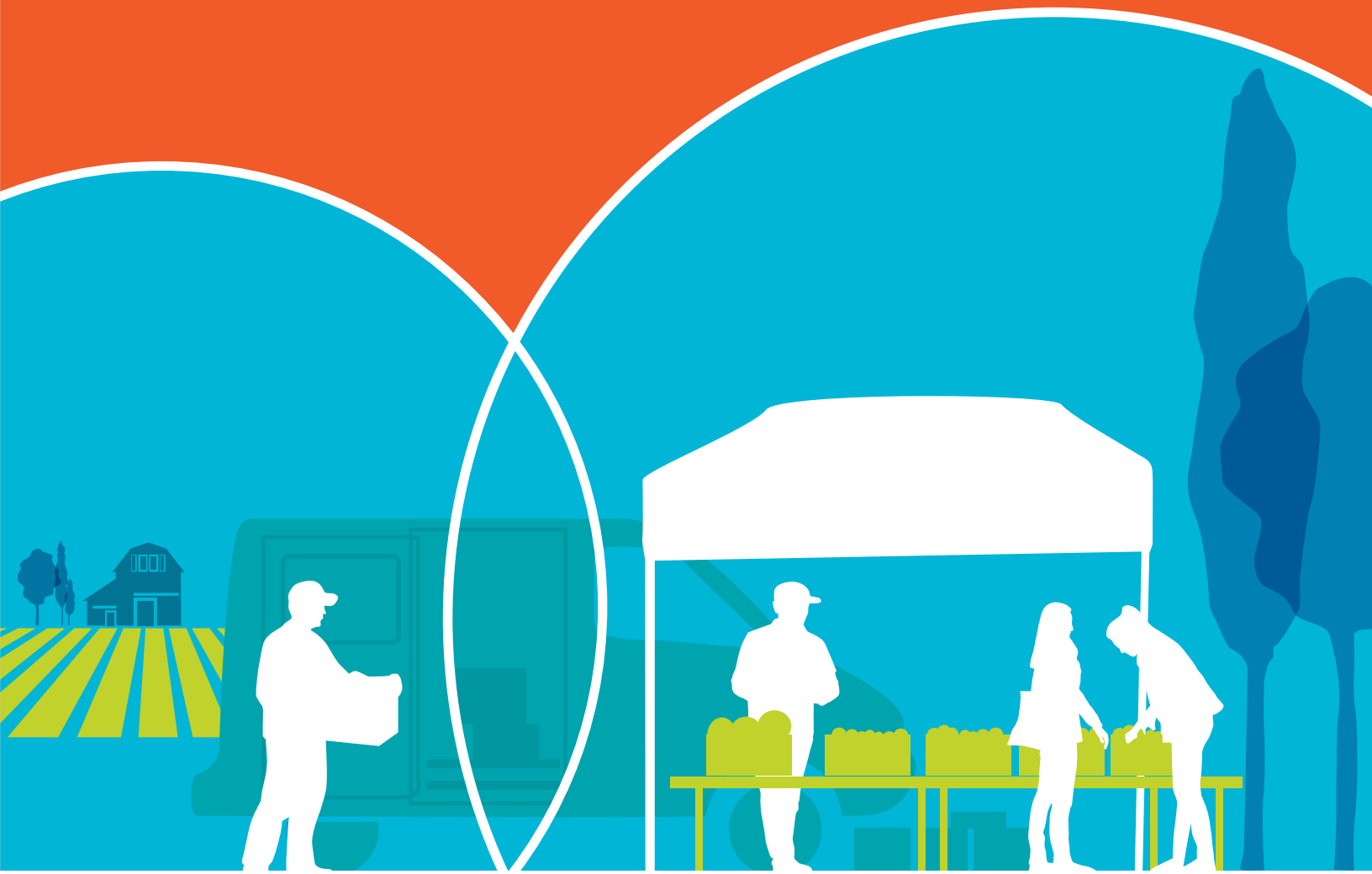


From the Ground Up

*Land Use Policies to Protect and Promote
Farmers' Markets*



ChangeLab Solutions
Law & policy innovation for the common good.

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Introduction



Local governments can promote access to fresh produce, support local farmers, create community gathering places, and revitalize neighborhoods by supporting farmers' markets.

This guide provides an overview of farmers' market policy issues and community-tested best practices. It also features a set of complementary model land use policies for comprehensive plans and zoning ordinances. We wrote this guide for local government staff (planners, public health departments, etc.), elected officials, farmers' market managers, food policy councils, and other stakeholders, to provide practical guidance and tools that communities can customize to create more farmers' market opportunities and to ensure their long-term viability.

.....> **Section 1** walks through some fundamental information about what farmers' markets are, how they benefit communities, and how land use policies can support markets that meet a variety of community needs.

Start here if you want to learn more about some of the special land use needs and barriers markets face, or if you're looking for innovative approaches and case studies from communities that have adopted farmers' market land use laws.

.....> **Section 2** presents a brief overview of relevant state laws and goes into more detail about what land use laws regulate, who adopts them, the difference between comprehensive plans and zoning, and information about how different parts of zoning codes function in relation to farmers' markets.

Read this section if you are new to land use policies or need a refresher, or if you want to know how state regulations bear on local farmers' market policies.

.....> **Sections 3 and 4 are the heart of this guide: the model comprehensive plan and zoning ordinance language.** These sections are annotated with comments, and you will find that many of the policy options discussed refer to best practices or legal issues covered in more depth in Sections 1 and 2.

.....> **Section 5** provides links to a wide range of our favorite farmers' market resources. **This list is especially useful for finding more information on topics not directly discussed in this guide, like market management or accepting payment from federal food assistance programs.**

SECTION 1

Overview: Farmers' Market Policy Issues & Best Practices



What are farmers' markets?

Farmers' markets look different in different communities. They can be year-round or seasonal, indoors or out, daily or only once a month – but they share a common focus on providing fresh, local produce and fostering a direct connection between the people who grow food and those who eat it.

Farmers' markets are an example of a specific type of food retailing known as “direct marketing,” in which producers sell directly to consumers!¹ Because farmers themselves sell at farmers' markets, there is a practical limit to the distance the food travels before reaching consumers. This is what makes farmers' markets different from other types of markets that sell food, where vendors resell products purchased from farmers, wholesalers, or distributors. While these kinds of markets (like produce markets or flea markets) can be important sources of healthy food for communities, in this guide, we focus on farmers' markets as a unique community asset with their own policy and regulatory issues and needs.



Why are farmers' markets important for healthy communities?

Farmers' markets improve access to locally grown fresh produce by bringing local farmers and their produce directly to communities.² Shopping at a farmers' market provides a way for consumers to purchase regional and cultural specialties directly from the source, minimize the energy consumption involved with food transportation and storage, re-circulate dollars back into the local and regional economy, and support farms that employ sustainable and organic farming practices.³

Farmers' markets provide an appealing environment for introducing customers to new types of locally grown fruits and vegetables as well as new methods of preparation.⁴ Consumers make direct connections with producers and gain better understanding of where their food comes from.⁵ In fact, it is this personal relationship between producer and consumer that motivates many consumers to shop at farmers' markets.⁶

Although farmers' markets are sometimes perceived as being more expensive than conventional grocery stores, a series of studies have found that products at farmers' markets were consistently less expensive than the same products sold in grocery stores.⁷

Farmers' markets can also provide healthy, fresh, affordable produce for low-income shoppers. In fact, 60 percent of shoppers at farmers' markets in low-income neighborhoods believed that the farmers' market offered better prices than the grocery store. Similarly, only 17 percent of residents who did not shop at the market saw price as a barrier.⁸

Whether or not they are more expensive than conventional retailers, farmers' markets remain largely inaccessible to low-income shoppers when they do not accept federal food assistance programs, like the Supplemental Nutrition Assistance program (SNAP, formerly known as food stamps). These financial assistance programs not only increase access to fresh, locally grown produce for low-income households,⁹ they've also been shown to increase consumption of fresh produce.¹⁰ Families who receive these benefits eat more fruits and vegetables after receiving farmers' market coupons, and they eat more produce than those who do not receive coupons.¹¹ More often than not, low-income shoppers using federal food assistance also spend their own money at farmers' markets, boosting their produce consumption and the local economy.¹² (See *How can federal food assistance programs support farmers' markets?* on page 16 for more information about these programs and how they work.)

What are land use policies?

Land use policies establish where farmers' markets can locate, whether they need to get special permits or can simply operate by-right, and what operating standards they need to follow.

Land use policies let local governments like cities, towns, and counties establish a framework for how development will occur. The land use toolbox contains a variety of regulations and policies. Comprehensive plans provide a high-level blueprint for future growth, covering issues from housing to transportation to parks and open space. Zoning ordinances create detailed guidelines for where different uses (like houses, shops, and offices) can occur, and how buildings and urban space should be designed. For more information about how land use policies work, see *Section 2: State & Local Laws Regulating Farmers' Markets*.



Why develop local land use policies for farmers' markets?

When communities look to establish or expand a farmers' market, their initial concerns are usually about supply and demand: "Do I have enough interested farmers?" "What will shoppers want to buy?" Unfortunately, local policies can pose additional – and unnecessary – challenges. It may be hard to find a location where a farmers' market can operate. Organizers may face expensive and time-consuming permitting processes, and they may be required to follow operating regulations that don't meet their needs, like renewal schedules that don't match the market season.

At best, policy barriers limit the reach and potential benefits of farmers' markets. At worst, they can prevent markets from opening in the first place.

Zoning codes often fail to mention farmers' markets or group them with other temporary uses. That simple regulatory omission can pose a major obstacle because, generally speaking, if a type of land use is not specifically defined and permitted in a zoning code, it is considered illegal. Omitting markets as a defined use, or grouping them with other temporary or seasonal uses (like street fairs or Christmas tree lots), can make it hard to find a location for farmers' markets or force organizers to pay thousands of dollars in special permit fees.

By crafting local policies specifically for farmers' markets, communities can not only remove or ease regulatory barriers, they can also provide explicit protections and incentives. What follows are some of the ways land use policies can support farmers' markets.

Make it easier to find sites and less costly to open markets

A zoning law that establishes farmers' markets as an allowed use in specific zones eliminates the need for a permit and increases the land available for markets. It can also help to protect existing markets in the allowed use area.

From Los Angeles County¹³ and Portland, Ore.,¹⁴ to Minneapolis¹⁵ and Miami,¹⁶ a growing number of communities are developing land use policies that specifically address farmers' markets, making the process of establishing and sustaining markets easier and more transparent, and eliminating requirements for local land use permits or reducing permit costs.

In addition to reducing regulatory barriers, local governments can streamline the process for obtaining permits. In Seattle, the Office of Economic Development serves as a one-stop shop and administers all relevant permits (including parks and recreation, fire, police, and transportation) for farmers' markets on public and private land.^{17,18}



STREAMLINING THE PROCESS: SAN JOSE, CALIFORNIA

San Jose is located near some of the most productive agricultural land in the country. But a coalition of health groups and government agencies recently discovered that the process for securing farmers' market permits was so costly and time-consuming it was discouraging the launch of new markets, particularly in underserved neighborhoods.¹⁹

How burdensome was the process? All farmers' markets on private property required at least a Special Use Permit, necessitating a public hearing with the planning director, a \$1,400–\$2,000 fee, and a 6- to 12-week processing period. Year-round weekly markets required a Conditional Use Permit with even steeper fees and a longer wait.²⁰

In 2011, the San Jose city council adopted policy goals in their city-wide general plan to increase residents' access to healthy food, including support for farmers' markets.²¹ To implement those goals, the council then prioritized streamlining the farmers' market permit process. Funding from the Santa Clara County Department of Public Health launched a partnership between public health groups and city agencies, called the Campaign for Healthy Food San Jose.²²

Richard Buikema, a senior planner who drafted the revisions, credits the Campaign's support and the general plan's directive for ensuring that farmers' markets got the policy attention they needed. Many groups and individuals participated in more than 20 public events hosted by the Campaign to discuss proposed changes.

Input from more than 1,500 community residents, as well as expert guidance from key stakeholders, helped ensure that these policies would address food access needs while limiting potential neighborhood nuisance.

Buikema cites the Pacific Coast Farmers' Market Association, a local nonprofit that manages many farmers' markets in the region, with providing critical feedback to ensure that the new regulations would make sense from the standpoint of a market operator.²³ For example, market managers encouraged the city to stipulate a ratio of agricultural to nonagricultural vendors, rather than an unwieldy regulation based on overall market square footage. Buikema also made it a point to ensure regulatory consistency by consulting with the two county agencies that also regulate farmers' markets, the Agriculture Commission and the Department of Environmental Health.

One innovative measure San Jose took from the pages of Minneapolis' code was to create a distinct definition of a "Small Certified Farmers' Market" that is allowed by right (no need for a zoning permit) in most areas of the city. (Learn more about zoning for markets of different sizes in *Going Small: Minneapolis* on page 12.) These smaller markets may not operate for more than six hours a day, limiting any potential nuisance effects (like traffic or noise). Larger markets, with

more than 15 agricultural vendors, will still need to apply for a Special Use Permit, which is less burdensome than a Conditional Use Permit but still ensures review by planning department staff.²⁴

The Campaign for a Healthy San Jose anticipates that, as a result of this ordinance, as many as 20 new markets may open over the next year,²⁵ providing some of the 52 percent of low-income San Jose residents who currently live over a mile from the nearest farmers' market with the opportunity to walk to one in the near future.

Optimize market sites

Land use policies can help optimize the location of farmers' markets when establishing where markets may operate. Engaging residents in the process of adopting zoning and general plan language to support markets can lead to a broader conversation about how a community can maximize the benefits of farmers' markets. One effect of planning could be to allow the municipality to prioritize markets in appropriate sites (such as near a school, a town center, or public transportation, or in neighborhoods without a fresh produce outlet) and to plan for new markets.

Public parks can be great sites for farmers' markets: they are often conveniently located within walking distance of neighborhoods, offer space for parking and for vendors to set up stalls and tents, and activate parks by attracting residents. In San Francisco, farmers' markets may be located on parkland, provided that the market does not significantly interfere with public use and enjoyment of other areas of the park. San Francisco's ordinance requires the commissioner of agriculture to work with the recreation and park department to identify suitable sites for farmers' markets on city parkland.²⁶



Community institutions like schools, libraries, hospitals, and universities can also host farmers' markets. In 1998, parents at La Jolla Elementary School in San Diego established a Sunday farmers' market at the school. Initially hosting 14 farmers and one artisan, the market has grown to become a central community meeting place with nearly 100 vendors each Sunday. Since its inception, the market has helped to fund a new library, as well as art, music, and technology programs at the school.²⁷ Kaiser Permanente hosts farmers' markets at its hospitals in California, Colorado, Georgia, Hawaii, Oregon, and Washington, D.C., to serve hospital visitors, patients, and employees.²⁸ At Wayne State University in Detroit, a campus farmers' market serves the university and broader community, and features farmers from Detroit and the surrounding metropolitan area. The market accepts EBT cards and the Wayne State One Card, which students and employees use for university purchases.²⁹





In downtowns or neighborhood commercial corridors, markets can also be part of a strategy to support local businesses and promote economic revitalization. In Iowa, a nonprofit partnership known as the Cedar Rapids Downtown District hosts a downtown farmers' market that is one of the largest open-air markets in the Midwest, attracting more than 160 local vendors.³⁰ Since 1993, the Chamber of Commerce in Millbrae, Calif., has sponsored a downtown year-round Saturday farmers' market in a city parking lot, with many local merchants offering special prices on market days.³¹

Support markets of different sizes

When it comes to farmers' markets, one size doesn't fit all. Markets of various sizes can serve different community needs. Large markets can be destination shopping experiences, bringing residents from across the community together and attracting visitors from out of town. Small-scale markets, with just a few or a dozen vendors, might be tucked into hospital or church parking lots, in a schoolyard, or along the sidewalk in front of a senior center. Land use and permitting policies can help markets of all sizes flourish.



GOING SMALL: MINNEAPOLIS

Farmers' markets are lauded as a way to get fresh produce to city residents – but in Minneapolis, as in many cities, there was a missing link: farmers' markets weren't convenient or accessible to those with the fewest options for buying fresh produce in their neighborhoods.

In 2006, seeing an opportunity, an intern at a Minneapolis-based nonprofit decided to try an experiment. The nonprofit organization – the Institute for Agriculture and Trade Policy (IATP), which works for fair and sustainable food systems – partnered with a nearby senior housing high-rise to open an on-site farmers' market, launching the first of what would become the city's "mini" farmers' markets.

The first mini-markets navigated a regulatory process designed for much larger markets, encountering daunting administrative and cost hurdles. Over the next six years, IATP and the City of Minneapolis refined and institutionalized the mini-markets program.

After struggling to establish the first season's mini-markets, a team of city staff and advocates developed the first permitting process for small markets in 2007. The team included IATP, a city councilmember's aide, and representatives from the zoning, regulatory services, and health and family services departments. Together, they pushed city staff to reevaluate obsolete regulatory practices that prevented small markets from opening. The result of the team's efforts was a new "local produce market" license, designed with mini-markets in mind.

Mini-market managers would not have to pay to renew permits, and the zoning and health review fees were reduced by hundreds of dollars. Farmers wouldn't have to pay to rent space at the market; instead, they would be asked to donate

unsold food to local food shelves.³² Mini-markets could be held at any location in Minneapolis that complied with the health and zoning codes for locations with food sales.

Mini-markets required only a local produce market permit, rather than a business license, which greatly reduced the time and expense of establishing a new market.

In 2011, the city overhauled all farmers' market policies and, in the process, formalized the mini-market program.³³ The new ordinance also allowed market vendors to sell a wider range of products, something customers and market managers had requested. The user-friendly policy has helped make the mini-market program a runaway success, growing from a handful of markets the first year to 21 markets three years later.³⁴

Today, community organizations – such as hospitals, churches, and community centers – host and manage the markets. According to IATP staff member Madeline Kastler, IATP served as the liaison between market managers and the city, providing technical assistance throughout the application process.³⁵ The nonprofit also helped markets recruit vendors and do promotion. IATP championed the markets at the state level as well, convincing the Minnesota Department of Agriculture to allow mini-markets to accept Farmers' Market Nutrition Program (FMNP) coupons under the umbrella of IATP (the markets are too small to do it themselves). Kastler reports that with this provision in place, the coupons are used more often than cash at some markets.³⁶

Increase access for low-income shoppers

To make fresh, local produce accessible to more residents, particularly those with limited income, land use policies can be instrumental. Zoning provisions can require farmers' markets to accept various forms of food assistance. (See *How can federal food assistance programs support farmers' markets?* on page 16 for more information.) In San Francisco, for example, farmers' market vendors are required to accept coupons, vouchers, and EBT cards (Electronic Benefit Transfer cards for food stamps).³⁷ San Jose requires all new farmers' market applicants either to accept WIC/EBT or to allow a third party to operate onsite redemption.³⁸ Los Angeles County also has made it mandatory that farmers' markets accept EBT.³⁹ These kinds of requirements should be implemented with technical assistance and support, which partner agencies or organizations can provide.





REDEEMING BENEFITS: SAN FRANCISCO

All farmers' markets in San Francisco are required to accept federal, state, and local food assistance, including EBT. When the ordinance was adopted in 2007 – the first of its kind in the country – two of the city's markets regularly accepted EBT. Today, all 18 markets are in compliance.

The San Francisco Department of Public Health was instrumental in developing the mandatory EBT policy. A series of interviews they conducted with city employees, market managers, and low-income residents reinforced concerns that the failure of farmers' markets to accept EBT was a barrier to food security in low-income neighborhoods.

Market operators were generally supportive of improving EBT access, but reported that they did not have the technical or financial capacity to implement EBT systems on their own.⁴⁰ Before developing a mandatory EBT policy, the city gauged the feasibility by providing technical assistance to help market operators implement EBT systems, and conducted outreach to inform EBT recipients about access to farmers' markets. Once it was clear that EBT could work throughout the city, health department staff helped develop the legislation.

EBT sales at farmers' markets have been climbing steadily since 2006, and as recently as 2010, monthly SNAP sales were nearly double the previous year's average.⁴¹

Under California's Certified Farmers' Market program, markets have the option to apply for certification under a county agricultural commissioner, and certification is renewed on a yearly basis.⁴² To qualify for renewal, markets in San Francisco must demonstrate to inspectors that they are set up to accept EBT. Recertification forms don't explicitly ask about EBT, according to Agricultural Commissioner Miguel Monroy, but inspectors are instructed to ask market managers about compliance and to check for EBT machines on site visits.⁴³ "If a market has machines, we assumed they are being used!"⁴⁴

Commissioner Monroy reports that no markets have been shut down or denied a renewal for failing to accept EBT, but at least one market was prevented from opening due to noncompliance. Beyond basic enforcement at the time of renewal, the city's Agriculture Program is not responsible for helping markets set up EBT machines and systems. Five years after the ordinance passed, the markets "know they have to accept EBT," Commissioner Monroy says.

Maximize opportunities for local producers to connect with consumers

Communities need to define farmers' markets in order to regulate them, and definitions can vary widely. Some are limited to agricultural products farmers grow themselves and sell directly to consumers.⁴⁵ Others allow prepared foods, flowers, or even crafts.⁴⁶ A more expansive definition of farmers' markets that includes a range of goods and products (including reselling produce) may be necessary in communities where short growing seasons or a limited pool of producers hinder the development of farmers' markets. Other communities may prefer a narrower definition of farmers' markets as producer-only markets, to promote local products and the producer-consumer relationship. When crafting definitions, communities should consider financial viability, local food access goals, consumer expectations, and vendor needs.

DEFINING SUCCESS: PORTLAND, OREGON

When the city of Portland embarked on the process of updating its urban food zoning code in 2012, one major goal was to accommodate the more than 20 farmers' markets already operating in the city and to encourage new markets to set up shop in areas with limited food access.⁴⁷ The update included a much-needed definition of farmers' markets and streamlined the permitting process, essentially making it easier to approve markets that better reflected what the community wanted.

The city decided to define farmers' markets as having a mix of vendors in which at least half were agricultural producers. In establishing this definition, the city sought in part to address concerns that "rogue markets," which do not advance the goal of increasing food access, would take advantage of the new permitting process.

This decision was made with much input from people who run farmers' markets, balancing their needs with regulations that could be practically enforced. "We're not going to go after a market that might have only 49 percent of vendors selling produce," says Portland senior planner Jessica Richman. "How can you enforce that? We're worried about the extreme cases where 90 percent of people are selling jewelry and one person is selling tomatoes."⁴⁸

Richman credits an advisory panel of individuals with a range of deep experience in multiple parts of the food system as the single most important asset in creating a practical and effective code.

The panel's expert guidance helped the planners draft a code that addresses both neighborhood concerns and operator needs. The city dropped limits on operating hours, for example, after speaking with farmers' market managers and community members who pointed out that several markets near residential areas had run for years without any complaints.⁵⁰ "Portlanders love food," Richman says – and now, their devotion is reflected not only in their shopping bags but in their city code, too.⁵⁰





How can federal food assistance programs support farmers' markets?

The Supplemental Nutrition Assistance Program (SNAP, formerly called food stamps) helps low-income people by providing money to eligible participants to buy certain foods. SNAP is an entitlement program, meaning that Congress sets aside funds to allow every eligible American to participate – although not every person eligible for SNAP participates in the program. State public assistance agencies run the program through local offices.⁵¹ Some states use a different name for the program; for example, Wisconsin calls its program FoodShare Wisconsin.⁵²

The USDA encourages all farmers' markets to accept SNAP benefits and provides technical assistance and funding to help them do so.⁵³ Farmers' markets may apply to the USDA's Food and Nutrition Service (FNS) for a license to accept SNAP benefits. The FNS licenses any eligible retailer. Farmers' markets accept SNAP payments for food using the Electronic Benefit Transfer (EBT) card, a type of debit card.

With the move to EBT instead of paper food stamps, retailers must have point-of-sale terminals. A growing number of farmers' markets allow shoppers to redeem food stamps electronically for "scrip" (reusable tokens that can be made from hard-to-counterfeit wood or plastic) at a central location and use it for market purchases. The USDA's publication *Supplemental Nutrition Assistance Program (SNAP) at Farmer's Markets: A How-To Handbook* describes the benefits of SNAP and the process for accepting SNAP.⁵⁴

The Women, Infants and Children (WIC) Farmers' Market Nutrition Program (FMNP) provides fresh, locally grown produce to participants in the Special Supplemental Nutrition Program for Women, Infants and Children, popularly known as WIC, and works to expand the awareness and use of farmers' markets.⁵⁵ Currently, 46 states, territories, or Indian Tribal Organizations operate the FMNP. State agencies issue eligible WIC participants FMNP coupons (typically between \$10–30 per year, per recipient) in addition to their regular WIC food vouchers. WIC participants may use the coupons to buy eligible foods from farmers, farmers' markets, or roadside stands that have been approved by the state agency to accept FMNP coupons; the farmers, farmers' markets, and roadside stands then submit the FMNP coupons to a bank or state agency for reimbursement. State agencies may supplement FMNP benefits with state, local, or private funds. During 2011, 1.9 million WIC participants received FMNP benefits, and farmers received more than \$16.4 million in revenue from the program.⁵⁶

In 2009, The U.S. Department of Agriculture approved a new WIC food package that includes, for the first time, fresh fruits and vegetables. New cash value vouchers make available to WIC participants \$6–10 per month for fresh, frozen, or canned fruits and vegetables. Each state decides whether these vouchers may be redeemable at farmers' markets.⁵⁷ Currently, 18 states and two U.S. territories allow farmers to accept these cash vouchers.⁵⁸

The Senior Farmers' Market Nutrition Program (SFMNP), established in 2001, extends grants to states, territories, and federally recognized Indian tribal governments to provide low-income seniors with coupons to purchase fresh produce from farmers, farmers' markets, roadside stands, and community supported agriculture programs. Benefits are provided to eligible recipients for use during the harvest season.⁵⁹ In 2011, grants were awarded to 51 state agencies and tribal governments, and more than 860,000 seniors received coupons.⁶⁰

Farmers' market incentive programs help low-income shoppers' food dollars go farther. A number of communities are developing programs that provide subsidies to low-income residents for purchasing food at farmers' markets. These incentive programs may be funded by public or private sources. (The Wholesome Wave Foundation currently provides major support for a number of initiatives.)⁶¹ They often augment the purchasing power of food assistance program participants by providing either a cash voucher, or extra value for every dollar they spend. The benefit of such programs may last well beyond the initial investment required: studies indicate that recipients continue to shop at farmers' markets even after coupon programs expire.⁶²

At the San Diego City Heights Farmers' Market, federal food program participants receive double the value of their benefit dollars when shopping at the market – up to \$20 “Fresh Fund Dollars” per month. Fresh food vendors redeem the vouchers for cash at the end of the day.⁶³ Seven urban farmers' markets in Rhode Island offer “Fresh Bucks” for low-income residents receiving federal assistance. Those using their electronic benefit cards may receive up to \$10 per day in additional money to spend at the markets.⁶⁴ Many communities use a combination of public funding and philanthropic grants to offer additional cash to low-income residents for purchases at farmers' markets.



SECTION 2

State & Local Laws Regulating Farmers' Markets

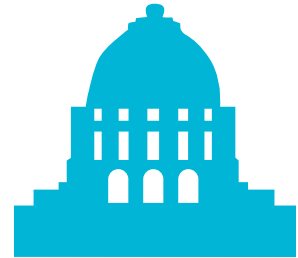


Farmers' markets may be regulated by both state and local law. State law may regulate the health and sanitation of farmers' markets, while local law, through comprehensive plans and zoning, may regulate the location and operation of food establishments.⁶⁵

State Laws

Some states have seen a need to regulate farmers' markets as separate from other kinds of food facilities (like restaurants or grocery stores) in order to create specific benefits for farmers and consumers engaging in direct sales, protect the public's health, and ensure consistent enforcement of ordinances.

In California, state law limits the definition of "Certified Farmers' Markets" to markets where farmers sell agricultural products they grow themselves or processed products made from agricultural products that they've grown ("direct marketing").⁶⁶ Nevada uses a similar definition.⁶⁷ California provides an additional benefit: So long as the produce meets certain quality requirements, produce sold at a California Certified Farmers' Market is exempt from grade, size, labeling, packaging, and other similar requirements for fruits, nuts, and vegetables.⁶⁸ This provision allows farmers to sell products that they may not otherwise be able to sell, and gives consumers the ability to buy fresh produce without the additional costs from transportation and distribution.

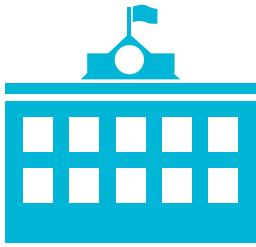


Although the food codes are state law, they are implemented locally at the county or regional level.

States also regulate farmers' markets to protect public health. These regulations vary considerably across the states. All states have laws setting health and sanitation standards for food retail establishments. Forty-nine of 50 states have laws based on the U.S. Food and Drug Administration's model Food Code from 1993 or later.⁶⁹ Updated most recently in 2009, the model Food Code sets forth sanitation and food-handling requirements for restaurants, retail food stores, vending operations, and other locations where people sell or offer food.⁷⁰ State legislatures adopt the model Food Code either "as is" or with changes. State laws or regulations assign the authority to implement and enforce the code to county environmental health, agriculture, or similar offices.

Whether and how state food codes apply to farmers' markets varies considerably across states.⁷¹ In California, for example, a farmers' market is considered a "food facility" and must obtain an operating permit under the state's retail food code, but only sanitation standards specific to farmers' markets apply.⁷² In contrast, Iowa's food retail law specifically excludes farmers' markets from regulation as food establishments.⁷³ In other states, the agriculture commissioner regulates farmers' markets.⁷⁴ Because state law varies, it is important to review the state law governing any local community to ensure that it does not affect the community's

ability to regulate farmers' markets. In addition to health and safety regulations, farmers' markets and their vendors may also be subject to licensing and labeling laws, tax laws, and labor laws.



Local Land Use Laws

Land use regulation primarily takes place at the local government level through planning, zoning, and subdivision regulations. All states have some type of enabling act empowering municipalities to enact zoning ordinances or regulations.⁷⁶ Local governments use zoning and other land use measures to regulate the growth and development of the city in an orderly manner.

Comprehensive plans and zoning ordinances are policy documents, and as such, they must be adopted by a local legislative body, such as a city council or a county board of supervisors. They are usually drafted by planning departments in consultation with a variety of stakeholders or experts. In the case of farmers' markets, that might include technical consultants, community members, farmers or market managers, and staff from other public agencies such as public health or parks and recreation.⁷⁷

Although state laws vary in the type of legal authority they afford to local governments, most states encourage or require local governments to adopt comprehensive (also called "general" or "master") plans.⁷⁸ While these plans vary from state to state, they typically cover all land within the jurisdiction of the local governmental entity. Comprehensive plans establish guidelines for the land uses that are permissible in different areas within the community, guiding public and private development. Common issues addressed in comprehensive plans are future land use, transportation and circulation, housing, park and recreation areas, and public facilities.⁷⁹ More and more communities are using their comprehensive plans to also address a range of health and sustainability issues.⁸⁰

While the comprehensive plan sets forth guidelines for the development of a community, the community's zoning ordinances set forth the regulations to carry out the policies of the general plan.

Zoning is a regulatory mechanism by which a government divides a community, such as a city or county, into separate districts with different land use regulations for each district. Simply stated, zoning determines what can and cannot be built, and what activities can and cannot take place, on all the various parcels of land throughout a community. Zoning ordinances are binding laws that the city or county is empowered to enforce. Generally, zoning must be "in accordance" with the comprehensive plan, but how this concept is interpreted varies widely among the states.⁸¹

Most local jurisdictions have “use-based” zoning laws. Use-based codes divide the community into distinct districts, such as residential, commercial, multi- or mixed-use, and industrial, and regulate the use and development of land according to each district’s designation.⁸²

If a farmers’ market is not explicitly included in the zoning codes, it is vulnerable to being closed down as an “illegal” use or being displaced by development that is expressly permitted in a particular district.

Understanding the function of different zoning code elements will help readers better understand the model regulations provided in this document:

- ▶ **Use definitions** provide a *brief* but *clear* description of a **use**, which is the zoning term for a specific activity (such as a farmers’ market). If a use is not described with a specific definition in the zoning code, it is generally de facto illegal.
- ▶ **Required use standards** set forth additional requirements for certain permitted and conditional uses. For example, use standards may impose specific requirements for lighting, hours of operation, maintenance, or other business operations.

Local governments have considerable discretion when enacting zoning regulations. Governments enact zoning laws under their “police power” – the power of the government to regulate private conduct to protect and further the public’s health, safety, or general welfare.⁸³ Courts generally defer to the government’s judgment regarding land use classification. Because, by its nature, land use regulation cannot be done with scientific precision, courts presume zoning ordinances are valid. Provided that there is a rational basis for different zoning treatment of similar lands or land users, courts will generally uphold regulations, even in the absence of evidence that the dissimilar zoning treatment will have its intended effect.⁸⁴

Here’s a practical way to think about whether your community should adopt comprehensive plan policies, zoning ordinances, or both. The comprehensive planning process usually involves community input, data collection, and a forward-looking discussion of community opportunities and challenges. Zoning amendments, on the other hand, may involve less community engagement and aren’t undertaken with the same holistic approach to growth and development. So even though at first blush it might seem that a zoning ordinance change is sufficient to ensure that farmers’ markets can thrive, communities might find significant value in making sure farmers’ markets are included explicitly in a broader community plan, too. (And in states where comprehensive plans have significant legal weight, comprehensive plan policies can provide even more support for farmers’ markets.)

Options for Regulating Operating Standards

Zoning Versus Licensing



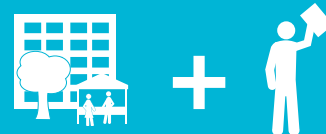
ZONING is a way to **regulate the use of property**. Zoning laws grant rights attached to the **land**.



LICENSING is typically a way to **regulate businesses and professionals** working in certain fields. A license usually grants rights to the **person** who holds it.

The model zoning ordinance language provided in Section 4 of this guide includes language outlining required operating standards. Operating standards are business practices or performance criteria that a use must comply with, even if it is allowed “by-right” (that is, without any special or additional permits).

Some communities prefer to define and permit farmers’ markets through zoning, but include operating standards in a separate business license or permit.⁷⁵ This enables enforcement of operating standards through the license renewal process. The operating standards for farmers’ markets provided here can serve as a model, regardless of which regulatory tool communities choose to use.



For more information, see ChangeLab Solutions’ fact sheet *Licensing & Zoning: Tools for Public Health*: www.changelabsolutions.org/publications/licensing-zoning

SECTION 3

Model Comprehensive Plan Policies to Protect & Expand Farmers' Markets



The following model language for a comprehensive plan (also known as “general plan,” “master plan,” or “community plan”) suggests goals, policies, and actions to protect existing and promote new farmers’ markets. The language can be adapted to the needs of individual communities and incorporated into comprehensive plans in different ways.

Language in *italics* suggests different options or describes the type of information that needs to be inserted in the blank spaces in the policy.

Goal: Protect existing and establish additional farmers’ markets to increase access to healthy, local, affordable, and culturally appropriate foods, encourage community-building, support local agriculture and economic development, and promote agritourism.

Policy: Remove regulatory barriers to establishing new and protecting existing farmers’ markets. Review existing ordinances (zoning, permitting, etc.) that pose barriers to establishing farmers’ markets, and revise ordinances as necessary to promote their establishment.

Actions:

- Enact [*zoning*] ordinances establishing operating standards for farmers’ markets that address product and vendor mix, market duration/hours of operation, acceptance of federal food assistance, parking for bicycles and automobiles, recycling, composting, and trash collection.
- Create a “one-stop shop” for farmers’ markets, housed in the [*agency/department*] that provides information about and assistance with obtaining required permits, including [*police and fire, street closure, parks*], and promotes priority market locations.

Policy: Identify and prioritize potential farmers’ market sites with the aim of increasing healthy food access for all residents. Consider public property, including parks, schools, colleges and universities, transit stations, other institutions, and temporary street closures where feasible. Also consider private property, including hospitals and commercial centers.

Actions:

- Identify neighborhoods that lack access to fresh produce, and establish incentives such as reduced permit fees, streamlined permitting, and grants to encourage farmers’ markets in those neighborhoods.
- Establish development [*requirements/incentives*] to provide for the dedication of land for neighborhood centers, public parks, squares, or plazas, or comparable uses that can be used for farmers’ markets in new developments.
- Coordinate with neighborhood and community groups to prioritize sites for and promote local farmers’ markets.

Policy: Support farmers’ markets that are accessible by a variety of transportation modes. Promote farmers’ markets on sites that have convenient pedestrian, bike, and public transit access and sufficient off-street parking.

Policy: Support affordable markets. [Require] the use and acceptance of federal, state, and local food assistance programs such as Electronic Benefit Transfer (EBT) cards and Women, Infants, and Children (WIC) benefits at all farmers' markets.

Action:

- Establish a program to provide technical assistance and support for accepting EBT, either through [agency/department] or a partner organization.

Policy: Increase support for farmers' markets through partnerships with other public agencies and private institutions, including school districts, food policy councils, neighborhood groups, senior centers, businesses, and agricultural organizations.

Policy: Partner with schools. Support the development of farm-to-school programs that offer locally grown foods in school breakfast and lunch programs, and allow schools to host farmers' markets on weekends or during after-school hours.

SECTION 4

Model Zoning Language Establishing a Farmers' Market as an Approved Use



The following model ordinance provides that farmers' markets are an approved use of land in specific zones. This designation allows farmers' markets to be established and maintained in such zones without requiring a permit, finding, variance, or other land use approval. Because no land use approval is required, the ordinance sets forth basic regulations for farmers' markets, including requiring operating rules. Depending on the laws of the local community, a farmers' market may need to obtain a health permit, business license, or other type of permit.

Local jurisdictions will need to determine where within their existing codes the amendment would best fit, make other amendments as necessary for consistency, and follow the appropriate procedures for amending their zoning laws. The language can be adapted to the needs of individual communities.

Language in *italics* suggests different options or describes the type of information that needs to be inserted in the blank spaces in the ordinance. "Comments" provide additional information.

PERMITTED USE OF FARMERS' MARKETS

1. Definitions.

- a) "Farm Products" means fruits, vegetables, mushrooms, herbs, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese, and other dairy products), and fish.
- b) "Farmers' Market" means an [*outdoor*] market at a fixed location, open to the public, operated by a governmental agency, a nonprofit corporation, or one or more Producers, at which (a) at least [75] percent of the vendors sell Farm Products or Value-added Farm Products and (b) at least [75] percent of the vendors who regularly participate during the market's hours of operation are Producers, or family members or employees of Producers.
- c) "Producer" means a person or entity that raises or produces Farm Products on land that the person or entity farms and owns, rents, or leases.
- d) "Value-added Farm Product," means any product processed by a Producer from a Farm Product, such as baked goods, jams, and jellies.

COMMENT: In some states, state law defines the terms *farmers' market* and *farm products* or *produce*, and may set forth a regulatory scheme of enforcement. In California, for example, the local county agricultural commission must certify farmers' markets to ensure they meet the state's definition and comply with state law.⁸⁵ In Illinois, a statewide farmers' market task force is responsible for implementing statewide administrative regulations for farmers' markets.⁸⁶ Be sure to review your state law to determine if the state regulates farmers' markets, and if so, ensure that any local law conforms to it. If state law does not provide a regulatory framework, the municipality may need to include more regulations in its ordinance.

The definition of *Farmers' Market* in the model requires that farmers' markets meet two standards. First, it requires that a certain percentage (we suggest 75 percent) of the vendors sell farm produce or products made from farm produce. This requirement ensures that the preferential zoning designation is reserved for those markets that sell agricultural products. It distinguishes a farmers' market from a "flea market" or "swap meet" or other type of market, which may primarily sell crafts, furniture, or other non-food items, or which sell foods other than agricultural products. The vendor-based standard is a relatively simple one to monitor and enforce.

Second, the definition requires that a percentage of the vendors are farmers engaged in “direct marketing,” that is, farmers directly selling to consumers the farm produce, or products made from farm produce, that the farmers grew themselves. While we suggest that 75 percent of the vendors be *Producers*, that number may not be feasible in communities with shorter growing seasons or fewer local farmers; in those communities, the number can be adjusted downward.

Finally, the definition is consistent with the USDA’s definition for farmers’ market to facilitate market acceptance of SNAP benefits.⁸⁷

Option: Small Markets

Some communities, such as San Jose, Calif., and Minneapolis, have created separate categories and requirements for small and large markets. As described in Section 1, Minneapolis has created a category of “mini-markets” (also called “local produce markets”), which are small farmers’ markets with five or fewer vendors who sell their own locally grown produce and flowers. Mini-markets require only a permit to operate (a “local produce market” permit), rather than a business license, which greatly reduces the time and expense of establishing a new market.⁸⁸ San Jose has created a category of “small farmers’ markets,” consisting of 15 or fewer vendors and occupying an area of 10,000 square feet or less.⁸⁹ These small farmers’ markets do not require event or development permits.⁹⁰

In some communities, a small farmers’ market designation may help increase access to fresh produce in neighborhoods that lack ready access to produce. In addition, some communities may prefer to limit markets in residential areas to smaller markets while allowing larger markets in more commercial districts.

2. Permitted use. Farmers’ Markets are a permitted use in the following zoning districts: downtown commercial, neighborhood commercial, institutional, public, mixed-use, open space, multifamily residential _____ [add other use districts] subject to the following regulations:

- a) Compliance with all laws. All Farmers’ Markets and their vendors comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the market premises;⁹¹
- b) Permits and licenses. All Farmers’ Markets and their vendors receive all required operating and health permits, licenses, and certificates of insurance, and these documents (or copies) shall be in the possession of the Farmers’ Market Manager or the vendor, as applicable, on the site of the Farmers’ Market during all hours of operation;

COMMENT: Communities may wish to specify in the ordinance the types of permits and licenses required by the market and individual vendors.

- c) Acceptance of payment from food assistance programs. For eligible goods or products sold, all Farmers’ Markets and their vendors shall accept all forms of payment – or shall allow a legitimate and duly authorized third party to occupy space within the Farmers’ Market area to operate a redemption program – by participants of federal, state, or local food assistance programs, including, but not limited to, the Supplemental Nutrition Assistance Program (SNAP) [or insert state name of program]; the Women, Infants, and Children (WIC) Farmers’ Market Nutrition Program; and the Senior Farmers’ Market Nutrition Program, all in a manner allowed by, and in conformance with, both federal and state laws and regulations as those laws and regulations may be amended from time to time.

COMMENT: It is important to require farmers’ markets to accept payments from participants in food assistance programs in order to ensure that low-income residents have access to fresh produce and that local farmers can benefit from the spending power of these consumers. In some communities, a local community-based organization may run the EBT program at the market. The model language allows for vendors to accept benefits directly or to allow a third party to operate a central redemption program at the market. Communities should consider offering technical assistance and resources to markets to facilitate their participation in these programs.⁹²

3. **Operating rules.** All Farmers' Markets have an established set of operating rules addressing the governance structure of the Farmers' Market, hours of operation, maintenance, insurance, security requirements and responsibilities, and appointment of a Market Manager.

COMMENT: States with more comprehensive farmers' market regulatory schemes may set legislative or regulatory standards governing their operations. If not, the municipality could include more specific standards within the ordinance.

4. **Market Manager.** All Farmers' Markets have a Market Manager authorized to direct the operations of all vendors participating in the market on the site of the market during all hours of operation.⁹³

5. **Parking.**

- a) All Farmers' Markets shall provide for a minimum of one vehicle parking space for each vendor stall.
- b) All Farmers' Markets shall provide for *[number of]* parking spaces for shoppers per *[number of]* vendor stalls. Where the Farmers' Market is located within *[one-half]* mile of any transit stop for a bus route, or a fixed rail or bus rapid transit system, the number of parking spaces required shall be reduced by *[50 percent]*.

COMMENT: In order to build support from neighboring residents and businesses, as well as a customer base for the farmers' market, the community should locate the market in an area that is easily accessible by public transit and has sufficient parking space. Communities should tailor the model language to meet their needs.

6. **Waste.** All Farmers' Markets provide for composting, recycling, and waste removal in accordance with all applicable *[jurisdiction]* codes. The Farmers' Market Manager is responsible for ensuring that the site is restored to a neat condition by no later than the end of the Farmers' Market day.
7. **Bike Storage.** All Farmers' Markets provide secure bicycle storage for their patrons.
8. *[List additional regulations here such as permitted operating hours (including set-up and clean-up), etc.]*

Resources



General Farmers' Market Resources

National Farmers' Market Coalition

Database of resources for farmers, market managers, market researchers, and organizations sponsoring or looking to start farmers' markets.

www.farmersmarketcoalition.org/resources

Project for Public Spaces, Public Markets

Economic and community development and funding resources for public markets.

www.pps.org/markets

University of California Small Farm Center

www.sfc.ucdavis.edu/farmers_market

Farmers' Markets & Food Assistance Programs

WIC Farmers' Market Nutrition Program

www.fns.usda.gov/wic/fmnp/fmnpfaqs.htm

Senior Farmers' Market Nutrition Program

www.fns.usda.gov/wic/SFMNP-Fact-Sheet.pdf

Accepting SNAP Benefits at Farmers' Markets

www.fns.usda.gov/snap/ebt/fm.htm

Supplemental Nutrition Assistance Program (SNAP) at Farmers' Markets

www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5085298

Supplemental Nutrition Assistance Program (SNAP) State Outreach Plan Guidance

www.fns.usda.gov/snap/outreach/guidance/stateplan.htm

Seven Steps for Creating a Successful SNAP/EBT Program at Your Farmers' Market

www.pps.org/reference/seven-steps-snap-ebt-market

Farmers' Markets as a Strategy to Improve Access to Healthy Food for Low-Income Families and Communities

www.pps.org/wp-content/uploads/2013/02/RWJF-Report.pdf

Local Food Assistance Incentive/Bonus Examples

Wayne State Farmers' Market and SEED Wayne (Detroit, MI)

www.clas.wayne.edu/seedwayne/

City Heights Farmers' Market Fresh Fund Dollars (San Diego, CA)

www.sdfarmbureau.org/Farmers-Markets/chfm/fresh_fund.html

Experimental Station (Chicago, IL)

www.experimentalstation.org/food-culture

Fresh Bucks Program (RI)

www.farmfreshri.org/about/freshbucks.php

Crescent City Farmers' Market MarketMatch Program (New Orleans, LA)

www.crescentcityfarmersmarket.org/index.php?page=market-match

Capital City Public Market 2-for-1 Match (Boise, ID)

www.capitalcitypublicmarket.com/PageViewer.aspx?MCAT=EventsPrograms&Context=EBT

South Memphis Farmers' Market Double Green\$ (Memphis, TN)

www.somefm.org/payment-options

Farmers' Market Rules & Regulations

"Understanding Farmers' Markets Rules"

FLAG – Farmers' Local Action Group, Incorporated (2006)

www.flaginc.org/topics/pubs/marketing.php#FMrules

"Farmers' Markets Rules, Regulations and Opportunities"

National Aglaw Center Publications (June 2002)

www.nationalaglawcenter.org/assets/articles/hamilton_farmersmarkets.pdf

Dane County, Wisconsin, Farmers' Market Rules

www.dcfm.org/wordpress/wp-content/uploads/2012/05/DCFM_Rules_2012.pdf

Freshfarm Markets Rules in Washington, D.C.

www.freshfarmmarket.org/pdfs/2012_rules_and_regulations.pdf

Safety & Risk Prevention

“Food Safety at Farmers’ Markets and Agritourism Venues: A Primer for California Operators” & “Guide to Managing Risks and Liability at California Certified Farmers’ Markets”

Small Farm Center, University of California at Davis (2005)

www.sfc.ucdavis.edu/farmers_market

Market Management

Small Farm Center, University of California at Davis Farmers’ Market Management Series

www.sfc.ucdavis.edu/farmers_market

“Establishing and Operating a Community Farmers’ Market”

University of Kentucky Cooperative Extension Service (1997)

www.ca.uky.edu/agc/pubs/aec/aec77/aec77.pdf

“Recruiting Vendors for a Farmers’ Market”

Wallace Center (November 2007)

www.wallacecenter.org/our-work/Resource-Library/wallace-publications/handbooks/RECRUITERS_Sc.pdf

Farmers’ Markets: Marketing and Business Guide

ATTR – National Sustainable Agriculture Information Service (2008)

www.attra.ncat.org/attra-pub/summaries/summary.php?pub=265

“Direct Farm Marketing and Tourism Handbook”

University of Arizona Agricultural Resource Economics

www.ag.arizona.edu/arec/pubs/dmkt/dmkt.html

“Opening a Farmers’ Market on Federal Property: A Guide for Market Operators and Building Managers”

U.S. Department of Agriculture (2009)

www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5079490

Networking Small Urban Farmers Markets: Lessons learned from IATP

Institute for Agriculture and Trade Policy

www.iatp.org/documents/networking-small-urban-farmers-markets

Managing Small Urban Farmers Markets: A handbook for mini farmers market managers

Institute for Agriculture and Trade Policy

www.iatp.org/documents/managing-small-urban-farmers-markets

Funding Opportunities

Farmers' Market Consortium Resource Guide

U.S. Department of Agriculture Agricultural Marketing Service (November 2007)

www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3100937&acct=frmrdirnkt

U.S. Department of Agriculture Farmers' Market Promotion Program (FMPP)

Grants authorized by the FMPP are targeted to help improve and expand domestic farmers' markets, roadside stands, community-supported agriculture programs, agritourism activities, and other direct producer-to-consumer market opportunities. Approximately \$5 million was allocated for FMPP for Fiscal Years 2009 and 2010 and \$10 million for Fiscal Years 2011 and 2012. The maximum amount awarded for any one proposal cannot exceed \$100,000. Entities eligible to apply include agricultural cooperatives, producer networks, producer associations, local governments, nonprofit corporations, public benefit corporations, economic development corporations, regional farmers' market authorities, and tribal governments.

www.ams.usda.gov/AMSV1.0/FMPP

Wholesome Wave

www.wholesomewave.org

Endnotes



- 1 US Department of Agriculture, Agricultural Marketing Service. *Farmers Markets and Local Food Marketing*, 2012. www.ams.usda.gov/AMSV1.0/FARMERSMARKETS
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- 7 Estabrook B. "The Farmers' Market Myth." *The Atlantic*. May 10, 2011; Claro J. *Vermont Farmers' Markets and Grocery Stores: A Price Comparison*. Northeast Organic Farming Organization of Vermont, 2011, <http://nofavt.org/pricestudy>; Pirog R and McCann N. *Is Local Food More Expensive? A Consumer Price Perspective on Local and Non-Local Foods Purchased in Iowa*. Leopold Center for Sustainable Agriculture, 2009, www.leopold.iastate.edu/pubs-and-papers/2009-12-local-food-more-expensive; Gaudette K. "Farmers-market food costs less, class finds." *The Seattle Times*. June 4, 2007; Neighborhood Farmers Market Alliance. "Are Farmers' Markets Really More Expensive?" 2012, www.seattlefarmersmarkets.org/ripe-n-ready/are-the-farmers-markets-really-more-expensive/?searchterm=more%20expensive
- 8 Project for Public Spaces and Columbia University Institute for Social and Economic Research and Policy (ISERP). *Farmers Markets as a Strategy to Improve Access to Healthy Food for Low-Income Families and Communities*, 2013, www.pps.org/wp-content/uploads/2013/02/RWJF-Report.pdf
- 9 McCormack L, et.al. *supra* note 4.
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- 11 *Id.*
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- 15 Minneapolis Code of Ordinances § 201.40 (2012).
- 16 Miami Code of Ordinances § 62-622 (2012).
- 17 Seattle Ordinance No. 123090 (2009).
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- 19 City of San Jose Planning Commission. *Memorandum to the Honorable Mayor and City Council, Re: Proposed Zoning Code Amendment for Certified Farmers' Markets*. July 18, 2012. www3.sanjoseca.gov/clerk/Agenda/20120814/20120814_0403.pdf
- 20 *Id.*
- 21 City of San Jose, Cal. *Envision San Jose 2040: General Plan*. Adopted Nov 1, 2011. www.sanjoseca.gov/DocumentCenter/Home/View/474
- 22 For more information, see: www.healthtrust.org/campaignforhealthyfoodsanjose/index.php
- 23 Buikema R (Senior Planner, City of San Jose, Cal.). Phone interview on Aug 8, 2012.
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- 28 More information on farmers' markets hosted by Kaiser Permanente is available at: <https://members.kaiserpermanente.org/redirects/farmersmarkets>

- 29 More information on Wayne State Farmers' Market and SEED Wayne is available at: www.clas.wayne.edu/seedwayne
- 30 More information on the Cedar Rapids Farmers' Market is available at: www.downtowncr.org/content/Farmers-Market.aspx
- 31 More information on the Milbrae Farmers' Market is available at: www.millbrae.com/index.php?page=8
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- 33 More information on Minneapolis mini markets is available from: Institute for Agriculture and Trade Policy A "How-to" Guide for Hosting Mini Farmers' Markets in Minneapolis, 2009, www.iatp.org/iatp/publications.cfm?accountID=258&refID=103489; Institute for Agriculture and Trade Policy. *The Minneapolis Mini Farmers Market Project*, 2009, www.iatp.org/iatp/factsheets.cfm?accountID=258&refID=103490
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- 52 More information on the SNAP program is available from the USDA Food and Nutrition Services at: www.fns.usda.gov/snap/Default.htm
- 53 "FoodShare Wisconsin: A Recipe for Good Health." Wisconsin Department of Health Services, www.dhs.wisconsin.gov/foodshare
- 54 More information on SNAP and farmers' markets is available on the USDA's website at: www.fns.usda.gov/snap/ebt/fm.htm
- 55 USDA Agricultural Marketing Service, USDA Food and Nutrition Service, Project for Public Spaces, Inc. "Supplemental Nutrition Assistance Program (SNAP) at Farmers Markets: A How-To Handbook," June 2010, www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5085298
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- 57 *Id.*

- 58 More information about the WIC Farmers' Market Nutrition Program is available at: www.cdph.ca.gov/programs/wicworks/Pages/Farmers%27Market-ProgramOverview.aspx
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- 67 Cal. Food & Agric. Code § 47004(b) (West 2012); Cal. Code of Regs. tit. 3, § 1392.2(a), (h) (2012).
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- 77 8 McQuillin Mun. Corp. §§ 25.35, 25.38 (3d ed. 2010).
- 78 For more information on the roles a variety of stakeholders can play in land use policy development, see ChangeLab Solutions' *A Roadmap for Healthier General Plans*, 2011, www.changelabsolutions.org/publications/GP-roadmap
- 79 Breggin L and George S. "Planning for Biodiversity: Sources of Authority in State Land Use Laws." *Virginia Environmental Law Journal*, 22: 81-123 2003.
- 80 *Id.*
- 81 Hodgson K. *Comprehensive Planning for Public Health: Results of the Planning and Community Health Research Center Survey*. American Planning Association, 2003, www.planning.org/research/publichealth/pdf/surveyreport.pdf
- 82 Ziegler E, Rathkopf A and Rathkopf D. 1 Rathkopf's *The Law of Zoning and Planning* § 14:1 (4th ed. 2011).
- 83 Another form of zoning that is growing in popularity is "form-based zoning." While form-based zoning is broader in how it defines allowed uses, use definitions still apply. Most of the provisions here could be applied to form-based codes. More information on form-based and use-based zoning is available from: ChangeLab Solutions. *How to Create and Implement Healthy General Plans*, 2008, www.changelabsolutions.org/publications/toolkit-healthy-general-plans
- 84 *Id.*

- 85 *Id.*
- 86 Cal. Food & Agric. Code § 47004(b) (West 2012); Cal. Code of Regs. tit. 3 § 1392.2 (2012).
- 87 410 Ill. Comp. Stat. Ann. 625/3.3 (West 2012).
- 88 For the purpose of accepting SNAP benefits, the USDA defines a farmers' market as "a multi-stall market at which farmer-producers sell agricultural products directly to the general public at a central or fixed location, particularly fresh fruit and vegetables (but also meat products, dairy products, and/or grains)." United States Department of Agriculture, Food and Nutrition Service. "What is a Farmers' Market?" *Supplemental Nutrition Assistance Program*, 2012, www.fns.usda.gov/snap/ebt/fm-scrip-what_is_fm.htm
- 89 Minneapolis Code of Ordinances § 201.40 (2012).
- 90 San Jose, Cal., Municipal Code §20.80.255 (2012).
- 91 *Id.*
- 92 In some communities, farmers' markets may be regulated in their state's food retail code or agricultural code. If so, the farmers' market may require a health permit from their state or county health department. See, e.g. Cal. Health & Safety Code § 113789(b)(9) (West 2012) (including certified farmers' markets within the definition of food facility under the California Retail Food Code).
- 93 For more information regarding accepting Food Stamps/Supplemental Nutrition Assistance Program benefits at Farmers' Markets, see the USDA website at Accepting SNAP Benefits At Farmers' Markets at: www.fns.usda.gov/snap/ebt/fm.htm or the resource library of the Farmers' Market Coalition available at: www.farmersmarketcoalition.org/resources/resource-library
- 94 More information regarding operating rules for farmers' markets is available from: Hamilton ND, "Farmers' Markets Rules, Regulations and Opportunities." *National AgLaw Center Publications*, June 2002, www.nationalaglawcenter.org/assets/articles/hamilton_farmersmarkets.pdf. For sample farmers' markets operating rules, see Dane County, Wisc., farmers' market available at: http://dcfm.org/wordpress/wp-content/uploads/2012/05/DCFM_Rules_2012.pdf and FRESHFARM markets' rules in Washington, D.C., www.freshfarmmarket.org/pdfs/2012_rules_and_regulations.pdf

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