



# Rules, Regulations and Policy Guide

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Approved March 20, 2012



FARMERS MARKETS

# Rules, Regulations and Policy Guide

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# A Brief History

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**E** Stablished July 15, 1981, the *Santa Monica Certified Farmers Markets (SMFMs)* and accompanying programs are committed to promoting healthy eating and sustainable agriculture in California by providing fresh agricultural products direct from small farms to urban customers, thereby building community and preserving California farmland. The City of Santa Monica (hereafter referred to as the City) oversees the operation and management of four *Certified Farmers' Markets (CFMs)*:

**Wednesday Downtown Market:** The oldest farmers' market in Santa Monica is held every Wednesday from 8:30 am – 1:30 pm on Arizona Avenue and 2nd Street. The Wednesday Downtown Market is in the heart of the Bayside Business District and is adjacent to the 3rd Street Promenade retail businesses and restaurants. Each week over 8000 home shoppers, chefs and tourists visit the Wednesday Downtown Market in search of fresh produce and flowers as well as cooking inspiration and community.

**Saturday Downtown Market:** The Saturday Downtown Market, also known as the Organic Market, is held every Saturday from 8:30 am – 1:00 pm on Arizona Avenue at 3rd Street. The Organic Market boasts the largest percentage of certified organic growers of the City's four markets. In the heart of the Bayside Business District, the Organic Market is adjacent the 3rd Street Promenade retail businesses and restaurants. Each week over 4000 local residents, 3rd Street Promenade patrons and tourists visit the Organic Market.

**Saturday Pico Market:** The Saturday Pico Farmers Market is held every Saturday from 8:00 am to 1:00 pm in Virginia Avenue Park. This market features locally grown produce and flowers as well as *prepared foods* and breads. Each week over 3000 customers, primarily from the local neighborhoods, visit the Pico Farmers Market.

**Sunday Main Street Market:** The Sunday Main Street Market is held every Sunday from 9:30 am to 1:00 pm, in the Heritage Square parking lot. Participants include local California farmers, prepared food vendors, businesses from the local business district, children's activities and musical performances. Each week, over 5000 customers visit The Sunday Main Street Market. Visitors purchase produce, meet friends and family for breakfast and lunch and often stay two to three hours enjoying the ambiance, music and food. A complimentary bike valet and validated parking are also available for customers.



# 1 Authority to Operate

*Authority to operate is granted by the State of California, the Los Angeles County Departments of Health and Agriculture/Weights and Measures and the City. These rules were adopted by the City of Santa Monica Council \_\_\_\_\_.*

SMFMs are CFMs operated by the City in accordance with regulations established in California Administrative Code, Title 3, Chapter 3, Group 4, Article 6.5, Direct Marketing. These markets are subject to all pertinent local, county, state and federal regulations and laws. All participating *producers* are expected to be familiar with the current *Direct Marketing Regulations* and these Rules, Regulations and Policy Guide (hereafter referred to as “The Rules”).

In addition to the CFMs, adjacent non-certified activities are operated under the authority of these rules and the City.

The purpose of The Rules is to govern the operation, administration and management of all farmers’ markets under control of the City. As set forth by the Direct Marketing Regulations, all organizations managing CFMs are required to establish rules and regulations. The organizations’ rules and regulations may be more stringent than those established by California provided that they do not violate or conflict with other relevant state laws or regulations.

SMFMs management and its designated agents will implement and enforce all Rules, Regulations and Policy pertaining to the operation and management of any Santa Monica Farmers Market (SMFM) in a fair and equitable manner.



## 2 Participation

*This section answers the questions of how the SMFMs are organized, who may sell at the market, what products may be sold, how to apply, what permits are required to sell, how participation is determined and how stall spaces are allocated.*

### 2.1 SMFMS ORGANIZATION AND LAYOUT

Each market is divided into two sections: the Certified Agricultural section and the Non-Certified Section. *Certified agricultural products* and *Non-certifiable Agricultural Products* may be sold in the Certified Section of the market. Certified agricultural products are products which are grown by a *certified producer (farmer)* and certified under the jurisdiction of a County Agricultural Commissioner relative to inspection and verification of compliance with the provisions of the California Code of Regulations, Article 6.5. They include fresh fruits, nuts, vegetables, shell eggs, honey, cut flowers and nursery stock [CCR 1392.2(k)]. Certified producers selling processed products must also bring some of the primary unprocessed product to market when in season.

Non-certifiable Agricultural Products include all certified agricultural products that have been processed, those products other than certified agricultural products noted in CCR 1392.2(l)...from any tree, vine or plan and their flowers (including processed products), livestock (including rabbits) and livestock products, and fish and shellfish produced under controlled conditions in waters or ponds located in California [CCR 1392.2(m)]. Non-certifiable Agricultural products include: juice, jams and jellies, dried fruits and vegetables, shelled or roasted nuts, fish and seafood, poultry and poultry products, livestock and livestock products and dairy. Certified producers found selling product not of their own production are subject to a schedule A violation which is grounds for immediate *dismissal* from the market with reinstatement of selling privileges contingent upon a hearing.

*Non-certifiable Processed Agricultural Products, Retail, Prepared and Pre-packaged Food* and entertainment are all held in the Non-Certified Section of the market and must be designated as such. *Non-Certifiable Processed Agricultural Products* are processed food products where the primary ingredient(s) are grown by a certified producer but where the finished product is not certifiable by the County Agricultural Commissioner due to the addition of ingredients not produced by the certified producer.

## PARTICIPATION

All products and services sold or performed at the SMFMs must have the prior approval of the SMFMs management and are subject to available space. Additional product or section specific criteria may also apply and are listed below.

### 2.2 CERTIFIED AGRICULTURAL SECTION

Applicants may obtain an application from the SMFMs office or website and may submit applications and supporting documentation via mail, email or fax year round.



#### 2.2.1 Required Documentation

As proof of producership certified producers where applicable shall obtain, and submit upon request by market management copies of the following documentation:

- Embossed *Certified Producers' Certificate (CPC)* listing Los Angeles County as an "Authorized County". (*Second Certificate* requirements reference section 2.2.6)
- All leases and agreements between *market participants* and third parties.
- Map of Growing Ground with supporting photographs.
- Apiary registration (if selling honey).
- Avocado exemption permit or proof of inspection (if selling avocados).
- Organic registration and certification.
- Annual Health permit for processing facility.
- Board of Equalization Permit (for taxable products).

SMFMs management may require the certified producer or *producer* to provide additional supporting documentation and may either contact agricultural inspectors in the county where crops are grown or conduct a farm inspection to verify production and quality. SMFMs management may verify information from other market managers or industry organizations outside the City.

#### 2.2.2 Selection Criteria: Certified Producers

The following criteria, in no particular order, are used to evaluate potential market participants for the Certified Section of the SMFMs.

- Space availability at SMFMs.

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- Preference given to growers with no prior violations of the certified farmers' markets program.
- Desirability of crops - crops which are in demand, are one-of-a-kind or of exceptional quality or uniqueness, are preferred over crops already in sufficient supply at the market.
- Product mix - products are admitted to the SMFMs with adequate variety to ensure a wide product mix and to fulfill *consumer* demand without creating a surfeit (glut) of any one product.
- Length of stay – growers of short-season specialty crops receive higher priority than growers of year round crops. Short-season crops change frequently and afford a maximum number of producers access to selling space.
- Fresh products are given priority over processed products.
- Preference is given to applicants selling processed products that they process themselves vs. products taken to a processing facility (i.e. Dried fruit, juice, shelled nuts, etc.)
- Preference is given to applicants whose primary distribution is local, not national.
- Products cannot contain genetically modified ingredients or be grown from genetically engineered seeds.
- Preference is given to producers who follow sustainable farming practices Sustainable farming takes into account proximity to market, which for CFM purposes are all crops grown in California. Sustainable farming practices include organic (no synthetic products, regulated by State and Federal regulations), Integrated Pest Management (IPM), "Low Input" which refers to minimal use of synthetic fertilizers and pesticides, as well as other practices including crop rotation, crop diversity, water conservation, composting, use of cover crops to increase soil fertility and any methods that use natural means to control weeds, pests and disease. Sustainable farming practices also include fair wages for workers and humane treatment of farm animals.
- Credit history.

Certified producers and producers not invited to participate in SMFMs at the original time of application will be placed on a waiting list for 12 months and will be reconsidered as space becomes available.

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### **2.2.3 Additional Selection Criteria: Meat, Poultry and Dairy**

- All meat and poultry sold at the SMFMs must be processed at a United States Department of Agriculture (USDA) approved processing facility in accordance with the Federal and State meat processing standards.
- No livestock, meat, or dairy goods in which growth hormones, such as rBGH, were administered may be sold at SMFMs.
- Preference is giving to grass fed and finished meat products.
- Preference given to producers of livestock, meat and dairy products that have a “Certified Humane” designation from Humane Farm Animal Care ([www.certifiedhumane.org](http://www.certifiedhumane.org)).
- Only farmstead cheeses (made by the producer) may be sold at the SMFMs. Cheese and processed milk products sold at the Santa Monica Farmers Markets SMFMs must come from the milk of animals that are owned by the Producer. Proof of ownership of dairy animals must consist of but is not limited to one or more of the following documents:
  - Market Milk Permit
  - Farm Inspection Report
  - Grade A (or B) permit for milk production
  - Tuberculosis Test Record
  - Producers/Handlers/Processors Application and Registration

### **2.2.4 Additional Selection Criteria: Nursery Stock**

Nursery Stock consists of potted plants, trees or nursery starts where the seller has performed propagation, germination, planting of cuttings, or division work.

- Products sold must be a higher value than the container in which they are sold.
- Certified producers shall not purchase plants for the sole and immediate intent to resell them without sufficient propagation or growing time; the adequate length of time. See Attachment III.

### **2.2.5 Additional Selection Criteria: Producers of Fish and Shellfish**

Aquaculture operators who sell products from controlled ponds or waters are considered non-certifiable agricultural producers and may sell in the certified section of

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the market. Aquaculture operators are required to submit to SMFMs current documentation that verifies production including, but not limited to the following:

- California Department of Health Services Shellfish Growing Area Certificate.
- Proof of control over the pond or waters.
- State of California Department of Health Services Food and Drug Branch Shellfish Handling and Marketing Certificate.

### 2.2.6 Second Certificate

*Second certificates* (certified producers selling certified agricultural products on behalf of one other certified producer) are admitted to the SMFMs based on the criteria listed in section 2.2.2, in compliance with CR1392.4 (g) and the following additional restrictions.

- A certified producer shall not represent, nor be represented by more than one other certified producer in a 12 month period.
- The name of the certified producer for whom another certified producer is selling shall appear on the certificate of the person selling his/her products. [CR1392.4(g)(3)].
- The name of the certified producer who is selling the products of another certified producer shall appear on the certificate of the person for whom he/she is selling. [CR1392.4(g)(4)].
- The certified producer selling for another certified producer shall be selling or offering for sale certified agricultural products which he/she has produced and which are greater than the amount by volume offered for sale for the other certified producer at the beginning of each day of sale. [CR1392.4(g)(5)].
- A certified producer who sells certified agricultural products on behalf of another certified producer or whose products are sold by another certified producer at the SMFMs shall keep for a period of not less than three years, the following documentation: [CR1392(g)(9)].
  - (1) Date and amount of products transferred by variety.
  - (2) Date and amount of products sold by variety.
  - (3) Names of both certified producers involved.

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- Certified producers growing cut flowers and nursery stock may only sell product of their own production.
- The product being sold is not available except on a second CPC.
- Absentee certified producers shall be given notice of one year's selling season if their product is no longer needed at SMFMs.
- Each certified producer will receive a separate load sheet and is individually responsible for stall fee payments. Certified producers may only sell for or be represented by one additional certified producer in any 12-month period. If absentee farmer is unable to identify the quantity or identity of their crop(s) being sold at the market, that producers selling privileges will be revoked.

### **2.2.7 Partnerships**

Certified producers in *partnership*, with sharecropping agreements or similar contracts as described in CR1392.9.1 who are issued a CPC are subject to the same regulations and restrictions and application procedures as listed in sections 2.2.2 and 2.2.6 of The Rules.

### **2.2.8 Growing Practices**

All certified producers, including certified organic farmers, are required to submit a *Growing Practices Information Form* that lists the methods used to control weeds, pests, soil fertility and visual appearance of their produce. Growing Practices Information forms are available for review by customers. Certified producers and producers are responsible for keeping Growing Practices Information forms current and accurate.

### **2.2.9 Organic Products**

Certified producers selling organic products in California must comply with the California Organic Products Act of 2003 (COPA), effective January 1, 2003.

Certified producers engaged in the production of agricultural products sold as *organic* and who sell over \$5,000 annually, must register with the agricultural commissioner in the county of principal production prior to the first sale of product, and then annually renew their registration with the secretary of the Department of Food and Agriculture unless no longer engaged in activities requiring registration [COPA 46013.1 (a)]. All products sold as organic in CFMs shall be certified by a federally accredited certifying agent registered with the secretary of the California Department of Food and Agriculture (CDFA). Federal organic accreditation remains in effect until it is revoked or the farmer withdraws from the organic certification program.

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Certified producers who sell less than \$5,000 annually in organic agricultural products may claim organic practices without obtaining certification or registration documents. Although exempt from certification, these producers must abide by the national and state standards for organic products and may label their products as organic.

If a certified organic producer also sells produce that is not organic, the non-organic produce shall not come in physical contact with the organic produce at any time during handling, shipping or display. Non-organic produce must be displayed in a manner that separates it from the organic produce with a physical barrier, and non-organic produce must be clearly labeled and identified as such by means of a sign stating “Non Organic” or “Conventionally Grown” in letters at least 2” high.

Certified organic producers must have a copy of their current organic registration and certification documents on display at their stand while at the SMFMs. The farm address and the gross sales figures may be redacted for purposes of privacy.<sup>1</sup>

**2.2.10 “No Chemical” “Pesticide Free” labeling**

Certified producers may use the terms “No Chemical” and “Pesticide Free” to advertise their products. As noted above in Section 2.2.8 Growing Practices, all inputs shall be fully disclosed. The term “No Spray” may not be used since it is vague and misleading.

**2.3 NON-CERTIFIED SECTION**

Applicants may visit the City’s Finance website year round to sign up as a *vendor* and will be notified when the application periods opens.

**2.3.1 Non-certifiable Processed Agricultural Products**

Non-certifiable processed agricultural products which are not permitted in the certified section may only be sold by certified producers in the non-certified section of the market. Non-certifiable Processed Agricultural Products include prepared or packaged foods where the primary ingredient(s) are grown by the market participant and have included pesto, olives, and nut brittle. A CPC is required to substantiate the certified producer's claim to growing the primary ingredients in Non-certifiable Processed Products.

Certified producers of non-certifiable processed agricultural products are subject to the same documentation and selection criteria as certified producers Section 2.2.

***Non-Certified Section***  
*The non-certified section is established by the SMFMs to provide ancillary activities products and services that enhance the market ambiance.*

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<sup>1</sup> California Organic Products Act of 2003, National Organic Program.

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### 2.3.2 Prepared or Pre-Packaged Food

Prepared and pre-packaged food may only be sold in the Non-certified Section of the market. Prepared Food is prepared on site such as omelets, burritos and pancakes. Pre-Packaged Food includes food prepared and packaged off site in a certified kitchen such as chocolates, breads and sandwiches.

In order to be eligible, applicants must obtain and present appropriate documentation which may include, but is not limited to:

- Annual Health Permit for processing facility.
- Board of Equalization Permit (for taxable products).
- Temporary Field Event Health Permit (renewable quarterly) issued by the Los Angeles County Department of Health.



Prepared and Pre-packaged food vendors may with apply with their desired menu through a *Request for Proposal (RFP)* process. The number of square footage allocated for any give RFP may change from year to year. RFPs are conducted annually for one third of allocated spaces with three year contracts awarded. Market management determines the number and allocation of stall spaces available, which are subject to change with each RFP. Menu modification requests are reviewed annually during the RFP application period. The evaluation criterion for prepared and pre-packaged food applicants includes, but is not limited to:

- Business Location
  - First preference given to applicants whose established restaurant resides within the local business district of the market to which they are applying.
  - Second preference given to applicants whose established restaurant resides within the City of Santa Monica.
  - Third preference given to applicants with established restaurants residing outside the City of Santa Monica.
  - Last preference given to itinerant food businesses residing outside the City of Santa Monica.
- Ingredient Sourcing

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Products sold at the market must be homemade (rather than purchased fully processed and re-sold) and that incorporate ingredients which are:

- Grown in California
  - Organic
  - Fair trade
  - Free range and grass fed meats
  - Wild-caught or local seafood from sustainably managed fisheries
  - Purchased from SMFMs certified producers (farmers).
- Sustainability
    - Environmental Sustainability. Measured through green certifications such as the Sustainable Work Business Greening program.
  - Experience
    - First preference is given to applicants with experience participating in outdoor event food preparation.
    - Second preference is given to applicants with restaurant or catering experience.
    - Last preference is given to applicants with no prior business related food preparation experience
  - Value

Preference for products that are unique and that ensure a wide array of offerings to adequately fulfill customer demand.

### **2.3.2.1 Prepared and pre-packaged food (Sunday Main Street Farmers Market)**

Additional stall space allocations apply at the Sunday Main Street Farmers' Market. 50% of the prepared food area, or 50% of the prepared food stall spaces, as determined by Market Management, are allocated to applicants from the local business district. From the total number of proposals received, the top Main Street food vendors are offered the reserved stall spaces. Main Street prepared food vendors not selected for the reserved spaces will be added to the general pool of applicants to

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compete for the remaining spaces. When fewer Main Street businesses apply than available reserved spaces, such spaces will be available for the general applicant pool.

### **2.3.3 Featured Restaurants**

Market management may create a Featured Restaurant program at the SMFMs to allow one food establishment per week from the local business district to sell prepared foods listed on their established restaurant menus. All restaurants wishing to participate must hold a current City business license in the business district where the farmers' market has a Featured Restaurant program. Qualified food establishments will be placed in the next quarterly rotation schedule with other qualified applicants in equal proportion.

In order to participate, vendors must obtain and present required documentation which may include, but is not limited to:

- Board of Equalization Permit (for taxable products).
- Current City Business License.
- Temporary or Annual Field Event Health Permit (renewable quarterly) issued by the Los Angeles County Department of Health.

### **2.3.4 Wild Harvested and Foraged Agricultural Products**

Wild harvested and foraged agricultural products may only be sold in the Non-certified Section of the market. In order to participate, vendors must obtain and present appropriate documentation which may include, but is not limited to:

- National Forest Collectors Permit.
- Temporary Field Event Health Permit (renewable quarterly) issued by the Los Angeles County Department of Health.

### **2.3.5 Sellers of Wild-Caught Fish and Shellfish**

Wild-caught seafood and shellfish may only be sold in the Non-certified Section of the market. All fish sold must be harvested from a well-managed fishery in properly licensed boats in which sustainable harvesting methods are employed, in accordance with the Monterey Bay Aquariums Seafood Watch program. Wild caught seafood and shellfish vendors must obtain and present appropriate documentation which may include, but is not limited to:



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- DMV Boat registration.
- Commercial California fishing license issued by the California Department of Fish and Game.
- Boat registration issued by the California Department of Fish and Game.
- Processors and Handlers Permit issued by the California Department of Fish and Game.
- Landing Receipts.
- Temporary Field Event Health Permit or (renewable quarterly) or a Vehicle Permit issued by the Los Angeles County Department of Health.

Selection criteria for seafood applicants includes, but is not limited to:

- Preference is given to applicants selling fish and seafood which is caught, raised, collected or grown in California coastal waters.
- First preference is given to applicants selling their own catch.
- Second preference is giving to applicants selling their own catch and documented catch of others who fish.
- Last preference is given to fishmongers who contract directly with people who fish.
- Any fish or shellfish purchased at a commercial/wholesale fish market is not allowed to be sold at the SMFMs.
- Seafood or seafood products made from species that are overfished or unsustainably farmed as identified by the Monterey Bay Aquarium's Seafood Watch program will not be admitted to the SMFMs.

### **2.3.6 City Departmental Information Table**

Subject to space availability table space at SMFMs is provided only for City departments to distribute information to market visitors.

### **2.3.7 Farmers Market Management and Information Booths**

Market management or a designated representative can be found at the information booth of each market during operational hours. Information displayed at the information table is limited to:

## **PARTICIPATION**

- (1) City of Santa Monica publications
- (2) Publications featuring the SMFMs or participating certified producers (will be labeled with city logo and article reference)

### **2.3.8 Retail**

SMFMs held on private property may have a retail section in the Non-certified section to allow retailers from the organized local business district to sell products normally sold in their stores. All retailers wishing to participate must hold a current City retail business license in the business district where the market has a retail section. Retail businesses participation is handled through the organized business district which has an agreement with SMFMs.

### **2.3.9 Musical Entertainment**

Subject to space availability, musical entertainment is allowed pursuant to local regulations. Musicians selected to perform at the market(s) may distribute promotional flyers and/or sell promotional CDs and tapes during their scheduled performances. Other promotional materials such as shirts, stickers, etc. are not allowed for sale.

Musical Entertainers may apply to perform at SMFMs during the open application period each year by responding to the *Request for Qualification (RFQ)*. A selection criterion includes, but is not limited to:

- Type of music
- Quality of music
- Preference is to give opportunities to many different musicians.
- Experience performing in outdoor venues
- Previous performance success and behavior

### **2.3.10 Children's Activities**

Subject to space availability, children's activities are allowed pursuant to local regulations and may include, pony rides, arts and crafts activities, face painters, and performers.

Children's activity performers may apply to participate at SMFMs by contacting the administrative offices. All applicants will be



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accommodated on a space available basis. Once there is no space, selection will be conducted through an RFQ process. Selection criteria include, but are not limited to:

- References
- Appropriateness of the activity provided

### **2.3.11 Market Sponsored Consumer Education and Outreach**

SMFMs management encourage Market Sponsored Consumer Education that is intended to promote healthy eating, support California farming and sustainability and may include, but is not limited to Ask the Dietitian, the Master Gardeners, and chef demonstrations.

## **24 TERMS OF PARTICIPATION**

### **2.4.1 Certified Producers and Producers**

Once selected first time certified producers and producers will be offered a three month participation agreement stipulating products to be sold and the markets they will be attending. Provided there are no notices of violation during the three month period, certified producers and producers will be awarded a stall space subject to annual review.

Certified producers and producers must provide SMFMs management copies of CPCs annually, if there are changes to the CPC, continued participation in SMFMs will be determined in accordance with the Rules and/or admission of changed product mix will be subject to selling conditions as stipulated in a selling agreement.

### **2.4.2 Vendors**

The terms of participation for vendors who are selected through a RFP or RFQ process will be set forth in a selling agreements and/or contract. During each RFP process, staff will determine the duration of agreement and number and type of vendors to be included in each market. Should a vendor not be able to fulfill the terms of the agreement the next eligible vendor from the initial RFP process will be offered a stall space and selling agreement for the remaining term of the departing vendor.

## **PARTICIPATION**

### **2.5 HOW IS STALL SPACE ALLOCATED?**

Market participants are granted one selling space and may not occupy two separate selling spaces or sell outside their assigned space under the same CPC. Every effort is made to assign permanent space locations to market participants. This ensures continuity, which is beneficial to the participant and to the overall operation of the market. Occasionally changes must be made in stall assignment location. Such decisions are made at the Manager's discretion for the benefit of overall market operations. The following evaluation criteria will be used when making stall assignments:

- Need to alleviate chronic overcrowding.
- Reallocations will make better use of the space available.
- Need to alleviate potential health, safety risk or hazard.
- Empty spaces which need to be filled.

### **2.6 "NO ASSIGNMENT" (CHANGE IN OWNERSHIP OF FARM OR BUSINESS)**

There is no assignment of a selling space in the market in the event a participating farm or business is sold. New owners must apply for a selling space and will be considered in accordance with criteria set forth in this chapter.

### **2.7 INFORMATION DISCLOSURE STATEMENT**

All records maintained by the SMFMs are subject to full disclosure to the public. For purposes of publicizing the markets, SMFMs may promote and share information about participants, their products, production or growing methods and photographs. Participants who do not want their contact information shared may complete a "non-release" form.

## **PARTICIPATION**

### **2.8 OTHER ACTIVITIES**

All SMFMs are open to the public. As such, they attract a variety of activities not related to the SMFMs mission. The most common activities and the rules which regulate these activities are listed below:

#### **2.8.1 Filming**

Filming is allowed with prior approval from SMFM management and a valid film permit issued by the City. An additional permit from the Bayside District Corporation may also be required to film in the area designated as the Bayside District.

#### **2.8.2 Signature Gathering/petitioning/ Leafleting**

Signature gathering and petitioning are allowed as free speech activities.

#### **2.8.3 Product sample distribution**

Only market participants may offer product samples within the markets.

#### ***Soliciting/Panhandling***

*These activities are protected by First Amendment rights governing free speech and public access. Anyone engaging in these activities is asked to keep the public area free of discarded literature and must comply with City of Santa Monica Municipal Code 4.54.020 which prohibits "aggressive solicitation" such as blocking passage, following a person who has declined to make a donation among other things.*



## 3 Dollars and Cents

*This section presents information about stall and other fees & billing, taxes, payments credits and prices.*

### 3.1 PRICES & MONEY HANDLING

#### 3.1.1 Product Prices

Product prices are set by the individual market participants. All prices must be clearly posted. Collusion among market participants to set prices is strictly forbidden.

#### 3.1.2 Money handling

All market participants are expected to be accurate in all monetary transactions. It is advisable that each farmer have in place a cash handling system. Disputes over monetary transactions may be mediated on a case by case basis by market management with final resolution determined by market management.

#### 3.1.3 Refunds

Market participants are encouraged to give customers the benefit of the doubt and offer a full monetary refund or replacement of equal value when purchases are disputed. Return or exchange policy shall be posted in writing at the stall.

### 3.2 LOAD SHEETS

SMFMs participants will complete and turn in a daily *load sheet* for record keeping and billing purposes. Market participants shall declare gross sales on load sheets. Load sheets must be filled out completely noting the volume of commodities brought in, the volume of commodities sold and gross sales per commodity or commodity group. SMFMs management will monitor sales reporting as necessary to check for accuracy. [CCR1392.9 (6b)].

**Sales Monitoring**

*To read more about sales monitoring, stall or farm audits and violation penalties, please see page 9.*

**Rainy Day Fee Policy**

*Markets remain open on rainy days and stall fees will be collected on any sales that take place.*

**3.3 RATES AND FEES**

Schedule of fees is shown Attachment II.

**3.4 BILLING**

Participants shall be billed for all stall fees at the beginning of each month and payment is due upon receipt.

**3.5 PAYMENTS**

Payment of stall fees must be made by check or money order (cash is not accepted) and may be made at the end of each market, or mailed upon receipt of the monthly invoice.

**3.6 DELINQUENT ACCOUNTS**

Payments are due upon receipt. If payment is not received within 30 days from the date of the invoice, account becomes delinquent.

Market participants whose accounts are over 61 days past due, will be suspended from participation in SMFMs until the balance is brought current. Thereafter, market participants shall be placed on a weekly payment plan for six months for the first occurrence and indefinitely for any future delinquencies. *Weekly payment plan* participants must pay their stall fees in full at the completion of each market attended.

**3.7 RETURNED CHECKS**

Checks returned to the City for insufficient funds will be charged a \$25.00 penalty for the first occurrence and \$35.00 for subsequent occurrences in addition to the amount owed. Thereafter future payments shall be made a certified check or money order.

**3.8 CREDITS**

Market participants will receive credits toward their stall fees for a variety of items, including food stamps, *Farmers' Market Nutrition Program (FMNP)* coupons, marketing coupons, items purchased by the market for use at the market or accompanying programs. When applicable, credits will appear on the monthly statement.

**3.8.1 Assistance Program Participation**

SMFMs participants (where applicable) are required to accept SMFMs \$1.00 scrip tokens issued for food stamps (*Electronic Balance Transfer - EBT*) and *Women Infants and Children (WIC)*, FMNP, and *Senior Nutrition Farmers' Market Program (SFMNP)* issued in \$2.00 denominations, and must adhere to all assistance program participation rules and guidelines. As change cannot be given, producers are expected to assist WIC and EBT customers by providing produce in \$1 or \$2 increments.

**3.9 OTHER COUPONS**

SMFMs occasionally distribute or sell gift coupons to individuals or groups. All market participants are required to accept these coupons in lieu of cash. At the end of each market day, coupons must be noted on the load sheet in the appropriate box and turned for a credit at the SMFMs Information Stalls. Credit vouchers may not be deducted from participant sales. Credit vouchers are applied toward future billings and are indicated on statements.

**3.10 DONATIONS**

Occasionally, SMFMs are asked for food donations to support various organizations, causes or events. When asked, management may forward a letter detailing the type of donations requested, date and time of pick up and provide a brief summary of the event or organization. Donations are expressly for the organization requesting and donations are entirely voluntary. Producers wishing to donate may request a receipt from the requesting organization.

**3.11 SALES TAX**

Market participants will be individually responsible for conformance to local, state and federal laws. State sales tax shall be collected by market participants of non-food items or prepared food and forwarded to the State Board of Equalization as required by law. Market participants selling taxable items must obtain a Board of Equalization Permit listing the SMFMs as a sales location.



## 4 Health, Safety & Conduct

*This section describes participant standards for health, safety and professional conduct. Violations of these standards are set forth in section 7 Market Violations page 35.*

### 4.1 ABSENCES

SMFMs management endeavors to keep each selling space occupied each week. Market participants who will not be attending the market must notify the market manager prior to the date of absence. Market participants who cannot attend the market due to unusual circumstances or an emergency such as truck breakdown en route to market must contact SMFMs management within 48 hours after market day to confirm a selling space for the following week. Repeated absences, regardless of their cause or whether notification was provided, may result in suspension from the following market.

### 4.2 ANIMALS

No live animal shall be kept or allowed within 20 feet of any area where food is stored or kept for sale in accordance with California Retail Food Code as it exists or may be amended. With the exception of service animals and animals kept within the cab of a market participant's vehicle, no animals are allowed at SMFMs.

### 4.3 CLEANING STALL SPACE

Market participants are required to maintain their individual selling space in a clean, safe and sanitary manner during the course of the market, including protecting the pavement from drips from any part of a market participant's vehicle and/or from food prepared or sold in the stall space. Market participants are responsible for bagging and placing all trash in the appropriate dumpsters (produce waste, overripe or leftover produce, boxes etc.) and disposing of waste water (from sampling set up or flower buckets, etc.) in the sewer system at the close of market day. Waste water may not be dumped in the street, in planters or in storm drains. [City Codes 7.16.020, 7.10.040 and 5.20.010].

**Cleaning Violation**

*Market participants who do not clean their stall space to market standards may be subject to violations and fines. See section 7 Market Violations page 35.*

Each market provides a designated trash disposal receptacle for such waste, or the market participant may take it home. Market participants are not permitted to dispose of produce waste, overripe or leftover produce or boxes in any receptacle not specifically designed for that purpose. Produce and compostable waste shall be placed in appropriate receptacles.

**4.4 COMMERCIAL RESALE**

Certified producers may sell to chefs, schools and market basket programs provided that the seller issues a detailed “memorandum” listing *Identity, Responsibility and Quantity* (IRQ). This ensures produce sold or consumed by an entity other than the purchaser can be traced back to the certified producer. Commercial resale market participants must comply with pertinent labeling and packaging requirements.

Assembly Bill 2168 stipulates that commercial resale of produce may take place at a CFM as long as the produce is sold in compliance with standardization requirements for packaging and labeling. Products not covered in standardization code must be packed and labeled with *IRQ*.

**4.5 COURTEOUS CONDUCT**

Market participants are expected to conduct themselves in a safe and courteous manner at SMFMs. No rude, abusive, insulting, disruptive or threatening language or behavior is permitted. Market participants found violating this rule are subject to a *Market Violation Schedule A* which is grounds for immediate dismissal from the market with reinstatement of selling privileges contingent upon a hearing.

**4.6 CUSTOMER ADVISORIES**

Market participants may refrain from or limit sampling or sales of product to any customer. Clear signage with lettering at least two inches high stating the market participants’ policy shall be posted at the stall.

**Complaints**

*Complaint forms are available at the market. SMFMs management will respond to customer complaints with two weeks of receipt.*

**Quality of Product**

*Santa Monica Farmers Markets are dedicated to offering the best quality produce.*

**4.7 DECEPTIVE PACK**

Pre-packed items must clearly indicate the representative size and quality of all items in the container offered for sale.

**4.8 FIRE**

Market participants shall comply with all City Fire Code and Regulations

**4.9 HANDWASHING**

Market participants must wash their hands before returning to work from a food or restroom break.

**4.10 HEALTH CODE COMPLIANCE**

The activities at a CFM are covered by County Health Code as contained in the California Retail Food Code. SMFMs are considered a “Nonpermanent Food Facility” under California Retail Food Code and operate under a Public Health Operating Permit. Health Code compliance at a CFM includes, but is not limited to the following:

- a. All food shall be stored at least six inches off the ground or as otherwise approved.
- b. No animals other than service animals are permitted within twenty feet of any temporary food facility or certified farmers market.
- c. Prepackaged food shall bear a label that complies with the labeling requirements prescribed by the Sherman Food, Drug and Cosmetic Law.
- d. No home processed foods shall be sold at SMFMs. All food products prepared for resale at SMFMs must be prepared in a Health Department licensed facility, and a copy of the facility’s health permit must be kept at the seller’s stand.
- e. Food preparation is prohibited at certified farmers' markets with the exception of food samples. Distribution of food samples may occur provided follow California Retail Food Code and section 4.17 of the Rules.

**4.11 MINIMUM GRADE REQUIREMENTS**

Commodities brought to market or offered for sale are subject to inspection at any time by a SMFM Manager or authorized person. Produce must meet minimum grade requirements, and must represent a "field run" or better quality range. Containers of culls only will not be permitted for sale unless the producer is also selling the same product at a "field run" standard or better. Culls must be clearly labeled as "culls", "overripe", "canning grade" and priced accordingly. Any product not meeting USDA minimum quality standards may not be sold at any price at SMFMs.

Produce offered for sale in containers or packs must not exceed California Department of Food and Agriculture (CDFA) tolerance for spoilage and waste.

**4.12 NOISE, DISTURBANCE OR INTRUSION**

Radios and music played by market participants shall not be audible to customers during market hours, set-up and breakdown. No loud hawking or shouting to

## **HEALTH, SAFETY & CONDUCT**

promote products is allowed. Any disruptive action, including rough housing or throwing of items, is prohibited. No bicycling, skateboarding, roller-skating, or riding of scooters is permitted in SMFMs.

### **4.13 NON-MARKET RELATED ACTIVITIES**

Sales of products not otherwise listed on the producers CPC or Selling Agreement is strictly prohibited while operating at the market. Market bags may be given away with a minimum purchase with prior approval from SMFMs management.

### **4.14 PARKING**

When possible, market participants will be provided vehicle parking at their stall space. When space is not available, market participants must park off-site in designated off-site market participant parking. Market participants and their *employees* shall not park vehicles or trailers in lots or at meters adjacent to the Saturday Pico Market or the Sunday Main Street Market. Upon closing, participant vehicles must be moved to accommodate market clean up. Market participants may not leave vehicles parked on the market site after the close of the market.

### **4.15 PREVENTION OF HARRASSMENT IN THE WORKPLACE**

Market participants must comply with the California Department of Fair Employment and Housing Guidelines on the Prevention of Harassment in the Workplace.

### **4.16 PUNCTUALITY**

Market participants are expected to arrive on time. To ensure safety, market participants arriving late must be escorted into the market by authorized personnel or may be asked to leave their vehicle outside the market boundaries and walk their product into the market.

### **4.17 SAMPLING**

Distribution of food samples may occur under the following sampling setup and procedures.

#### **4.17.1 Sampling Setup**

1. Water container with downward-facing spout (for hands and produce washing)
2. Non-absorbent cutting board
3. A knife used exclusively for sampling
4. 1% chlorine solution for sanitizing the cutting knife – 100 ppm (1/2 oz. per gallon) for four hours. Litmus strips are available from manager to test for concentration
5. Liquid pump soap dispenser (bar soap is not acceptable)

## **HEALTH, SAFETY & CONDUCT**

6. Single use (paper) towels
7. Cover (sneeze guard) for cut samples
8. Single-serve toothpick dispenser or tongs for handing out samples
9. Bucket to catch wash water.

### **4.17.2 Sampling Procedures**

1. All produce must be washed in potable water before cutting, and waste water shall be collected in a receptacle and disposed of at an approved site.
2. Bucket containing wash water must be disposed of in a public sewer system or taken home for disposal. Wash water may not be dumped in planters or storm drains.
3. Samples must be cut out of reach of customers and under a canopy or protective cover. Cut samples must be kept covered.
4. Clean, disposable plastic gloves shall be used when cutting food samples.
5. Samples must be served to customers on a toothpick or with tongs
6. Samples shall be kept in approved, clean, covered containers.
7. All food samples shall be distributed by the producer in a sanitary manner.
8. Portioning, for example selling half of a watermelon or portions of a large squash shall comply with section 4.9c and d of this document.

### **4.18 SIDE-SELLING AND DELIVERY**

Market participants are prohibited from selling and/or distributing products at SMFMs which have not been previously approved by market management.

### **4.19 SMOKING**

Smoking is prohibited at SMFMs. The City prohibits smoking within 20 feet of all entrances, exits and open windows of buildings open to the public. Violations are subject to fines of up to \$250 issued by the City of Santa Monica Police. Market participants, who smoke, must wash their hands prior to returning to their stall.

### **4.20 SUBSTANCE USE**

Consumption of alcoholic beverages or any controlled substance while at the market is prohibited and is a schedule A violation, which is grounds for immediate dismissal from the market with reinstatement of selling privileges contingent upon a hearing.

### **4.21 UNDER RIPE OVER RIPE**

If produce is overripe and must be consumed the same day, the customer must be informed in advance of the sale of the products.





## 5 Setup & Display

*This section discusses stall set up and breakdown times, layout and labeling and display requirements. It is the goal of the SMFMs to have to have a safe and aesthetically pleasing market.*

### 5.1 STALL LAYOUT

- a. Displays shall not extend into the walkway or violate fire code. No boxes or produce displays may extend into the common customer traffic areas.
- b. Directional signs are permissible to guide and direct. Directional signs shall not impede pedestrian circulation or safety.
- c. Market participants who display product on a side table must allow at least 24 inches of unobstructed side aisle.
- d. Tables and other display fixtures must be sturdy and not overloaded to a point where they are unstable.
- e. All shades and shelters must be securely fastened. Windy conditions may necessitate canopies being removed.
- f. Vendors whose stalls are not set up to standard shall be asked to discontinue sales until set up is corrected.

### 5.2 WEIGHTS AND MEASURES

When any product is sold by weight, the scale used must be approved, tested and sealed by the County Agricultural Commissioner, Sealer of Weights and Measures. Every scale in use at SMFMs must be sealed annually and display a current seal. Sellers are not permitted to use scales with expired seals.

### 5.3 LABELING & DISPLAY

Market participants are encouraged to create attractive displays.

## SETUP & DISPLAY

### 5.3.1 Closed or sealed containers

Closed and sealed containers must be properly labeled with the following information:

#### 5.3.1.1 Certified and Non-Certifiable Agricultural Products

1. Contents (if product is not readily identifiable),
2. Weight and grade (where applicable),
3. Name, address and zip code of the certified producer or producer.
4. If the package contains six items or less and items are visible and sold by count, a quantity statement is not required.

#### 5.3.1.2 Pre-packaged and Non-Certifiable Processed Agricultural Products.

FOOD prepackaged in a FOOD FACILITY shall bear a label that complies with the labeling requirements prescribed by the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)), 21C.F.R. 101-Food Labeling, 9 C.F.R. 317-Labeling, Marking Devices, and Containers, and 9 C.F.R. 381-Subpart N Labeling and Containers, and as specified under Sections 114039 and 114039.1.

Label information shall include the following:

1. The common name of the FOOD, or absent a common name, an adequately descriptive identity statement.
2. If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the FOOD.
3. An accurate declaration of the quantity of contents.
4. The name and place of business of the manufacturer, packer, or distributor.
5. Except as exempted in the Federal FOOD, Drug, and Cosmetic Act Section 403(Q)(3)-(5) (21 U.S.C. Sec. 343(q)(3)-(5), incl.), nutrition labeling as specified in 21 C.F.R. 101-FOOD Labeling and 9 C.F.R. 317 Subpart B Nutrition Labeling.



## **SETUP & DISPLAY**

### **5.3.2 Prices**

Prices must be clearly posted and legible. Collusion among market participants to set price or exertion of any influence, pressure, or persuasion to cause a producer to set price is forbidden by state laws.

### **5.3.3 Organic Labeling**

Certified producers who claim their produce is “organic” either in signs or in verbal claims, must be Certified and Registered Organic. A copy of the certification and registration must be posted at the stand. Portions containing sales information and personal contact may be redacted for privacy purposes.

### **5.3.4 Signs and Posting**

During selling hours the following documents, where applicable, shall be conspicuously posted at the point of sale: [CCR1392.4 (d)]

- f. Farm or business name. Signs must be legible with lettering at least 3 inches tall.
- g. Embossed current Certified Producer's Certificate (CPC) which must list "Los Angeles" as an Authorized County.
- h. Employment Agreement.
- i. Current organic registration and certification. Violations of National Organic Program regulations are a serious offence. All products advertised as organic must be listed on the State of California Organic Registration.
- j. When an organic grower is also selling non-organic produce at the same stand, the non-organic produce must be physically separated from the organic produce and clearly labeled "non-organic" in letters at least 2 " high.
- k. All applicable Health permits.
- l. All applicable exemption permits.
- m. Other signs required by SMFMs management such as “WIC”, “EBT Accepted Here” or management issued marketing posters and flyers.
- n. Prices must be clearly posted.
- o. Produce varieties shall be posted.

## **SETUP & DISPLAY**

### **5.3.5 Growing Practices Disclosure**

Farming practices must be fully and truthfully disclosed. Refer to section 2.2.8 for growing practices disclosure documentation requirements.

#### **5.3.5.1 No spray**

The term “No spray” is not allowed at the SMFMs as it is vague misleading.

#### **5.3.5.2 No Pesticides or chemical free**

Claims of “no pesticides” or “chemical free” must be substantiated by accurate reporting on your growing practices information form.

### **5.3.6 Sustainability**

Market participants shall comply with the City sustainability programs and initiatives which include, but are not limited to the Zero Waste Program and the Expanded Polystyrene Ban. Market participants are also required to comply with additional sustainability programs which may be initiated by SMFMs.

## **5.4 SETUP & BREAKDOWN TIMES**

SMFMs hours are as stipulated by each market. No market participant may sell prior to market opening and or after the market is closed. SMFMs management may open or close the market early if extreme inclement weather conditions exist.

## 6 Audit Program

*Santa Monica Certified Farmers Markets is known for high quality and unique products. To ensure the integrity of SMFMs and products sold, the following comprehensive audit program includes stall sales audits and farm visits.*

### 6.1 STALL SALES AUDITS

Stall sales audits are conducted at the market participants' stall during the market. Stall sales audits are scheduled in advance with a goal of auditing each market participant every four years.

An auditor is stationed in the stall to record sales transactions and report total sales at the end of the day to SMFMs management. Market participants who are being audited are expected to announce each sales transaction in a clear and audible manner so all sales can be accurately recorded. Audit procedures are detailed in the *Farmers Market Procedural Guide* (available upon request).

Penalties for discrepancies in sales reporting are outlined in Section 7 Market Violations.

### 6.2 FARM AUDITS

Farm Audits are conducted by SMFMs management to verify that the products being sold at SMFMs are in production at the certified location and in accordance with the provisions of the Direct Marketing Regulations<sup>2</sup>.

Farm Audits consist of several steps:

1. Stall product audit is conducted during the market. Items presented for sale are recorded and photographed.
2. Market management and/or a designated representative visits the farm and documents production and growing practices at the farm.

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<sup>2</sup> California Code of Regulations, Article 6.5 Direct Marketing, Section 1392 – 1392.1.

## AUDIT PROGRAM

3. A written report is composed and findings are presented to the market participant and a copy is kept in the certified producers' file noting any actions taken for violations or follow up. A copy of the written report may be submitted to the County Agricultural Commissioner.

Certified producers and producers are selected for Farm Audits based on, but not limited to the following circumstances:

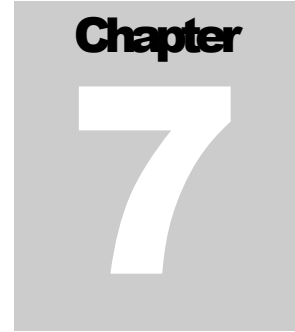
1. When a certified producer or producer first applies to the SMFMs.
2. When information is received requiring field verification.
3. As part of the normal audit cycle.

### **6.3 MYSTERY SHOPPER**

SMFMs management may utilize mystery shoppers to verify accuracy and integrity in all sales transactions.

### **6.4 AUDIT PROGRAM PARTICIPATION**

Market participants, shall cooperate with SMFM Management requests for *stall sales audits* or *farm visits* by SMFMs management or authorized person, refusing to comply with audit requests shall result in a Market Violation schedule A, which is grounds for immediate dismissal from the market with reinstatement of selling privileges contingent upon a hearing. Market participants are responsible for keeping market management apprised of current address and phone numbers.



## 7 Market Violations

*Santa Monica Farmers Markets follow an open and fair due process in all matters pertaining to reporting and investigating market violations.*

The SMFMs management and any other agents assigned to do so may issue warnings, fines, and suspensions, remove a market participant from any market, or have selling privileges at SMFMs conditioned or limited for failure to comply with these rules and all other applicable federal, state or local regulations and laws. Failure to comply with The Rules may result in penalties up to and including *expulsion* at all SMFMs. Market participants are responsible for the actions of their employees.

**All violations will be noted to the market participants file.**

**Table 1: Market Violations - Schedule A**

Violations listed in Schedule A, are grounds for immediate dismissal and expulsion from the market.

| <b>Violation</b> |  |
|------------------|--|
| 7.1A             | Producers selling product not of their own production        |
| 7.2A             | Physical violence or threatening behavior to anyone          |
| 7.3A             | Rude, abusive, insulting, disruptive or threatening language |
| 7.4A             | Under the influence of drugs or alcohol                      |
| 7.5A             | Refusal to participate in the stall or farm audit programs   |

**MARKET VIOLATIONS**

**Table 2: Market Violations - Schedule B**

Violations listed in Schedule B will be documented in the market participants file and remain effective for 12 months.

| <b>Violation</b>  |  | <b>1<sup>st</sup> Offense</b>                                      | <b>2<sup>nd</sup> Offense</b>                          | <b>3<sup>rd</sup> Offense</b>     |
|---|--|--|--|-----------------------------------|
| 7.1B  | <b>Non-compliance with local health department regulations</b> | Oral reprimand immediate corrective action                         | 1 day suspension from the same SMFM the following week | 3 month suspension from all SMFMs |
| 7.2B  | <b>Selling product not listed on CPC</b>                       | Oral reprimand immediately remove product from table. <sup>3</sup> | 1 day suspension from the same SMFM the following week | 3 month suspension from all SMFMs |
| 7.3B  | <b>Selling product not in selling agreement</b>                | Oral reprimand immediately remove product from table. <sup>3</sup> | 1 day suspension from the same SMFM the following week | 3 month suspension from all SMFMs |
| 7.4B  | <b>False Organic Marketing</b>                                 | Oral reprimand immediately remove product from table. <sup>3</sup> | 1 day suspension from the same SMFM the following week | 3 month suspension from all SMFMs |
| 7.5B  | <b>Culls, poor quality, overripe</b>                           | Oral reprimand immediately remove product from table.              | 1 day suspension from the same SMFM the following week | 3 month suspension from all SMFMs |
| 7.6B  | Stall Sales Audit Discrepancy of 20% averaged over 3 months    |  |  |                                   |
| Any combination of four (4) Schedule B violations in a 12 month period shall be cause for a 3 month suspension from SMFMs with reinstatement of selling privileges contingent upon space available. |  |  |  |                                   |

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<sup>3</sup> Sellers may not return with product, label or claim “organic” until it is amended on the CPC, Certification, selling agreement or Organic registration (where applicable). An audit may be conducted to verify production of remaining products. A report may be made to the Seller’s county Agricultural Department and other appropriate authorities.

**MARKET VIOLATIONS**

**Table 3: Market Violations - Schedule C**

Violations listed in Schedule C will be documented in the market participant’s file and remain effective for 12 months.

| <b>Violation</b>   |   | <b>1<sup>st</sup> Offense</b>           | <b>2<sup>nd</sup> Offense</b>           | <b>3<sup>rd</sup> Offense</b>           | <b>4<sup>th</sup> Offense</b>                          | <b>5<sup>th</sup> Offense</b>                      |
|--|---|---|---|---|--|--|
| 7.1C   | <b>No show without telephoning prior to market start.</b> <sup>4</sup>  | Oral reprimand with note to file        | Oral reprimand with note to file        | Oral reprimand with note to file        | 1 day suspension from the same SMFM the following week | 1 day suspension from all SMFMs the following week |
| 7.2C   | <b>Arriving after market start time.</b> <sup>4</sup>   | Oral reprimand with note to file        | Oral reprimand with note to file        | Oral reprimand with note to file        | 1 day suspension from the same SMFM the following week | 1 day suspension from all SMFMs the following week |
| 7.3C   | <b>General stall set up not to standard</b>   | Sales suspended until set up is correct | Sales suspended until set up is correct | Sales suspended until set up is correct | Sales suspended until set up is correct                | Sales suspended until set up is correct            |
| 7.4C   | <b>Failure to submit load list</b><br><small>Load sheets are due at the end of each market. Load sheets will be accepted via fax or called in on a case by case basis within 24 hours after the market.</small> | Oral reprimand with note to file        | Oral reprimand with note to file        | Oral reprimand with note to file        | Oral reprimand with note to file                       | Oral reprimand with note to file                   |
| 7.5C   | <b>Failure to clean stall space or leaving trash behind</b>   | Oral reprimand with note to file        | Oral reprimand with note to file        | Oral reprimand with note to file        | Oral reprimand with note to file                       | Oral reprimand with note to file                   |
| Any six (6) Schedule C violations in a 12 month period shall be cause for shall be cause for a one (1) month suspension from SMFMs with reinstatement of selling privileges contingent upon space available. |   |   |   |   |  |  |

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<sup>4</sup> Emergency exception: If vendors miss a market due to an emergency, a 48 hour grace period will be granted. However, sellers must contact the Santa Monica Farmers Market via email or voicemail within 48 hours of the market start time to avoid a violation and ensure their space for the following market.

**MARKET VIOLATIONS**

**Table 4: Payment Violations**

| <b>Violation</b> |   | <b>31-60 Days</b><br><i>From date of invoice</i>   | <b>61-90 Days (1<sup>st</sup> offence)</b><br><i>From date of invoice</i>  | <b>61-90 Days (2<sup>nd</sup> offence)</b><br><i>From date of invoice</i>   |
|------------------|---|--|--|---|
| 7.1D             | <b>Failure to pay stall fees on time</b>          | Written notice   | Suspension from all markets until balance is paid in full, including current month's balance. Thereafter, required to pay stall fees at the completion of each market day attended for six months. | Suspension from all markets until balance is paid in full, including current month's balance. Thereafter, required to pay stall fees at the completion of each market day attended as long as a Market Participant. |
| 7.2D             | <b>Check returned due to insufficient funds</b>   | \$25.00 returned check fee for 1 <sup>st</sup> occurrence, \$35.00 for all subsequent occurrences. All future fees must be paid via certified check or money order |  |   |
| 7.3D             | <b>Failure to comply with weekly payment plan</b> | suspension from all markets until account is brought current   |  |   |

**7.1 ENFORCEMENT AND DUE PROCESS**

Market management shall provide reasonable due process to all market participants relating to the imposition of a fine, suspension, dismissal or expulsion from the SMFMs.

**7.2 DISMISSALS**

Due to the serious nature of the violations listed in Schedule A, any such violations are grounds for immediate dismissal from the market. The Farmers Market Supervisor may impose reasonable conditions on any dismissed market participant, to ensure that the violation is not repeated, before authorizing any such dismissed market participant to return to the market. The Farmers Market Supervisor shall communicate the required conditions and the reasons for such conditions in writing to the market participant within five days after the dismissal. If no such conditions are imposed within this five-day period, the market participant shall have the right to resume operations at all SMFMs.

Any conditions imposed may be appealed by the market participant pursuant to section 7.4 APPEALS AND ADMINISTRATIVE HEARING of these Rules. During the appeal process the conditions imposed by the Farmer's Market Supervisor shall remain in full force and effect. Thus, the market participant may not return to any SMFM without first complying with the required conditions.

## **MARKET VIOLATIONS**

### **7.3 FINES, SUSPENSIONS AND EXPULSIONS**

Market participants shall receive a written Notice of Proposed Action if the proposed enforcement action includes a suspension longer than 1 day, any fine or expulsion from the SMFMs. The enforcement actions proposed in the Notice are not effective until finalized as authorized by these rules.

The Notice shall:

- State the specific reason(s) for the action.
- Be delivered in person or mailed, faxed, sent by Certified Mail or e-mailed to the market participant prior to an imposition of a fine, suspension or expulsion unless an immediate suspension is necessary to protect public health, safety or welfare.
- Advise the participant of the written appeal process of the action.

#### **7.3.1 Office conference**

Any market participant may request an Office Conference with the Farmer's Market Supervisor to review a Notice of Proposed Action. Any such request must be made within five days after the issuance of the Notice of Proposed Action. The Office Conference would be an informal opportunity for the market participant to present evidence and argument as to why the proposed action should not be finalized.

#### **7.3.2 Final Farmer's Market Enforcement Action**

The Farmer's Market Supervisor shall issue his/her decision ("Final Enforcement Action") within five days after the conclusion of the Office Conference, or, if no Office Conference was timely requested, within ten days after the issuance of the Notice of Proposed Action. This Final Enforcement Action is effective on the date of issuance. In the case of an expulsion, the Final Enforcement Action shall remain in full force and effect during the pendency of the appellate process.

### **7.4 APPEALS AND ADMINISTRATIVE HEARING**

Any Final Enforcement Action and/or conditions imposed as a result of a dismissal may be appealed to the City of Santa Monica Farmers Market Supervisor's Manager. If the Manager is unable to conduct the hearing, the Housing and Economic Development Director shall appoint a hearing officer.

The appellant has the burden of proof. In order for the appellant to prevail, he/she must show, by a preponderance of the evidence, that City staff's decision under review is not authorized by applicable federal, state or local law, or is inconsistent with the these adopted Rules.

## **MARKET VIOLATIONS**

The request for appeal must be submitted in writing within 30 days from the date stated on the Final Enforcement Action or the imposition of conditions resulting from a dismissal. The Hearing shall be conducted within 30 days of the submission of the appeal request.

At the Administrative Hearing the appellant may present evidence and argument regarding the reasons stated in the Final Enforcement Action or the imposition of conditions. Administrative Hearings shall result in a written decision upholding, reversing or amending the Final Enforcement Action or the imposition of conditions. This decision shall be the City's final administrative decision and shall not be subject to further administrative appeal. The decision shall be issued within 30 days after the conclusion of the Administrative Hearing.

# Glossary of Terms

*This glossary of terms is provided to define terms used throughout this document for the purpose of providing clarity and consistency. The first time glossary terms appear in The Rules they will be italicized. Many of the definitions are taken verbatim from California Code of Regulations, Article 6.5 Direct Marketing, section 1392.2 Definitions. These definitions are indicated with an asterisk.*

|   |   |
|---|---|
| <b>CDFA</b>                                   | California Department of Food and Agriculture.  |
| <b>Certified Agricultural Products *</b>      | Agricultural products, which are certified under the jurisdiction of the county agricultural commissioner relative to inspection and verification of compliance with the provisions of the Barclays California Code of Regulations, Article 6.5, include fresh fruits, nuts, vegetables, shell eggs, honey, cut flowers and nursery stock. [CURFFL 27512 and CCR 1392.2(k)]   |
| <b>Certified Farmers Market (CFM) *</b>       | A location approved by the county agricultural commissioner of that county where agricultural products are sold by producers or certified producers directly to consumers. A certified farmers' market may be operated by one or more certified producers, by a nonprofit organization, or by a local government agency. [CCR 1392.2(a)]  |
| <b>Certified Producer (farmer) *</b>          | A producer authorized by the county agricultural commissioner to sell certified agricultural products, produced by practice of the agricultural arts upon land which the certified producer controls (land that the producer or certified producer farms and owns, rents, leases or sharecrops), directly to consumers at a certified farmers' market. "Certified producer" does not mean "Certified Organic." [CCR 1392.2(e)]  |
| <b>Certified Producers Certificate (CPC)*</b> | A certificate issued by the County Agricultural Commissioner authorizing the transportation and sale of certified agricultural products. CPCs list all products grown by a certified producer as well as the growing location and acreage, projected yields and harvest seasons. [CCR 1392.2(f)]  |
| <b>Consumer*</b>                              | <ol style="list-style-type: none"> <li>(1) A customer who is an end user</li> <li>(2) Individuals, organizations, or entities that subsequently sell the produce directly to end users</li> <li>(3) Individuals, organizations, or entities that distributed the produce directly to end users at no cost to those end users.</li> </ol>  |
| <b>Direct Marketing Regulations</b>           | California Administrative Code, Title 3, Chapter 3, Group 4, Article 6.5.   |
| <b>Dismissal</b>                              | During a market, a market participant who is dismissed shall pack up his/her goods and immediately leave the market premises. The Farmers Market Supervisor may impose reasonable conditions on the dismissed market participant, to ensure that the violation is not repeated, before authorizing any such dismissed market participant to return to the market.   |
| <b>Electronic Balance Transfer (EBT)</b>      | EBT cards are plastic debit cards used for food stamp benefits, making the issuance of state public assistance and federal food stamp benefits faster and easier through the use of electronic transactions. To participate in the EBT program, farmers' markets are required to use a scrip system. At the SMFMs Scrip is a currency, in the form of wooden tokens designed by the SMFMs name in denominations of \$1.00. Clients can use their EBT card to purchase scrip from the market at a central location and then use the scrip to purchase eligible food items from farmers at the market. At the end of the day, farmers are reimbursed by the market for the amount of scrip they received. |

**GLOSSARY OF TERMS**

|  |  |
|--|--|
| <b>Employee*</b>   | Any person employed by a certified 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 whose compensation is primarily based on a commission of sales. [CCR 1392.2(j)]   |
| <b>Expulsion</b>   | Market participants, who are expelled, are prohibited from selling at SMFMs permanently  |
| <b>Immediate Family</b>  | Parents, children, grandparents, grandchildren of the certified producer or a family member regularly residing in the certified producer's household. [CCR 1392.2-(i)]   |
| <b>Identity, Responsibility and Quantity (IRQ)</b>                                 | <ol style="list-style-type: none"> <li>1. A declaration of identity that is the common or usual name of the commodity.</li> <li>2. A declaration of responsibility that includes the name, address, and zip code of the producer.</li> <li>3. A declaration of the quantity of the commodity</li> </ol>                            |
| <b>Load Sheets</b>   | Form used by farmers' market participants to report market sales.  |
| <b>Market Participants</b>   | Term used to refer to producers and vendors together.  |
| <b>Non-certifiable Agricultural Products</b>                                       | Any agricultural product which is not certified by the California Agricultural Commissioner. Products include: juice, jams and jellies, dried fruits and vegetables, shelled or roasted nuts, fish and seafood, poultry and poultry products, livestock and livestock products and dairy. [CURFFL 27512 and CCR 1392.2-(m)]        |
| <b>Non-certifiable Processed Agricultural Product</b>                              | Processed food products where the primary ingredient(s) are grown by a Certified producer but where the finished product is not certifiable by the County Agricultural Commissioner due to the addition of ingredients not produced by the Certified producer.   |
| <b>Partnership</b>   | A spate entity distinct from its individual members.   |
| <b>Prepared Food</b>   | Food for consumption prepared at the site where it is being sold   |
| <b>Pre-packaged Food</b>   | Food for consumption prepared and packaged in a certified kitchen and then brought to the site where it will be sold.  |
| <b>Producer</b>  | A person or entity who produces agricultural products by practices of the agricultural arts upon land which the person or entity controls. [CCR 1392.2-(d)]  |
| <b>Request for Proposal (RFP)</b>  | Application form used to apply for Non-certified stall space.  |
| <b>Request for Qualification (RFQ)</b>   | Application form used for entertainment to illustrate experience and express interest.   |
| <b>Second Certificate</b>  | A CPC may include the name of a second farmer who has permitted the first farmer to sell the second farmers' produce. The CPCs will have both farmers; names and addresses listed on them permitting this business relationship.   |
| <b>SMFM(s)</b>   | Santa Monica Certified Farmers Market(s)   |
| <b>Farmers' Market Nutrition Program for Women Infants and Children (FMNP/WIC)</b> | Established by Congress in 1992 and administered by the California Department of Health, the FMNP provides coupons for WIC participants which can be used to purchase a variety of fresh fruits and vegetables at Certified Farmers' Markets not provided in the WIC food package and allows participants to purchase these foods. |
| <b>Senior Farmers' Market Nutrition Program (SFMNP)</b>                            | The SFMNP is administered by the California Department of Aging and provides coupons to low-income seniors that can be used to purchase fresh fruits, vegetables and herbs at certified farmers markets during May through November. Small family farmers that sell produce at   |

## GLOSSARY OF TERMS

|                   |   |
|-------------------|---|
|                   | certified farmers markets receive all cash from the program.  |
| <b>Suspension</b> | A defined period of time where Market Participants are prohibited from selling at one, many or all SMFMs.         |
| <b>Vendor</b>     | Any participant in the market selling Non-certified products including retail, prepared foods, or processed food. |



## Market Hours and Days

*Market hours and days are subject to change under the sole authority and discretion of the City Manager*

**Wednesday Farmers Market**

Second Street at Arizona Avenue

8:30 am-1:30pm

Opened: July 15, 1981

**Saturday Organic Farmers Market**

Third Street at Arizona Avenue

8:30am -1pm

Opened: May 8, 1991

**Virginia Avenue Park Farmers Market**

Comer of Pico Blvd. and Cloverfield Avenue

8am - 1pm

Opened: March 14, 1992

**Main Street Farmers Market**

2640 Main Street at Ocean Park Blvd.

9:30am -1pm

Opened: January 15, 1995





## Rates and Fees

*Below please find the SMFEM schedule of rates and fees for various market participants. Fees are subject to change at will by market management. Vendors are responsible to pay fees as listed below for any sales activity that take place during the market day or portion thereof.*

| <b>Vendor Type</b>   | <b>Rate Charged</b>  |  |
|--|--|--|
| <b>Certified Producers</b>                                     | 4.5 % of gross sales paid to the SMFMs   |  |
| <b>Producers</b>   | 4.5 % of gross sales paid to the SMFMs   |  |
| <b>Prepared and processed Agricultural</b>                     | 4.5 % of gross sales paid to the SMFMs   |  |
| <b>Non-certified Processed Producers</b>                       | 4.5 % of gross sales paid to the SMFMs   |  |
| <b>Prepared Food and Pre-Packaged Food<br/>(maximum 10x20)</b> | <b>Santa Monica Businesses</b>   | <b>Non-Santa Monica Businesses</b>   |
|  | \$100 for first 10x10, \$50 each additional 10x10 paid to the SMFMs <sup>5</sup> | \$150 for first 10x10, \$50 each additional 10x10 paid to the SMFMs <sup>6</sup> |
| <b>Featured Restaurant</b>                                     | \$125.00 per day paid to the SMFMs   |  |
| <b>Business Improvement Associations</b>                       | \$20.00 per vendor space allotted not contingent upon vendor attendance          |  |
| <b>Retail</b>  | Contact MSBIA  |  |
| <b>Program Type</b>  | <b>Rate Paid</b>   |  |
| <b>Entertainment (bands, crafts, etc.)</b>                     | Tips   |  |

<sup>5</sup> Fees for prepared and packaged food vendors attending the Saturday Pico Farmers Market are reduced by \$25.00.

<sup>6</sup> Fees for prepared and packaged food vendors attending the Saturday Pico Farmers Market are reduced by \$25.00.



## Nursery Stock

*To sell nursery stock at the Santa Monica Farmers Markets certified producers must adhere to the following standards.*

1. Possess a valid nursery license, whether fee exempt or commercial
2. Comply with pest cleanliness quality and varietal trueness standards.
3. Upon request of an enforcing officer or market manager supply records that verify the nursery stock they sell is of their own production. Records must be kept for a period of not less than 12 months, and include the date and source of materials. Production shall mean:
  - a. Plants are in the possession and control of the certified producer for not less than 90 days or from purchase or from the date of first planting in the case of sexual (seeds) and vegetative-asexual (cuttings, grafting, etc.)
  - b. The certified producer has practiced agricultural arts upon the plants including one or more of the following:
    - I. Sexual propagation using seeds. Documentation can be provided which supports seed purchase/production.
    - II. Vegetative or asexual propagation using vegetative tissues (stem, root, leaves) to create new plants. Documentation can be provided which supports plant purchase/production.
    - III. Purchase of plants which must be transplanted to a larger container as compared to the original and must have full root growth in the transplanted container.
    - IV. Prepare plant varieties (potted arrangements of mixed plants) using only growers own certified plants (refer to 3bI, II and/or III).
    - V. All certifiable plants must be labeled with at least the common name and preferable common and botanical name.