9th Street, 3rd Floor
Topeka, KS 66612

Starting a Seasonal Open-Air Market in Kansas

A MARKET ORGANIZER'S FIELD GUIDE

Author:

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Editor:

Jana Beckman, K-State Research and Extension

Disclaimer

The information contained in this publication is intended for use as educational material to assist farmers' market organizers, managers, vendors and other stakeholders in starting a seasonal open-air market in Kansas. The publication is not intended as, and should not be used as, a substitute or replacement for other sources of information on the topic. Each person should consult knowledgeable persons and/or publications before relying on this information to engage in direct farm marketing at farmers' markets. Reasonable efforts have been made to ensure the accuracy of the information contained in this publication; however, the content and interpretation of laws and regulations are subject to change. The effect of future legislative, administrative, and judicial developments can not be predicted. For these reasons, the utilization of these materials by any person represents an agreement to hold harmless the author, the Kansas Rural Center, and Kansas State Research and Extension, for any liability, claims, damages or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this book.

Edited and designed by the Kansas State University Department of Communications

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