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Agribusiness Marketing Report

Colorado State University Cooperative Extension

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- ✓ *Farmers markets represent one of the fastest growing marketing outlets for producers throughout the US, with significant sales growth in Colorado in the past decade*
- ✓ *Securing a sufficient number and diversity of vendors is as important as assessing consumer demand for a market, given the number of market opportunities that producers have in Colorado*
- ✓ *An essential element of organizing a farmers market is a well-developed set of producer guidelines and market rules, as well as hiring a good market manager, since the market's main purpose is effective coordination*

Planning and Developing a Farmers Market: Marketing, Organizational and Regulatory Issues to Consider[1]

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Farmers markets have a rich history in the development of agriculture in the United States. They represented an important community food distribution system long before the rise of the retail agribusiness system, and began to re-emerge (after years of decline) after the passage of the Farmer-to-Consumer Direct Marketing Act of 1976. Some argue that they are an integral part of the food community linking consumers and producers through business and social relationships, while others view markets as an appropriate marketing channel for entrepreneurial and small farmers who strive to establish a loyal customer base through personal selling and quality differentiated (vs. low margin, high volume commodity) marketing strategies.

Still, farmers markets pose some challenges to the producers, consumers or communities who seek to establish a new market. There are various market, regulatory and coordination issues that must be considered and addressed before establishing a new market in your community. This fact sheet outlines a number of planning issues, including the development of market rules and management approaches that should be considered during the establishment (or redevelopment) phase of a market.

Market Trends

According to the USDA, farmers markets are the most important direct marketing channel for US producers, and with recent growth in revenues from farmers markets, their importance of farmers markets to farm income is expected to rise. In 2000, 19,000 farmers reported selling their produce only at farmers markets. Yet, farmers markets are not necessarily an exclusive marketing channel for producers, as 69% of farmers market participants also have retail and wholesale markets to which they sell higher volumes of product at lower margins (Payne 2002).

[1] Adapted from no. 4.007, Farmers' Markets, by S.A. Ensor and H. Winn

The USDA's Agricultural Marketing Service states that, "Farmers markets, now an integral part in the urban/farm linkage, have continued to rise in popularity, mostly due to the growing consumer interest in obtaining fresh products directly from the farm." The number of farmers markets in the United States has grown dramatically, increasing 79 percent from 1994 to 2002, with over 3,100 farmers markets operating in the United States (Figure 1). There are over 80 farmers markets in Colorado, with at least one held every day of the week, in all regions of the state (http://www.ag.state.co.us/mkt/). The increase in Colorado direct marketing is also evident in the data. As of 2002, 7.5% of all Colorado farms now do some direct marketing (compared to 5.5% for the US as a whole), and sales jumped from $6,926,000 in 1997 to $17,406,000 in 2002, with $7,429 in average sales per farm.

Planning

An organized farmers' market is the result of significant planning, commitment on the part of vendors and the surrounding community, and technical assistance and expertise from those in the state and local area who have worked with producer marketing and community event planning. Planning activities should fall into four major areas: market analysis and planning, organization and logistics, financing and human resources (the market manager). Many of these issues are specific to the area of Colorado your market will operate in, but there are some generalized issues where you can learn from what others have successfully developed.

Marketing:

1. On the demand side, learn about your customers using indicators such as income, population, success of markets in similar communities and assessing the competition to make sure there are not already too many markets operating in your community.
2. On the supply side, a good variety of locally grown, high quality, fresh produce, dairy and meat products at competitive prices will be the primary driver of consumers to your market. It is very likely you may also include value-added food vendors (salsa, jams, cheeses, breads) and artisans, but the real draw to most markets is freshly picked produce. In Colorado, it is increasingly hard to attract. If a community or consumer group is trying to establish the market and needs to make producer contacts, your local county Cooperative Extension office is an excellent starting point.
3. Generally, markets for fresh Colorado produce run from early May to late October (a longer season than we used to see because of the inclusion of ornamental plants, processed foods and meat products). The market should start as soon as there is sufficient produce, and should end while product quality, quantity and variety are still strong. There is increasing interest in year-round markets, but the additional capital costs and lower number of vendors this may attract should be carefully considered.
4. Location: The market should be easy to find, and centrally located, with adequate parking for farmers/vendors and customers. You should realize that most vendors want to drive into their stall to forego the unloading/loading time they would spend setting up a stand-alone display. Consider partnering with a business or area of town that is trying to redevelop or redefine itself as a pedestrian friendly area that is a social hub of the community…they often will help establish markets.
5. Other issues to consider include:
   a. Market objectives (improve producer income, affordable, nutritious food for community members) as they will influence the type of products sold
   b. Expected target markets since this information will help you recruit vendors
   c. Advertising-word-of-mouth, through Chamber of Commerce, newspaper, radio, free press releases to surrounding publications

Financing:

1. Budget planning-Market manager, advertising and supplies are primary costs
2. Fixed capital needs-These are generally minimal (for markets that are hosted by downtowns or businesses in parking lots, this may be close to zero). But if you are targeting a longer season (partially indoors), more refrigerated products or higher-end clientele, more overhead may be necessary.
3. Facilities-If you choose to not invest in real estate, you must find a partnering organization that has a parking lot, open space or other area easily accessible to vendors and customers. Consider a number of

factors including parking, restrooms, drinking water (for vendors on hot days) and coordination with the partnering organization's peak traffic days.

4. Start-up capital-This is closely aligned with capital needs, but even if you plan for a low overhead market, you will need some operational monies for the first season, before you are able to generate sufficient money from vendors.
5. Operating capital-After budgeting planning, you can assess how much you need and then explore the fee structure offered to vendors. This should be done before trying to solicit vendors, as that will be a primary determinant of their decision.

Organization and Logistics:

1. Management-Producers quite often serve as the Boards of Directors for cooperatives or marketing associations, but increasingly, communities or consumer groups have led the organization of markets. There should be a clear organizational structure, with representation by those who have committed the most effort or financial resources to the market's development.
2. Personnel-Although the organization will be managed by a larger group of interested people, the common model for operations is to have one market manager, and depending on size, some support staff for daily operations. Given the importance of this manager, market managers will be discussed in detail later.
3. Supporting services-Will you do consumer education and outreach at markets? Have an area for eating? Allow community nonprofit and outreach groups to participate? All these issues relate to the market objectives explored above, but will influence the organization and management of the market.

Your local Cooperative Extension office, Chamber of Commerce, Office of Economic Development or Downtown Business Districts may be able to help with goal setting, decision making and effective business planning, but they can only help once you have a good sense of what your goals with the market will be, so consider the above issues before approaching others for technical assistance.

The remainder of this fact sheet will focus on issues that are unique to farmers markets, so that some solid knowledge can be gained from the past experiences of other markets around the country.

Vendor Relations

Although we often hear the mantra, "The Consumer is Always Right!" in Colorado, you may find it necessary to spend more energy on vendor relations, as it is their participation and fees that will make for a successful market. So, be considerate in developing your rules, but also, take their perspective into consideration when developing an operational budget and workable rules.

From the perspective of the farmer vendor, one of the most important questions about a market is how much it will cost to be a vendor. Market fees are always addressed somewhere in the rules or the market agreement.

There are two primary methods of market fee payment. The first and most common type is a flat fee, paid either for a seasonal market space or as a day vendor. The amount of the fee will vary by market and the number of weeks it is held, but in most cities, fees are commonly around $150 to $250. The exact amount of the fee may vary depending on the size of the stall and on the volume of sales the vendor experiences. For vendors who do not want to be at the market all season, or if markets have sold out of permanent spaces, day vendor spaces may be available. A typical charge for a day vendor is $20-50.

The second form of market fee, less commonly used is a percentage charge based on the gross amount of sales. Although it gives the market better incentives to promote the market and develop an attractive setting (since more consumers mean more sales mean more commission), it relies on accurate sales reporting by the vendors. Where percentages are used, they are usually quite minimal (less than 10%), and applicable sales taxes may also be collected at the same time by the market manager.

Most farmers' market rules make it the responsibility of vendors to obtain any needed business permits or licenses, including such things as state and local tax permits if required. Because many states exempt the sale of food from the application of state sales taxes, vendors may not have to worry about this issue. But if vendors are selling non-food items such as flowers or crafts, or selling food items in a form that is not exempt, such as ready-to-eat meals, then sales taxes may be due.

Common Vendor/Producer Application Requirement:

Typically there will be several different documents a vendor must complete when applying to participate in the market (adapted from Hamilton):

1. Application - This will request various types of information, such as name, address, phone numbers, and a list of products the vendor intends to sell. Product lists may be especially important in mature or successful markets, with waiting lists for vendors to join, as the lists may be used by the market manager to decide which vendors to allow into the market or to allocate the right to sell various forms of products. This document will also make reference to the market's rules, regulations or policies (depending on what they are called) and incorporate them as part of the agreement. Once the application is completed and accepted, a binding contract is created between the vendor and the market. The application will also list any other permits, licenses or forms which the vendor must include with the application, such as proof of insurance, food processing license, and organic certification.
2. Farm Information Sheet – Applicants may also be asked to fill out a more detailed form providing more general information about the nature of the farming operation. This form is not always present, but if it is, it will request information about the size of the operation, its specific location, the nature of the farming practices used (e.g., organic or conventional), the number of employees, the years in farming and other markets the vendor attends.
3. Membership – In addition to the vendor application, some markets may require producers to complete a separate "membership" agreement and pay an annual fee – generally no more than $50, to belong to the market. This is especially common if the market is owned and controlled by a producers association. The membership fee is used to pay the expenses of the organization operating the market. The membership – and in some situations the seniority or length of membership – may be used as a factor to determine the eligibility of a producer to sell at the market or in allocating available spaces. One legal effect of membership is, as a member of an organization, a producer is bound by the articles and bylaws of the organization.

The Market Manager

For anyone who has been involved with a farmers market, they realize that a key ingredient in the operation of a market is the person who runs the market. This job is the responsibility of the "market manager," a person employed by the market organizers to be responsible for making the operational decisions. Decisions such as the selection of vendors and set-up sites for their booths must be made, and weekly stall fees must be collected for a market to exist and succeed. This can be done on a rotational/voluntary basis by someone from the founding management team or vendor group, but most would agree that a designated individual that is independent of the vendors, and paid to commit their time, will provide a more effective operational leader.

From the perspective of participating vendors the market manager plays a critical role by running the market, enforcing the rules, resolving disputes, and providing answers to questions. The responsibilities of the manager are often set out in the market's rules, but even if they are not, the job of market manager typically includes:

1. Selecting and registering both seasonal and daily vendors;
2. Assigning spaces at the market so vendors know where to set up and consumers know where to find their favorite farmers (using historical layouts as a reference);
3. Collecting the seasonal and weekly fees for market spaces;

4. Handling day-to-day administrative issues which arise, such as "misparked cars," uninvited vendors or vendor disputes;
5. Enforcing market regulations and administering penalties, which may mean imposing fines on vendors, but usually in consultation with management board;
6. Answering inquiries and responding to complaints from customers and vendors;
7. Working with local media and promoting the market by advertising what it has to offer, including organization of "event days";
8. Making sure the market complies with applicable local, state and federal regulations;
9. Administering the financial and business affairs of the market; and
10. Dealing with local officials, partnering businesses, and the organizers of the market.

Establishing Rules: A Key to the Market's Identity

Farmers' markets will remain popular alternatives by remembering what makes the markets different. Markets can use the rules to create diversity and to encourage creativity, just as the rules create expectations and consistency. Each market has its own history or visualized future, in short, its reasons for existing. The point to remember is that the market rules and regulations should help promote the goals the market organizers have in mind. Some rules are necessary, such as those on insurance and liability, and for complying with applicable laws. Depending on the nature of the market, rules may be needed concerning the layout of the market stalls and how prices are communicated. But visiting successful markets shows there is a connection between variety, excitement, color, action and energy – and market success.

Farmers' market rules are as varied as the types of markets found in the United States. Market rules may be referred to as regulations, guidelines, or policies and can range from simple one-page lists of guidelines to 24-page books of policies. In addition to the rules and regulations, there will also be an application a producer/vendor must complete and a fee to pay to become a vendor. Once the application is approved by the market organizer, all the documents become part of the binding legal agreement between the parties. But, there are five key principles to consider when developing the rules.

The Five Keys to Effective Farmers' Market Rules
(adapted from Hamilton, http://www.statefoodpolicy.org/frmsmkts.pdf)

1. Make the Rules Understandable

The reader need to be able to read the rules and know what they mean. It is important to remember that the rules and the vendor agreement are legal contracts that in most situations create enforceable legal rights and obligations for both parties. In addition, because in many markets the sponsors may be municipal or public agencies, there are issues relating to the "public," including an applicant's expectation that the rules will be applied fairly.

2. Use the Rules When Necessary

If a market is going to have rules on particular issues, then the rules need to be implemented and enforced. The purposes of market rules are to create predictability in operation, uniformity in expectation, and consistency in application. Market rules and regulations provide a way to insure that everyone knows their rights and obligations and can have predictable and dependable expectations about the operation of the market. There are several dangers in having rules that are never enforced. First, failure to enforce particular rules makes it easier for vendors to argue they can choose to ignore other rules. Second, failure to have enforced a rule in the past may make it difficult to change course and begin to enforce it later.

3. Get Rid of Unnecessary Rules

The corollary of enforcing the rules is removing the rules not used or not needed. Many sets of farmers' market rules arise from the practice of finding rules from another market and reprinting them, substituting the name of the new market. This can be a good way to get a market going but it also means the market is now infected with both the good and the bad of the markets rules copied. Using rules from another market, especially a market with a good history and reputation is a good starting point, but every market needs to consider its own unique features and what is needed for rules. The process for market management – and rule development and review – goes to the heart of the structure and purpose of the market. Some markets are dictatorships and some are democracies. There is no reason why the rules that emerge from either of these structures cannot be well designed and workable, although the level of vendor involvement in rule design can reduce resistance to compliance.

A second factor to remember about changing the rules is to recognize that the type of rules needed may evolve over time. For example, many highly successful markets, especially those with limited physical space, have waiting lists of vendors who want to join. Most rules provide that vendors now in the market have a priority to continue but that market spaces cannot be transferred, assigned or sold. One way some markets address the issue of waiting lists of new vendors is by creating new weekday neighborhood markets and requiring vendors to participate in these markets to be able to obtain a spot at the more lucrative weekend markets. Some markets reserve a certain number of stall spaces for new vendors or for daily vendors, which gives them a way to experiment with new vendors and new products.

4. Make the Rules Complete: Including those Set by Other Entities (as Information)

Rules serve a purpose – to communicate expectations and to reduce or avoid potential problems or misunderstandings. As a result, the rules should address the issues which need addressing. If potential problems can be identified – vendors selling unapproved prepared food items, sales starting during set up before advertised times – then rules to address these concerns should be considered. Rules needn't be multiple pages long, but they should cover issues that are important.

Other sources of regulations will apply to most farmers' markets and participating vendors. Many local, state, and federal rules relating to the marketing of food and farm products are applicable to farmers' markets. The content and application of these rules on issues such as packaging, weighing, food licenses, application of business and sales taxes, and health and safety standards, will be a matter of what products are being sold at a market and the legal jurisdiction in which it operates.

Most markets have rules making to the vendor's responsibility to know and comply with all applicable local and state regulations for the foods and products they sell, including obtaining any necessary licenses. Standing alone, such a rule doesn't do much to help a vendor know what those local rules or requirements are or to find effective ways to meet them. This is one area where market managers may need to take responsibility. It might not be reasonable to expect every market manager to become an expert on all the food safety rules, but the more the manager knows the better off everyone will be.

The market organizers benefit from the vendors' presence and share responsibility for creating the market venue. As a result, the market sponsors are to some extent potentially liable for what happens there. Getting to know the people who are the regulators, and increasing the communication and understanding between them and vendors, can go a long way toward reducing future problems.

5. Make the Rules Market-Oriented

An important consideration to remember is why the market was created in the first place. If the goal was to create a venue for farmers to sell their products, to give consumers the opportunity to buy fresh local food, to give folks a place to have fun, and to help revitalize the neighborhood, then the rules should help make this possible. It is important to make sure the rules don't get in the way of what the market plans to achieve. For example, if the goal is to create more marketing opportunities for local producers and to attract more customers with a variety of foods, then the market rules shouldn't place unneeded restrictions on what foods can be sold.

Baseline Rules from other Markets to Consider:

Hamilton summarized rules from more than thirty farmers' markets currently operating in fifteen states to determine the most common provisions, to identify important legal and operational issues, and to understand how markets are typically administered (http://www.statefoodpolicy.org/frmsmkts.pdf).

The rules used at any market will depend on the type of market, the nature of its management, the market's history and purpose, and the organizer's experience. The various rules examined for this study provide valuable examples of the most important issues in the operation of farmers' markets and show how the different issues are commonly addressed. A resource section at the end of this article provides addresses for many organizations involved in promoting and managing

Twenty Provisions Commonly Found in Farmers' Market Rules

1. Organizer or sponsor – identifies who runs the market and sets out the philosophy and purpose of the market.
2. Market manager - identifies who makes the decisions on day-to-day operation.
3. Statement of the rules – makes the rules part of the agreement between the vendor and the market.
4. Defining key terms – explains what key phrases, such as vendor, allowable goods, categories of products, etc., will mean in context.
5. Approval of vendors and products - defines who can sell (farmer/non-farmer distinction), and what can be sold (produce-craft-food distinctions).
6. Criteria for selecting vendors – establishes any priorities or preferences, and the basis for them, and allocates market spaces.
7. Categories of products – rules for items such as baked goods, nursery plants, eggs, cheeses, meat, and processed foods, commonly related to inspections and handling.
8. Changes in ownership and vendors' rights – addresses issues such as transfer or change of business and seniority for market spaces.
9. Carrying rules – may allow farm vendors to sell products raised by other farmers.
10. Application process and fees – provides for the timing of application, selection and notification of vendors, sets the amount and payment of fees, and allocates market spaces and locations.
11. Types of vendors and length of market – creates categories of seasonal and daily vendors and may include the actual contract or application to participate.
12. Membership and market organization – creates operational structure for market and may require a separate payment for membership in sponsoring organization.
13. Necessary documents and permits – lists the various documents and licenses required to participate, including proof of insurance, tax permits, health inspection and other licenses. A market may require information such as farm plan, load lists for products raised, and organic certification.
14. Market operation – detailed guidelines on issues such as set-up, clean-up, selling times, notification for non-attendance, pets, parking, samples, sanitation, signage, hawking, smoking, food safety and food handling. Many provisions may be very detailed, making the operational rules the main part of a market's regulations.
15. Enforcement process – sets the procedures for rule enforcement, including reporting violations, notice, penalties, suspension or removal, and appeals.
16. Rule and law compliance - incorporates applicable state and local requirements into market rules, with agreement that it is vendor's responsibility to comply.
17. Hold harmless and indemnification – vendor agrees to protect market organizers from any legal or financial liability in case of accidents or incidents at market.
18. Food safety and sampling – specific rules for handling and storing different types of foods, with guidelines for sampling if allowed.
19. Other provisions – labeling, posting farm name, using legal scales, accepting nutrition checks and food stamps, pricing guidelines, farm visits, and gleaning excess food.
20. Signature line – creates a binding agreement between vendor and market.

Policy Issues for Farmers Markets to Consider

In many public markets the number of farmer vendors may be limited, with most vendors being wholesalers or peddlers, not farmers who raise the produce. In California a law designates "certified farmers' markets," regulating which farmers can sell what products at "certified" markets and requiring the inspection and certification of farmers to become vendors. These different regional uses of the term "farmers' market" can create important local variations in the nature of the market experience. Depending on the objectives of your market, you may want to clarify the status of vendors and the region they operate in and buy from, but realize that this will influence the potential pool of vendors you can recruit from. In Colorado, there is the Colorado Proud program, and membership in that program may be sufficient to designate Colorado producers.

Farmers' markets play a leading role in making fresh nutritious food available at affordable prices to people with limited incomes. The number of markets operating in urban neighborhoods where residents live on fixed incomes is proof of this role, and this same dynamic is driving the growth in markets in resort areas, where food retailing choices are limited. In many major cities farmers' markets operate in neighborhoods where no grocery stores remain, making them critical sources of fresh food.

Some argue that, in this age of new concerns about intentional threats to food safety and security, farmers' markets offer a very local and widespread alternative to our nation's increasingly concentrated – and vulnerable – food and grocery distribution system. By connecting local farmers with consumers, farmers' markets can help increase the perceived security and ability of communities and regions to produce their own food supplies. By putting consumers into direct contact with local farmers, the markets are an important source of education and communication about farming and food safety issues, farmers' markets and provides information on how to contact many of the markets discussed. These groups and markets can offer valuable advice on market issues, as well as copies of rules and regulations.

Other Information Resources

State Laws and Local Ordinances

Sales tax: Direct marketers may need a sales tax license. The department of revenue will assist you in complying with all laws. For information on applicable Colorado sales, contact Colorado Department of Revenue, Sales Tax Division, 1375 Sherman Street, Denver, CO 80503; (303) 534-1208.

Health ordinances: County health laws for farmers' markets differ throughout Colorado. For information on your area, contact the nearest county health department. The state contact is Colorado Department of Health, 4210 East 11th Avenue, Denver, CO 80220; (303) 320-8333.

Liability laws: Inform your insurance agent in writing of your business practices, such as allowing visitors on your property to buy products. Landowners also must warn visitors of any potential hazardous conditions on their property.

Pesticides: All pesticide products and all applicators of such chemicals must be registered and licensed. Contact Colorado Department of Agriculture Plants Division, 700 Kipling Street, Lakewood, CO 80215-5894; (303) 239-4140.

Local ordinances: Check local requirements for vendor's license, park and recreation department relations, zoning restrictions and advertising, and sign ordinances.

In addition to the web sites of the various government and private organizations working with farmers' markets, there are some books and materials which can provide helpful advice:
Eric Gibson, The New Farmers' Market
Neil D. Hamilton, The Legal Guide to Direct Farm Marketing
Jeff Ishee, Dynamic Farmers' Marketing