# AgriMissouri
# Farmers' Market Handbook

**A guide to creating and managing farmers' markets and the laws and regulations that govern them**

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## Introduction

In 2015, Missouri saw the number of farmers' markets in the state grow to more than 300, making Missouri one of the top states for farmers' markets in the nation. Whether to provide a space for the community to gather, to bring fresh foods to areas in need or for commercial reasons, an increasing number of Missourians are forming farmers' markets.
Studies from Iowa State University, the New Economics Foundation and the Project for Public Spaces independently showed ways that farmers' markets provide positive economic activity in themselves, as well as hyper-stimulate activity for the traditional businesses that surround them, including:

- An increase in traffic to local businesses and economic activity by as much as 60 percent on days the market is open
- Creation of twice as many jobs per square foot as traditional retail space
- An 80 percent increase in economic impact compared to traditional sales, which is returned directly to the local community
- Space for incubating new and high growth agriculture-based businesses

Missouri's farmers' markets range from farm stands to large community events and from informal gatherings of trucks on the side of the road to permanent structures housing short term vendors. Regardless of the size or structure, a successful market requires vendors and consumers to actively engage in meeting each other's needs. This guide was created to help markets move through the formative process and into management practices for long-term success.

## Section I Creating and Managing a Farmers' Market

The key to understanding farmers' markets is recognizing that they come in many forms. A farmers' market can be a common marketplace that includes farmers selling their farm products directly to consumers. The vendors themselves can also be a farmers' market and can come in the form of a single vendor, a farm stand, Community Supported Agriculture (CSA), and even agritourism operations. The thing they all have in common is that they are a gathering of individuals, businesses and organizations, coming together to sell agriculture products to consumers through a common venue and have a direct sale component. The vendors have responsibilities regarding the business they conduct. The common marketplace has responsibilities regarding the gathering and making sure that everything is in place to make it successful.

To successfully organize a common marketplace, the participants must understand everyone's needs and role. Participants must also respect and maintain the separation of roles between the vendors and the common marketplace. This handbook is broken into two sections to help make this clear, and to show how the rules of the marketplace and laws applying to the vendor work together, and must maintain a clear separation to work properly. **Section I** will help users successfully create and manage a common marketplace. **Section II** is designed to help vendors operate a business as a farmers' market and at a common marketplace.

### Creating a Farmers' Market

**Community Input**
Two keys to successful planning are including the right people and asking the right questions. In successful markets, the parties know why they are organizing a farmers' market, who is going to sell at the market and who will be buying from those vendors. The more people involved and the more deliberative the planning, the more likely the market is to be successful. A deliberate, focused evaluation process is the first step to ensuring the market is properly planned and addresses expectations. The following process was designed to help guide groups through the planning process:

**Step No. 1 Determining Wants of the Market**

1. **<u>Why create a market</u>?**
   The first step in this process is to create a list of everyone's goals in developing the market. The reasons may include community building, growing businesses, increasing food access and promoting the community. This step should help determine which goals are most important, as well as the products, amenities and activities that can best meet those needs.
2. **<u>What to buy or sell at the market</u>?**
   Successful markets have the right pairing between items consumers want and products vendors have to sell. This list may change over time, but it is best to start this conversation early, as these decisions will guide the rest of the planning process. Produce vendors may need to plan up to a year in advance for some crops to be available, so it is best to get this information out early. Items may also have different handling and display requirements, which can greatly affect the use of market space.

3. **What other activities will happen at the market?**
   Many markets have special events or other activities to attract customers and keep them coming back to the market. Examples include a tent for children's activities, cooking demonstrations with local foods, live music or vendors serving prepared food. These activities will require consideration when planning the market space and arranging any structures or utilities. Activities may also influence the market's rules and require ongoing coordination with local permitting or licensing agencies.
4. **Time to prioritize**
   If going through this planning process as a group, take a break and have everyone discuss and vote for their favorite goals, products and activities from the above questions. If each person picks three in each group, the top priorities will be identified before the group moves to the next steps. There may be lots of great ideas, but if only one person is willing to advocate for it, the item is probably not vital to the success of the market. This activity can also give vendors insight into consumer behavior because it shows what people are willing to give up to get what they want.

**Step No. 2 Determining Needs of the Market**

1. **How much space does the market need?**
   This will be determined by the activities hosted and products sold. If a market plans on hosting bands and workshops it will need space for people to linger, vendors to sell and customers to park. If the market is successful, it may also need room to grow.
2. **What amenities does the market need?**
   Will vendors need electricity to run freezers? If events are going to last for any amount of time, restrooms may be necessary. Is there an ATM nearby or does the market plan on accepting EBT? If EBT is desired, a phone line may ease debit card transactions. What about shelter? Vendors usually prefer their tents for cover, but for activities or prepared foods, customers may need a place to stay out of the rain or to sit and rest. All of these are important factors that can influence decisions on possible locations for the market.
3. **What are the best times and locations for the market?**
   Many vendors sell at more than one market. While they may be interested in a new market, they are unlikely to participate at the expense of their existing customers. If the goal of the market is community building, Wednesday morning may not be the best time to host it. If the market will rely on through traffic or local residents, making sure the times and locations are convenient to potential customers will be vital to the market's success. Take time to evaluate all the best locations and the times those locations work best and prioritize the locations just like the "wants" in step one.

**Step No. 3 Identifying Partners**

Depending on the locations and times chosen, different partners may be required or needed to make the market feasible. One partner may donate space, while another provides restrooms and electricity. An existing youth group or community organization may sponsor the gathering so the market doesn't have to incorporate as a business or not for profit. Groups like the Chamber of Commerce or local press may want to help promote the market. The more people who invest time or money in making the market happen, the more successful the market will be. When people have a vested interest in the market, they are more likely to make the financial commitment to make it work for the vendors and get their friends to shop there as well.

Once these considerations are addressed, organizing the market is much easier and the market is more likely to succeed.

## Organizing a Market

### Organizational Structure

Once a farmers' market has gathered **Community Input** and knows what it wants to be, then it can determine the best organization to operate under. The Missouri Department of Agriculture defines a farmers' market as: "Individuals or entities that assemble temporarily to sell and promote agricultural products and other related activities." The laws and regulations governing a farmers' market are determined by the market's organizational structure and the activities the market performs under applicable state and local laws. The laws governing vendors are determined by their legal incorporation and the types of products and services they provide under applicable state and local laws.

For a gathering to be an actual farmers' market it does not need to have a formally organized group to manage it. However, a loosely formed gathering of vendors does not offer the same organization, safety and protection to consumers or producers made possible by an organized management structure. Having clearly defined governance and management roles is crucial to the long term success and growth of any organization. Farmers' markets will typically organize in one of three forms.

1. **Nonprofit**
   Farmers' markets that choose to incorporate as a nonprofit will initially have to draft by-laws and elect a board of directors. They must also register with the Secretary of State. For additional information on incorporating as a nonprofit, contact the Midwest Center for Nonprofit Leadership at (816) 235-2305 or toll-free at (800) 474-1170. Forms for incorporating as a nonprofit are available online from the Missouri Secretary of State, or may be requested over the phone at (573) 751-4936.
2. **For Profit Entity**
   Farmers' markets that incorporate as a for-profit entity often form a Limited Liability Corporation (LLC). This can be done as a partnership or individually. For information on incorporating as an LLC or other for-profit entity, the University of Missouri Extension offers the Missouri Small Business Development Center. Those without internet access should contact the Cooperative Extension Service to locate a training center at (573) 884-1555.
3. **Operating as part of another organization**
   Markets may also operate under the umbrella of another organization. Sponsoring organizations can help provide or secure a location for the market, utilities, printing, advertising, insurance and other items. They may also provide a group with vested interest to help support the market as volunteers, customers and even vendors.

**Location**
It is not uncommon for a market to develop because a space exists. This is very much an "if you build it they will come" mentality and is not the best way to start a market or to choose a location. A successful market functions like a successful business and the plan or objectives of the market are best determined before the location, as suggested in the **Community Input** section.

There are other things that will be determined by the location, such as permitting, rent, insurance and maintenance. These things should not be the primary factors in selecting a location, but rather part of a market's budget and business plan. Finding the location that best meets the goals of the market, vendors and customers is one of the most important decisions a market will make. A space that is unaffordable probably doesn't meet the goals of the market and a space that is free may not meet any of the market's other needs.

Proper budgeting, fees and planning will usually overcome any minor hurdles in the right location. If the property owner is not accommodating in the negotiations, they will probably be less accommodating as a property manager. If the market is not a natural fit for the property manager, it is probably not a good fit for the market either. If the space isn't hospitable for the market, the market will have difficulty being hospitable itself. Finding a space that lets the market be what it wants to be is the most important thing in determining the location.

**Costs**
Operating a market will almost always have some sort of cost. If not to the market, it will at least require some investment on the side of the sponsors or individual vendors. Identifying the operating costs is necessary to determine the fees necessary to make the market viable. If the costs and fees do not work for the vendors, the objectives of the market may need to be reevaluated and possibly adjusted. Below is a list of expenses a market might incur:

- Rental or lease of site
- Licenses and permits
- Site improvements (resurfacing, storage facility, overhead structure, etc.)
- Organizing expenses (meeting facilities, printing, postage, etc.)
- Advertising
- Market manager's salary
- Liability insurance: Personal accidents or injury may be the liability of the market. Insurance is a necessity with the number of people who will visit the farmers' market over the course of the season. If coverage is provided by the location (mall, city, etc.) or sponsor, then the insurance may not be necessary.
- Miscellaneous equipment and supplies (fire extinguisher, first aid kit, etc.)

**Income**
Ideally, a market should be able to support itself financially. This can be done through a variety of ways. The following are possible sources of income:

1. **Vendor Fees**
   - Vendors should be assessed for selling in the market and should agree to terms and conditions under which they sell. Beyond revenue, this also creates a vested interest on the part of the vendor to see that the market succeeds.
   - Generally, both daily and seasonal rates are offered.
   - The number of desired vendors under each rate and category should be determined during the budgeting process and the numbers should be based on meeting the market's goals and the product mix desired by the customers.
2. **Donations**
   **A.** Labor
   - Volunteers may help develop the market and make site improvements.
   - Advertising and distributing flyers could be performed by volunteers.
   - Making phone calls, set-up and clean up of the market, and entertainment are all activities that can be performed by market supporters.
   - In-kind donations of services such as accounting, product demonstrations, and legal services could all be sought.

   **B.** Materials, supplies, misc.
   - Local hardware stores will often donate building materials and equipment.
   - Office supply stores will often provide printing and other items.
   - Local businesses may be solicited to provide prizes for promotional activities.

**Market Record Keeping**
Markets should keep a formal recording of their operating procedures, business dealings and as much information as they can gather about their customers, vendors and their sales history. These records can be extremely helpful when planning for the future, reacting to situations at the market or soliciting support from the community. Ideally, these records are kept in a book and always available to the market members. The list below offers some items commonly found in a "market book."

- The market rules and regulations
- City, county or private agreements for use of the market site
- The market's certificate of liability insurance
- Copy of market layout, design, stalls, etc.
- Minutes of the market's board and committee meetings
- All correspondence on behalf of the market
- Copies of newspaper ads, flyers, articles, etc.
- A list of resources and contacts
- A quick reference guide on all subjects of interest to the farmers' market, such as advertising, health and sanitary regulations, insurance, etc.
- Copies of any state, county and local laws that apply to the market
- Vendor agreement forms
- Financial records of the market

**Recording Individual Vendor Information**
Markets should maintain a list of vital information related to their vendors and try to learn as much about their customers as possible. The lists below offer information the market will likely find necessary and useful.

1. **Vendor Information**
   - Contact name
   - Business name
   - Mailing address
   - Physical address
   - Phone number
   - Email
   - Booth information (booth assignment, payment structure, payment and attendance records)
   - Proof of insurance (if applicable)
   - Sales tax ID number
   - A copy of the vendor/market agreement
   - Copies of any certifications (Organic, GAP, Naturally Grown, etc.)
   - Customer and sales counts by week and season
   - Gross sales in dollar volume
   - Off season contact information for vendors (if available)

2. **Product Information**
   - Types of products
   - Point of origins
   - Production practices
   - Product labels
   - Prices
   - Quantities produced and their availability
   - Best-selling items
   - Supply restraints (seasonal or quantity)

**Recording Market Activity**
Recording information on a regular basis provides data needed to evaluate the effectiveness and success of the farmers' market. With quality information and continuous evaluation, market strategies can be adjusted to meet the market's needs. Below is some of the information needed to properly evaluate a market.

1. **Consumer Behavior Information**
   Determine the consumer profile of the market. Knowing more about the consumers will help the market determine effective marketing strategies.
   - Observe the consumer population and demographics or distribute an on-site survey.
   - Determine buying averages-how much do consumers spend per visit?
   - Track product popularity-what products do the consumers want most?
   - Take note of buying preferences-do consumers buy for immediate consumption or purchase in bulk for canning/freezing?

2. **Vendor Behavior Information**
   Help vendors and the market by keeping track of how they are doing. Vendors will be busy with customers at the market or on the farm when they are not there. Gathering information about how they are doing and observing trends will help both the vendors and the market.
   - Determine the frequency of each vendor's participation in the market.
   - Observe the types of products each vendor sells.
   - Track individual gross sales per market day.
   - Track the vendors' customer behavior. Do they have repeat or destination customers?

3. **Market Trends**
   Pay attention to how market decisions affect the customers and vendors. Just because the market has activities or makes decisions it doesn't always mean they are good. See what works and what doesn't. Vendors and customers are not the only ones that must grow and learn; the market must as well.
   - Track the success of market events. Do they help the market? How and why?
   - Record the effectiveness of promotions. What types of advertising and outreach have the most impact on attendance and spending?
   - Observe the effect of weather on the market's success. Weather conditions should always be included when recording sales, attendance and other information. The success or failure of a special event or promotion may be more related to the weather than the event itself.
   - Monitor the time and seasonality of traffic flow. It does no good for the market to be open when vendors or customers do not want to be there. If the vendors and customers are loyal to one another they will find a way to connect when the market is not open.

**Insurance Needs**

Farmers' markets should carry some form of liability insurance due to the public nature of their activities. A copy of the policy or proof of insurance should always be on hand at the market. Some markets will carry their insurance through a sponsoring entity. The venue where the market is located may also have the necessary insurance. However, it is usually best for the market to acquire its own insurance policy. The Missouri Farmers' Market Association (MFMA) provides discounted liability insurance to markets across the state. In addition, MFMA provides a listserv and hosts an annual meeting of members. For more information about MFMA contact:

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Mount Vernon, MO 65712
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## Managing a Market

1. **Rules and Bylaws**
   Developing rules and bylaws is very important in structuring and organizing a farmers' market. Establishing good rules and regulations will help keep vendors happy and minimize conflicts. The following items are typically included in the rules and bylaws.

   **Organizational Structure**
   The organizational structure refers to the governing structure of the market, including a board of directors or other governing body. The structure would be determined by the legal organization chosen by the market: nonprofit, for profit, part of another organization or a loose association of businesses and individuals.

   **Operating Structure**
   The operating structure is the process by which all decisions are made and enforced. It may consist of a governing body, a designated manager, or both. Most importantly, it will have a clearly defined process for input to be taken or decisions to be made, rules to be enforced and the day to day operations of the market to be carried out.

   **Hours and Days of Operation**
   Customers and vendors must live by a schedule and so must a successful market. Shopping at a farmers' market requires customers add a stop to their normal routine, usually at the expense of another activity. They need to be certain the market is taking place. Likewise, vendors often sell at multiple markets and need to commit time away from production to sell at the markets. Having a reliable schedule is vital to everyone involved in a farmers' market.

   1. **The following days should be outlined in the rules:**
      - The first date the market will be open for the season
      - The days of the week the market will operate
      - The last date the market will operate for the season
      - A winter schedule if necessary
   2. **The following times should be outlined in the rules:**
      - A specific time of day when vendors may begin to set up
      - Specific times when sales begin and end
      - A specific time when daily fees must be paid
      - A specific time of day when vendors must occupy their space. If a vendor is absent, many markets will allow day vendors to occupy a missing vendor's space.

   **Who Can and Cannot Sell at the Market**
   There are many issues to consider when determining who can sell at the market. Usually, this will involve who produces what is being sold, how they produce it and the distance products travel to the market. The following questions are typically arise.

   - Will the market be a producer-only market? (no resale allowed)
   - Will vendors be allowed to resale items if they are not available locally, if they are out of season or if there is a lack of producers at the market?
   - Will crafts or other non-food items be allowed at the market?
   - May growers team up to fill a booth? If so, how many?
   - For processed foods, what percentage of the product must originate locally, if any?
   - Will there be a maximum distance vendors may reside from the market?
   - If rules are imposed, what will be the method of verification and enforcement?

**Market Fees**

Market fees need to be uniform in amount and their application. Markets should clearly outline to whom fees are paid and schedules for their payment. Any variation will only frustrate vendors and create an appearance of favoritism.

- Daily rates will typically be higher than seasonal rates, but may be “capped” and applied toward a seasonal rate if the vendor upgrades. They are typically paid before the vendor sets up and sales begin.
- Seasonal rates will typically be lower than aggregate daily rates and will be tied to a required minimum attendance. Rates may involve a deposit and are either collected before the season begins or at scheduled dates throughout the season.

**Space Assignments**

How space assignments will be made, who will make them and when they will be made needs to be clearly defined before the season begins. Typically, space assignments will be based on tenure and fees with the following considerations.

- Is the vendor paying seasonal or daily rates?
- Are locations determined on a first-come first-serve basis?
- May stalls be sublet?
- Will vendors be able to reserve a space?
- May vendors move or be moved to fill a vacant space? This may be necessary to make the market to look full on slow market days.
- Will vendors be grouped by product type?
- Does a vendor require electrical access? If they have to use a generator will the noise disrupt other vendors’ sales?
- Are there safety concerns that may involve a vendors’ location?
- Does a vendor require handicap access?

**Products Allowed or Not Allowed**

Determining which products may be sold at a farmers’ market is just as important as a store selecting inventory or a restaurant’s menu. It is crucial that customers can find what they need, vendors can effectively deliver it and for the product mix to achieve the goals of the market. The following questions will need to be answered for such rules to be effective.

- Are there items that cannot be sold considering local, state and federal regulations?
- What quality is acceptable and who makes the determination?
- Under what conditions can a product be removed from sale or confiscated?
- Must vendors produce everything they sell or can they sell other people’s products?
- Will the market have signage and labeling requirements for products?
- How will complaints be handled?

**Required Vendor Performance**

Farmers’ markets are a place of business and professionalism should be expected and required of all vendors. The following list includes behavioral or performance standards that may need to be defined and enforced.

- Vendor appearance and personal hygiene.
- Personal conduct and customer service.
- Cleanliness of the space area throughout the market day.
- Leaving a clean space at the end of the market day.
- Procedures for setup and tear down.

- Lifestyle needs - May the vendors bring children or pets, what behavioral standards are expected, and how may they be enforced?
- Smoking – Will it be allowed by vendors? This may not be enforceable with customers.

**Penalties for Noncompliance with Market Rules**

Without enforcement, rules are nothing more than guidance and can cause more controversy than clarity. How a market's rules will be enforced needs to be clearly defined prior to the market season and distributed to every market vendor. Below is a list of items that need to be addressed to avoid confusion.

- How complaints should be made.
- The process for complaint review and enforcement.
- Conditions for a vendor to temporarily lose selling privileges.
- Conditions for a vendor to permanently lose selling privileges.
- Conditions for a vendor to be assessed fines.
- Enforcement of penalties.

**Role of Market Manager(s)**

Many markets will choose to hire or appoint a market manager to serve as the public liaison and final authority during the hours of operation. The duties and expectations of this position, its authority, how it is empowered and who oversees the position must be clearly defined. Some of the key items to be addressed are listed below.

- How the manager is selected, hired and compensated.
- The manager's duties, hours and expectations.
- The manager's authority to interpret and enforce the market rules.
- A process for clarification if the manager is contested.
- If clarification cannot be made, a process to file complaints about the manager
- If necessary, a mechanism to discipline or replace the market manager.
- Whether the manager can be a vendor – This can be perceived as a conflict of interest.

**2. Vendor Development**

The old saying, "If you build it they will come" isn't the smartest way to develop real estate, and doesn't really work for farmers' markets. If all the steps are followed under **Community Input**, it should be clear what is needed to draw the desired customers and vendors. The next key to success is to recruit vendors and customers without damaging the community support that was garnered during the input phase. It is also important to remember that all of the markets in a city, state or region form a community in themselves. Vendors often sell at more than one market and customers shop at multiple markets. It is important that markets respect one another and work together to grow the market community as a whole when recruiting and marketing.

**Who Should Do the Recruiting?**

- The governing body and the market manager have the primary responsibility to recruit vendors and ensure the mix of vendors matches customers' desires.
- Individual vendors should also try to encourage others to participate. While some might see this as increasing competition, usually an increase in vendors will increase the number of customers patronizing the market as they often bring customers with them.
- Supporting groups can help recruit vendors outside of the current market circle. The broader and more diverse the recruiting pool, the better.

- Vendors are like customers; the more people promote the market to them, the more likely they will give the market a try.

**How to Recruit**

- Contacting producers selling through other outlets is a good place to start. However it is not good to recruit at markets that sell at the same time. This could burn bridges or be seen as poaching.
- Market participants in nearby towns may be looking to expand. Many vendors need multiple outlets and locations to broaden their customer base.
- Utilizing social media, such as Facebook and Twitter, can give real time information about what the market needs. It also lets vendors check the market out through photos and posts. There are many "groups" on Facebook that members may belong to that will be specific to a region or town. Social media lets other people share information on a market's behalf. A reference is always stronger from a friend.
- Advertising with posters and in classified ads can be effective. Announce that vendors are needed and give the phone number and email address of the person to contact. If a market advertises for vendors, it shows the market will advertise to customers.
- Nothing brings more new vendors to a market than happy vendors. Being professional and having a successful market only brings more success. New vendors want to know that the market is organized, with plenty of customers and room for growth.

**When to Recruit**

- A market should always be recruiting. One never knows when a crop failure, family tragedy or other unforeseen occurrence will leave the market in need of a vendor. If other vendors are attracted to a market, they will likely send customers to check it out.
- For a new market, it is imperative to begin early. Any organizing meetings should be open to vendors. They can bring great insight to forming and running a market. Involving them in the planning also gives them a vested interest in participating. New markets will often start working with vendors up to a year in advance.
- Allowing temporary vendors is a great way to recruit permanent ones. Backyard gardeners just giving it a try, or large scale growers who are not quite ready to commit, will often be a day vendor before committing to an entire season.

**Expectations of the Market and Vendors:**

The market, as a group and an activity, should have clear expectations of themselves and the vendors. Likewise, the vendors should have clear expectations of the market and themselves. This is a mutual relationship. One must succeed for the other to succeed. The easiest way to manage that success is to manage expectations and clearly define what each expects and needs from the other to be successful.

**What Vendors Expect of the Market**

- Vendors expect the market's managing organization to provide a buying crowd.
- Vendors generally expect the market entity to advertise, promote and operate the market with funds derived from vendor fees.
- Vendors generally regard market failures as a problem caused by management or governance, even if vendors can offer input.
- Vendors paying fees are paying for a service and in essence they are customers of the market management. They may be involved in the governing body or volunteer in other ways, but on market days, they are paying for professional service from the market.

- Vendors expect the market to be fully versed in all laws, rules and regulations that apply to all of the market's vendors.

**What the Market Expects of Vendors**

- Markets expect vendors to abide by the market rules and agreements the vendor signs to participate in the market.
- Markets expect vendors to be well versed in and obey all laws and regulations that apply to what and how they are selling.
- Markets expect vendors to participate in promotions and events that enhance and improve the market for the benefit of all.
- Markets expect vendors to portray the market in a positive light at all times.

**Input Vendors Should Have**

- The vendors should have representation in the market's governing body. The vendors' representative(s) should be selected by the vendors and act on behalf of the vendors as a whole, not on behalf of themselves.
- Individual vendor complaints should be taken to the market manager and/or the vendors' representative first.
- Any complaints or suggestions not addressed by the manager should be conveyed by the vendors' representative(s) to the governing body. Only complaints which are of importance to the entire group and can be addressed through governance should be officially brought before the governing body.
- Vendors should have defined ways to contribute beyond booth fees. Vendors could have a major impact on promotions with time, monetary and product contributions. Any such contributions may be asked of vendors from time to time, but it is best to incorporate such expectations into the vendor agreement. Otherwise, such requests could be viewed by the vendor as doing the management or governing body's work.

**Vendor Education and Training**

Recruiting vendors is important, but markets should never overlook the vendors they already have and their potential for growth. One of the best ways to grow a market is to provide current vendors with information and tools to improve their sales and production. Having regular vendor meetings and seminars provides vendors with opportunities to learn together. Connecting vendors with outside resources and workshops can also be helpful. The bottom line is, successful vendors and markets are always learning and growing.

**Education and Training Topics**

- **Product Displays**
  The proper care and display of products can greatly enhance sales. Keeping products fresh and easy to see makes them more likely to sell. The more attractive the product looks, the more likely people are to buy it.
- **Customer Service and Education**
  When possible, vendors and markets can provide added services to customers. Providing new preparation tips, care instructions or appropriate containers for carrying the product home can greatly improve customer relations.
- **Product Labeling**
  Label the product by variety, measurement and clearly display the price. Customers like to know what they are buying and to pass the knowledge on to others. Good labels will allow customers to tell friends about the items they are buying, often resulting in customer referrals. Labels can also differentiate specialty products and increasing value.

- **Pricing**
  Know what the product is worth. Market managers can gather comparison pricing at grocery stores and other markets to help vendors set their prices. Vendors should not under value or over value their products, but they rarely have the time to research market trends. Factors that go into pricing include supply and demand, quality, volume buying and sometimes customer loyalty. In the end, the vendor must set the price. The more information they have, the better their pricing will be.
- **Laws and Regulations**
  Vendors need to ensure everything they do is acceptable under state, federal and local laws. Markets want to know that everyone is compliant with any local regulations that might apply. Annual or seasonal meetings are a great way to make sure vendors are up to date. Workshops can even be arranged with state and local officials to help vendors become compliant with regulations. From certifying scales to filling out licensing forms, resources exist to help vendors succeed and keep customers safe.

3. **Customer Development**
   Developing a customer base requires more than advertising. To grow a customer base, markets must constantly recruit, educate and build relationships. There are numerous benefits for consumers, producers and communities to shop at farmers' markets. However, if the customers have a bad experience, nothing else will matter. In the end, consumers shop where they like to do business. If markets are constantly recruiting, educating and building lasting relationships, the crowds and the markets will thrive.

**Recruiting**

- Advertise in local papers, on the radio or with billboards and signage.
- Network and distribute flyers at local food events, complimentary markets and restaurants.
- Mailing lists, both electronic and written are crucial to staying in contact with customers.
- Temporary signage on market days brings traffic that otherwise might not stop or know about the market.
- A Facebook page is great for reaching new people and keeping up with existing customers. Friends can share the market's posts and recommend it to local groups and people.
- Referrals from the customers a market has are the best form of recruiting. Throwing in an extra tomato or other item for the customer that brings a friend can go a long way.
- Press outlets will often provide free exposure in exchange for free content. Write an article about the market and see if they will run it.
- Join AgriMissouri for a free listing in Missouri's most comprehensive local food and farmers' market guide. The basic membership is free and many services and products to promote the market may be purchased at deeply discounted prices.

**Education**

- Provide demonstrations of how to use the products vendors are selling.
- Classes on selecting produce or meat will help consumers at the market and at home.
- Gardening lessons on how to grow what is in season will bring in people that are not growing what is being sold at that time. This will also show them how challenging it can be and help them value the offering at the market more.
- Health and nutrition classes can show the added nutritional value of shopping at the market.

- Think outside the market – local culture, nature walks and other educational activities will reach crowds that will come for something other than food and spend money while they are there.

**Customer Loyalty**

- Reliably having the products consumers want is the first step in building loyalty.
- Customer service is equally important. Customers spend money with people they like.
- Provide activities like music and crafts for kids, that make customers want to “hang out.”
- Provide refreshments, such as coffee in the morning or lemonade on a hot afternoon.
- Offer rewards programs where people must be present to win.
- Keep the market dynamic. Changing things up with new vendors and activities keeps customers from getting bored.
- Eliminate competing activities. Providing options for breakfast, lunch or dinner may eliminate a reason not to come.
- Be professional as a market and as vendors. Markets are a place of business and consumers and vendors will value it more if the market acts like one.
- Have fun. No one goes to the market to have a bad time.

## Section II Operating Business at a Farmers' Market

The key to understanding farmers' markets is recognizing that they come in many forms. A farmers' market can be a common marketplace that includes farmers selling their farm products directly to consumers. The vendors themselves can also be a farmers' market and can come in the form of a single vendor, a farm stand, Community Supported Agriculture (CSA), and even agritourism operations. The thing they all have in common is that they are a gathering of individuals, businesses and organizations, coming together to sell agriculture products to consumers through a common venue and have a direct sale component. The vendors have responsibilities regarding the business they conduct. The common marketplace has responsibilities regarding the gathering and making sure that everything is in place to make it successful.

To successfully organize a common marketplace, the participants must understand everyone's needs and role. Participants must also respect and maintain the separation of roles between the vendors and the common marketplace. This handbook is broken into two sections to help make this clear, and to show how the rules of the marketplace and laws applying to the vendor work together, and must maintain a clear separation to work properly. **Section I** will help users successfully create and manage a common marketplace. **Section II** is designed to help vendors operate a business as a farmers' market and at a common marketplace.

### Doing Business in Missouri

There are many different types of vendors and regulations that apply at a farmers' market. Vendors must understand the legal terminology and regulatory processes that apply to their business to protect themselves, their markets and consumers.

### 1. Business Licensing and Taxes

The Secretary of State states that anyone doing business in the state of Missouri is required to register with the Secretary of State's office. There are many different forms a business can take and all have advantages and disadvantages. At farmers' markets, the most common business forms for vendors are Limited Liability Corporations and Fictitious Names (also known as DBA's). The Secretary of State has compiled a guide of the Most Commonly Asked Questions to guide vendors through the decision making process.

All the resources to properly form and manage a business in Missouri can be found via the Missouri Business Portal.

### 2. Sales and Use Tax and Farmers' Markets

**Farmers Market Tax Exemption**
On August 28, 2014, RSMo. 144.527.1 was enacted, exempting any person or entity participating in a farmers' market with estimated sales of less than twenty-five thousand dollars or more from participating in farmers' markets from collecting state and local sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to144.761, and section 238.235 on all sales of farm products sold at a farmers' market.

A person, or entity, with no tax liability would not be required to obtain a Tax ID number. However, there are many reasons a vendor may want to obtain a Tax ID number besides filing taxes, including but not limited to:

- Some banks require tax ID numbers for a new business to set up accounts,
- A would be requires to sell through venues other than a farmers' market,
- A Tax ID Number is required to purchase wholesale inputs (e.g. seed, fertilizers and ingredients) tax free,
- Some farmers' markets may require a Tax ID number to participate, and
- Some local governments may require a Tax ID to verify the exemption or to obtain other vending licenses.

Missouri Revised Statutes Chapter 144
Farmers' Market, Sales and Use Tax Exemption for Farm Products Sold / Section 144.527.1
August 28, 2014

"144.527. 1. In addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to144.761, and section 238.235 all sales of farm products sold at a farmers' market.

2. For purposes of this section "farm products" shall mean any fresh fruits, vegetables, mushrooms, nuts, shell eggs, honey or other bee products, maple syrup or maple sugar, flowers, nursery stock and other horticultural commodities, livestock food products, including meat, milk, cheese, and other dairy products, food products of "aquaculture", as defined in section 277.024, including fish, oysters, clams, mussels, and other molluscan shellfish taken from the waters of the state, products from any tree, vine, or plant and other flowers, or any of the products listed in this subsection that have been processed by the participating farmer, including, but not limited to, baked goods made with farm products.

3. For purposes of this section "farmers' market" shall mean an individual farmer or a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season, which operates principally as a common marketplace for an individual farmer or a group of farmers to sell farm products directly to consumers, and where the products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income.

4. The provisions of this section do not apply to any person or entity with estimated total annual sales of twenty-five thousand dollars or more from participating in farmers' markets."

**Getting a Tax ID Number**

An individual farmer, a cooperative or a non-profit enterprise may register online using the Online Business Registration website. Those registering to collect and remit state and local sales tax must post a bond equal to three times their anticipated monthly liability. To help determine the amount of the bond, the Department of Revenue has compiled state and local sales tax rate tables. If the estimated liability is less than $500, the bond amount is $25. Even if the liability is estimated at $0, the bond amount would still be $25 to cover processing fees and the expense of subsequent filings. A tax registration form (Form 2643) must be submitted for each location that will transact sales and mailed to:

Business Tax Registration
P.O. Box 357
Jefferson City, Mo. 65105-0357

Use tax is similar to sales tax, but is imposed when tangible personal property comes into the state and is stored, used or consumed in Missouri. Communities have the option of adopting a local use tax equal to the local sales tax for that community.

**Local Exemptions for Farmers**
Under Missouri law, farmers selling their farm grown products at temporary locations, such as farmers' markets, are not considered merchants and therefore are exempt from additional municipal or county licenses, fees and taxes for selling their products, as long as the operation does not maintain a permanent retail location off the farm.

Missouri Revised Statutes Chapter 150
Merchants', Manufacturers', Itinerant Vendors' and Peddlers' / Section 150.030
August 28, 2009

150.030. "Any farmer residing in this state who shall grow or process any article of farm produce or farm products on his farm is hereby authorized and permitted to vend, retail or wholesale said products, free from license, fee or taxation from any county or municipality, in any quantity he may choose, and by doing so shall not be considered a merchant; provided, he does not have a regular stand or place of business away from his farm; and provided further, that any such produce or products shall not be exempted from such health or police regulations as any community may require."

(RSMo 1939 § 11330, A.L. 1945 p. 1838 § 11329)
Prior revisions: 1929 § 10102; 1919 § 13093; 1909 § 11645
(1976) Held that growing and sale of horticultural and floracultural products as well as bedding plants qualifies as farming and sale of such products by grower is exempt from municipal merchants tax. Kansas City v. Rosehill Gardens, Inc. (Mo.), 542 S.W.2d 776.

**What is a Farm?**
The USDA defines a farm as "any operation that has the potential to produce at least one thousand dollars of agricultural goods or that would have sold that amount of produce under normal circumstances." There are no registration requirements for farms. Status as a farm is often verified through annual income tax filings or with a farm number obtained from any local USDA Farm Service Agency (FSA) office.

## Laws and Regulations

### 1. General Terminology and Structure

**Defining a Farmers' Market**
RSMo. 144.527.2 defines a farmers' market as "Individual farmers or a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season, which operates principally as a common marketplace for an individual farmer or a group of farmers to sell farm products directly to consumers, and where the products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income. "

Under this definition farmers' markets include but may not be limited to:

- One or more producers at any location,
- Roadside farm stands or farmers selling directly from their home,
- Community Supported Agriculture (CSA's),
- Agritourism operations,
- Any operation where farmers sell farm products from their farms directly to consumers with a logical pattern, and
- Both the act of organization or assembly and the individual participants may be considered farmers' markets.

It is important to recognize the separation between markets as a common marketplace and markets as individuals and entities. The laws and regulations governing a farmers' market as a common marketplace are determined by the market's organizational structure and the activities the market (organizing body) performs under applicable state and local laws. The laws governing vendors are determined by their legal incorporation and the types of products and services they provide under applicable state and local laws, whether they qualify as a farmers' market themselves or not.

**Defining Farm Products**
RSMo. 144.527.2 defines farm products as "any fresh fruits, vegetables, mushrooms, nuts, shell eggs, honey or other bee products, maple syrup or maple sugar, flowers, nursery stock and other horticultural commodities, livestock food products, including meat, milk, cheese, and other dairy products, food products of "aquaculture", as defined in section 277.024, including fish, oysters, clams, mussels, and other molluscan shellfish taken from the waters of the state, products from any tree, vine, or plant and other flowers, or any of the products listed in this subsection that have been processed by the participating farmer, including, but not limited to, baked goods made with farm products."

**Establishing Compliance Responsibility**
Markets as a common market place have a responsibility to be compliant with regulations surrounding the public gathering and use of space, such as insurance, permitting or notification of public officials. These responsibilities need to be clearly defined in the rules and bylaws, executed in practice and recorded.

Vendors have responsibilities involving the production, marketing, labeling, and selling of their products. There are also regulations regarding how they function as a business and whether they engage in direct sale or resale. The rules and bylaws of a market need to clearly define this

as the responsibility of the vendor and clearly delineate the responsibilities of the vendors and the marketplace relating to issues of regulatory compliance.

**Local and County Laws and Regulations**
Missouri is a “home rule” state, meaning that county and municipal governments may enact health ordinances that are more restrictive than state ordinances, but not less restrictive. County and municipal public and environmental health agencies determine which products are approved for sale at farmers’ markets in a given community and how to handle sampling and food demonstrations.

The Missouri Department of Health & Senior Services maintains the Directory of Public Health Agencies to help find local governing agencies.

2. **Food Processing General Requirements**
    1. A food processor is an individual or organization that takes either raw food products and ingredients, or pre-processed products, combines or repackages them and distributes the finished product. Food processing can be a simple operation, such as repackaging bulk foods, baking bread and distributing it or a more complicated operation such as canning or preserving.
    2. All food establishments, facilities where processing occurs under inspection by the Missouri Department of Health and Senior Services, need to comply with the requirements of 21CFR110 Good Manufacturing Practices (GMPs). This is a federal code the Missouri Department of Health and Senior Services uses when inspecting all types of processing, distribution and warehousing facilities.
    3. 21CFR110 is a very general set of regulations that provides information about the food processing structures, plumbing and building materials, etc. Some operations must follow additional regulations regarding the person(s) producing specific food products.
    4. Facilities in which processed foods are prepared and may be further regulated at the local and county level. To determine a local jurisdiction and the related guidelines, visit the Missouri Department of Health & Senior Services' Directory of Public Health Agencies.

**Food Establishments**

Many foods sold at farmers' markets do not require inspection or preparation in a food establishment. To determine if a vendor or their facility requires inspection as a food establishment, the Missouri Food Code (19 CSR 20-1.025) offers the following definition.

**"Food Establishment**

(1) "Food establishment" means an operation that:

(a) Stores, prepares, packages, serves, vends food directly to the consumer or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank;

(b) Relinquishes possession of food to a consumer, directly or indirectly, through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; and

(2) "Food establishment" includes:

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location; and

(b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(3) "Food establishment" does not include:

(a) An establishment that offers only prepackaged foods that are not potentially hazardous foods;

(b) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(c) A food processing plant; including those that are located on the premises of a food establishment;

(d) A kitchen in a private home if only food that is not potentially hazardous food, is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority;

(e) An area where food that is prepared as specified in Subparagraph (3)(d) of this definition is sold or offered for human consumption;
(f) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation, that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed four (4), and breakfast is the only meal offered;
(g) A private home that receives catered or home-delivered food; or
(h) Where local codes allow, individual stands in which only foods meeting the following conditions are sold, sampled or served:

(i) Non-potentially hazardous processed food, except low acid canned and acidified in 21 CFR 113 and 114 respectively, including, but not limited to breads, cookies, fruit pies, jams, jellies, preserves, fruit butters, honey, sorghum, cracked nuts, packaged spices and spice mixes, dry cookie, cake, bread, and soup mixes;
(ii) The seller is the individual actually producing the food or an immediate family member residing in the producer's household with extensive knowledge about the food;
(iii) The seller only sells, samples or serves the food directly to the end consumer;
(iv) All processed packaged foods bear a label stating the name and address of the manufacturer/processor preparing the food, common name of the food, name of all the ingredients in the food in order of predominance, the net weight of the food in English or metric units, and a statement that the product is prepared in a kitchen that is not subject to inspection by the department. It is recommended that honey manufacturers/processors include this additional statement to their product label: "Honey is not recommended for infants less than twelve (12) months of age"; and
(v) The consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to inspection by the department if the foods specified in Part 3. H. (I) of this definition, are sold, sampled or served in unpackaged, individual portions. The department shall have the final authority in determining whether a food is non-potentially hazardous and may enjoin individuals who violate the provisions of this subparagraph from selling, sampling or serving these foods."

**Processing Baked Goods and Dry Mixes for Sale**

The Missouri 2013 Food Code states:

"(h) Where local codes allow, individual stands in which only foods meeting the following conditions are sold, sampled or served:

(i) Non-potentially hazardous processed food, except low acid canned and acidified foods as specified in 21 CFR 113 and 114 respectively, including, but not limited to breads, cookies, fruit pies, jams, jellies, preserves, fruit butters, honey, sorghum, cracked nuts, packaged spices and spice mixes, dry cookie, cake, bread, and soup mixes;
(ii) The seller is the individual actually producing the food or an immediate family member residing in the producer's household with extensive knowledge about the food;
(iii) The seller only sells, samples or serves the food directly to the end consumer;
(iv) All processed packaged foods bear a label stating the name and address of the manufacturer/processor preparing the food, common name of the food, name

of all the ingredients in the food in order of predominance, the net weight of the food in English or metric units, and a statement that the product is prepared in a kitchen that is not subject to inspection by the department. It is recommended that honey manufacturers/processors include this additional statement to their product label: “Honey is not recommended for infants less than twelve (12) months of age”; and
(v) The consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to inspection by the department if the foods specified in Part 3. H. (I) of this definition, are sold, sampled or served in unpackaged, individual portions. The department shall have the final authority in determining whether a food is non-potentially hazardous and may enjoin individuals who violate the provisions of this subparagraph from selling, sampling or serving these foods.”

Some local and county authorities may require additional permits and inspections beyond state law. To determine a local jurisdiction and the related guidelines visit the Missouri Department of Health & Senior Services’ Directory of Public Health Agencies.

For more information contact the Missouri Department of Health and Senior Services Food Safety Program at (573)-751-6095.

**Cottage Laws**
Missouri Revised Statutes Chapter 196
Sale of Cottage Foods / Section 196.298
August 28, 2014

“1. As used in this section, the following terms shall mean:
(1) "Baked good", includes cookies, cakes, breads, danish, donuts, pastries, pies, and other items that are prepared by baking the item in an oven. A baked good does not include a potentially hazardous food item as defined by department rule;
(2) "Cottage food production operation", an individual operation out of the individual's home who:
(a) Produces a baked good, a canned jam or jelly, or a dried herb or herb mix for sale at the individual's home;
(b) Has an annual gross income of fifty thousand dollars or less from the sale of food described in paragraph (a) of this subdivision; and
(c) Sells the food produced under paragraph (a) of this subdivision only directly to consumers;
(3) "Department", the department of health and senior services;
(4) "Home", a primary residence that contains a kitchen and appliances designed for common residential usage.

2. A cottage food production operation is not a food service establishment and shall not be subject to any health or food code laws or regulations of the state or department other than this section and rules promulgated thereunder for a cottage food production operation.

3. (1) A local health department shall not regulate the production of food at a cottage food production operation.
(2) Each local health department and the department shall maintain a record of a complaint made by a person against a cottage food production operation.

4. The department shall promulgate rules requiring a cottage food production operation to label all of the foods described in this section which the operation intends to sell to consumers. The

label shall include the name and address of the cottage food production operation and a statement that the food is not inspected by the department or local health department.

5. A cottage food production operation shall not sell any foods described in this section through the internet.

6. Nothing in this section shall be construed to prohibit the authority of the department of health and senior services or local health departments to conduct an investigation of a food-borne disease or outbreak.

(L. 2014 S.B. 525)"

The Missouri Department of Health and Senior Services interprets this statute to allow a cottage food production operation to sell baked goods, canned jam or jelly, dried herbs, and dried herb mixes prepared in the home, from the home, without being subject to state health and food laws and regulations if the operation has an annual gross income of $50,000 or less. The operation is required to label all foods intended for sale with the name and address of the operation and a statement that the food is not inspected by the Department of Health and Senior Services or a local health department.

The statute restricts the sale of cottage foods through the Internet and does not apply to farmers' markets or anytime sales are made away from the home. However, many similar exemptions already exist in the Missouri Food Code and existing statutes and are detailed throughout this document. To determine if exemptions or restrictions exist for products manufactured in the home, contact the local health agency and inquire what is required to sell a given product at a given location. To determine a local jurisdiction and the related guidelines visit the Missouri Department of Health & Senior Services' Directory of Public Health Agencies.

**Processing Jams & Jellies, Acidified Foods and Low Acid Foods for Sale**

**Acidified Foods**

1. Acidified foods are foods in which the finished product has a pH value below 4.6. Salsas and other foods to which an acid (commonly lemon juice or vinegar) has been added to lower the acidity of the finished product fall into this category. Sometimes these are called "pickled" foods. A person who cans acidified foods must follow the requirements of 21CFR 114 Acidified Foods in addition to 21CFR110.
2. 21CFR114 provides the requirements for personnel to have attended a Better Process Control School. This class is offered annually in both Nebraska and Arkansas and rotates around the country at temporary locations in different states.
3. The recipe must be reviewed by a Process Authority and meet the requirements for maintaining controls over the canning process outlined in 21CFR114 and 21CFR110. Missouri has three regional food inspectors who can help identify the appropriate process authority for product being produced.
4. The facility must also obtain a Food Canning Establishment (FCE) registration from the U.S. Food and Drug Administration (FDA).

**Low Acid Foods**

1. The second type of canning operation is for the processing of low acid canned food. These foods have a pH value above 4.6. A common food in this category would be canned green beans. To begin canning low-acid foods producers need to follow 21CFR 113: "Thermally Processed Low Acid Foods, Packaged in Hermetically Sealed Containers" in addition to 21CFR110.
2. 21CFR113 has the requirements for attending a Better Process Control School, having the recipe and canning process reviewed by a Process Authority, obtaining a federal canning identification number, retort and processing requirements and record keeping.
    - The Better Process Control School is offered annually in both Nebraska and Arkansas and around the country at temporary locations in different states.
    - Missouri has three regional food inspectors who can help identify the appropriate process authority for product being produced.
    - Facilities must obtain a Food Canning Establishment (FCE) registration from the U.S. Food and Drug Administration (FDA).
3. Facilities in which processed foods are prepared and the labeling of them may also be regulated at the local and county level. To determine a local jurisdiction and the related guidelines visit the Missouri Department of Health & Senior Services' Directory of Public Health Agencies.

**Jams, Jellies and Honey Facilities Exemption**

Producers of jams, jellies and honey selling less than $30,000 per year are exempt from maintaining a separate facility for production and may produce such products in their place of residence as long as all other safety, labeling and certification requirements are met.

**Missouri Revised Statutes Chapter 261**
**Jams, Jellies and Honey Exemption / Section *261.241***
**August 28, 2104**

"1. Sellers of jams, jellies, and honey whose annual sales of jams, jellies, and honey are thirty thousand dollars or less per domicile shall not be required to construct or maintain separate facilities for the manufacture of jams, jellies, and honey. Such sellers shall be exempt from all

remaining health standards and regulations for the manufacture of jams, jellies, and honey pursuant to sections 196.190 to 196.271 if they meet the following requirements:

(1) Jams, jellies, and honey shall be manufactured in the domicile of the person processing and selling the jams, jellies, and honey and sold by the manufacturer to the end consumer;
(2) Jams, jellies, and honey shall be labeled with the following information in legible English as set forth in subsection 2 of this section;
(3) During the sale of such jams, jellies, and honey, a placard shall be displayed in a prominent location stating the following: "This product has not been inspected by the Department of Health and Senior Services.";
(4) Annual gross sales shall not exceed thirty thousand dollars. The person manufacturing such jams, jellies, and honey shall maintain a record of sales of jams, jellies, and honey processed and sold. The record shall be available to the regulatory authority when requested.

2. The jams, jellies, and honey shall be labeled with the following information:

(1) Name and address of the persons preparing the food;
(2) Common name of the food;
(3) The name of all ingredients in the food; and
(4) Statement that the jams, jellies, and honey have not been inspected by the department of health and senior services.

3. Sellers of jams, jellies, and honey who violate the provisions of this section may be enjoined from selling jams, jellies, and honey by the department of health and senior services.

(L. 2002 S.B. 639, A.L. 2005 S.B. 355)"

**Fermented Foods, Kombucha and Other Fermented Teas**

Fermented foods, such as sauerkraut, certain pickles and kimchi, whose fermentation is stopped through pasteurization or other methods during packaging are considered to be acidified or low acid foods and must comply with all rules and regulations under **Processing Jams & Jellies, Acidified Foods and Low Acid Foods for Sale.** Such foods that are sold in unsealed containers and stored below 41 degrees Fahrenheit are sold under the regulations for **Prepared Foods** and not considered to be potentially hazardous foods.

Kombucha, a fermented tea, is starting to show up at farmers' markets. There are local and state regulations in place regarding the sale of such products not normally associated with fermented foods. There are also federal laws that apply depending on how the product is produced and sold. The U.S. Food and Drug Administration in conjunction with the Alcohol and Tobacco Tax and Trade Bureau (TTB) have issued these Frequently Asked Questions (FAQs) intended to provide general guidance to the public, producers and distributors of kombucha. The highlights of this document and how they pertain to producers are listed below:

- Anyone producing kombucha or other fermented drinks that have not stopped the fermentation process through pasteurization or by other means before the content reaches .5 percent alcohol by volume must operate in a qualified facility subject to TTB regulation and the Federal Alcohol Administration Act (FAA Act) and the Missouri Department of Public Safety Division of Alcohol and Tobacco Control .
- Refrigeration can be used to control the alcohol content and fermentation process of kombucha. However, it is the responsibility of the producer to ensure the product cannot reach .5 percent alcohol by volume regardless of how the product is handled after distribution. Under state and federal food codes, the general intent of laws is to insure

consumers that packaged food products are shelf stable and will not change into another product once they are packaged and labeled.

- Producers who have stopped the fermentation process before the content reaches .5 percent alcohol content by volume, through pasteurization or other means, may sell their products under state and local laws so long as they abide by all rules and regulations under **Selling Processed and Preserved Foods at Farmers' Market – Summary.**

Kombucha that is less than .5 percent alcohol by volume may be sold as a prepared food without stopping fermentation. For producers to be compliant with all State and Federal laws for prepared foods, they must follow all rules and regulations outlined under **Food Service Sales at Farmers' Markets (Food Truck Laws).** In this case, the final delivery of the product must be in a vessel for consumption and cannot be placed in a sealed container.

**Bottled Water**

Bottled water is considered to be a processed food and is governed by the Department of Health and Senior Services under 21CFR110, which covers the general sanitation and facility requirements of a bottling plant. The Missouri Department of Health and Senior Services follows the federal rules for water bottling that are found in 21CFR129 Processing and Bottling of Bottled Drinking Water. 21CFR 129 covers items related to plant construction and design, sanitary facilities, sanitary operations, equipment, procedures processes and controls. Another Code of Federal Regulations, 21CFR165 Beverages, governs the development of water supplies along with biological, chemical and radiological standards and testing requirements. The State of Missouri also has a Code of State Regulations governing water bottling, 19CSR20-1.050 Sanitation Standards for the Manufacture of Soft Drinks and Beverages. To start a bottled water operation contact the Regional Food Processor Inspector to have the facility and testing procedures approved.

**Selling Processed and Preserved Foods at Farmers' Market - Summary**
Contact the local health agency to determine specific requirements, including licensing, facility requirements, etc. The following is a summary of the state requirements and regulations regarding such sales.

1. Processed and preserved foods include acidified foods, low acid foods, jams, jellies and honey.
2. Facilities in which processed foods are prepared and the labeling of those foods are regulated at the local and county level. To determine a local jurisdiction and the related guidelines visit the Missouri Department of Health & Senior Services' Directory of Public Health Agencies.
3. At a minimum, the processor must provide proper labeling for the product. Product labels must bear: the name of the product, a list of ingredients ranked from most predominant ingredient to the least, the net weight of the product and the name and address of the manufacturer. Local jurisdictions may require addition label information.
4. Producers of certain types of food such as salsas, pickled foods and canned foods, like green beans, must submit their process to the Food and Drug Administration and obtain a Food Canning Establishment (FCE) registration, as well as obtain a review of their process by a Process Authority. This means an expert in the field of food safety has reviewed the recipe and canning process. In Missouri, there are three regional food inspectors who can help identify the appropriate process authority for the product being produced.

5. Processors of “low-acid canned foods” or “acidified” foods must also attend a course entitled “Better Process Control School.” This class is offered annually in both Nebraska and Arkansas and rotates around the country at temporary locations in different states.

These are some of the most common examples of food processing. There are hundreds of different processes and products that would qualify a person or organization as a food processor. Please contact a Missouri Department of Health and Senior Services Regional Food Processing Inspector for information specific to the operation or operation being considered.

**3. Food Service Sales at Farmers’ Markets (Food Truck Laws)**

A food service establishment that operates for a period of not more than 14 consecutive days, in conjunction with a single event or celebration, is considered a temporary food service establishment. The preparation facility may be mobile, temporary or permanent. However, it is the duration business is conducted in a location that determines the temporary status. Fairs and festivals or similar celebrations, as well as dinners or other events sponsored by organizations serving food and open to the public, are all examples of temporary events. The Missouri Department of Agriculture considers farmers’ markets temporary locations as the gathering only exist for the limited number of hours they are open and the vendors regroup each time they open.

While an event is temporary, a business is not and any business selling and serving food should be registered with the Secretary of State. The guidelines for a business to prepare or sell prepared food at a temporary location are governed by the Department of Health and Senior Services’ Temporary Food Service Guidelines. State temporary food service guidelines are enforced by the local or county departments of health and further local restrictions may apply. To determine a local jurisdiction and the related guidelines, visit the Missouri Department of Health & Senior Services’ Directory of Public Health Agencies. Event permitting and other licensing requirements may also be governed by local authorities.

**4. Selling Meat and Poultry**

The Missouri Meat and Poultry Inspection Program (MMPIP), in cooperation with the U.S. Department of Agriculture (USDA) Food Safety Inspection Service (FSIS), is administered by the Missouri Department of Agriculture, Division of Animal Health, P.O. Box 630, Jefferson City, MO 65102-0630. To contact the MMPIP, call (573) 522-1242. Meat processed under inspection by the Missouri Department of Agriculture is offered the same market access and authority as meat inspected by the USDA as long as it remains in the state.

**Purpose of the Missouri Meat and Poultry Inspection Program**

The MMPIP is dedicated to ensuring that the commercial supply of meat and poultry products within the state are safe, wholesome, accurately labeled and secure, as required by state and federal meat and poultry inspection laws. By providing inspection service and guidance to Missouri processors, the program continues to advance the mission of the Missouri Department of Agriculture -- to serve, promote and protect the agricultural producers, processors and consumers of Missouri’s food, fuel and fiber products.

**Missouri Meat and Poultry Producers Selling in Missouri**

Owners or operators who want to sell meat or poultry and/or meat and poultry products, wholesale or retail, within the state (intrastate), unless exempted under the Poultry Products Inspection Act, must have their products processed in a MMPIP or USDA/FSIS inspected processing facility and should contact the MMPIP at (573) 522-1242.

**Poultry Exemption for 1,000 Birds or Less**

The Poultry Products Inspection Act address the exemption regulations in regard to poultry producers and allow for on farm processing of 1,000 birds or less for sales to consumers, hotels, restaurants and institutions. "The provisions of this chapter shall not apply to poultry producers with respect to poultry of their own raising on their own farms if (i) such producers slaughter not more than 1,000 poultry during the calendar year for which this exemption is being determined; (ii) such poultry producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms; and (iii) none of such poultry moves in commerce (as defined in section 453(a) of this title)." Commerce refers to sale of goods across state lines. Call (573) 522-1242 for further clarification of these rules.

**Custom Exempt Operations**

9 CFR 303.1 exempts the custom preparation of carcasses, meat or meat food products derived from the slaughter of cattle, sheep, swine, goats or game animals from official inspection. However, custom operations are subject to sanitary inspection by the MMPIP. Custom exempt meat may not be sold at farmers' markets or to consumers in any manner. Custom processing is a service provided to producers of livestock and the meat remains the property of the producer through processing until delivery, and may never be sold.

**Requirements for Custom Exemption**

1. Livestock must be raised by the owner and delivered to the processing plant for custom preparation.
2. The custom prepared articles must be exclusively for use in the owner's household by members of his household, nonpaying guests and employees.
3. The custom-prepared products must be kept separate and apart from inspected products.
4. Immediately after preparation and until delivered to the customer (owner), the carcasses or other prepared custom articles must be clearly marked "NOT FOR SALE."
5. Establishments engaging in custom operation must maintain records pertaining to the custom operation. The records shall include:
    - Name and address of the customer
    - Species and weight of animals processed
    - Kind and weight of items prepared

**Sale of Missouri Meat and Poultry Summary:**

- Meat and poultry sold at a farmers' market must be processed in either a USDA or Missouri inspected facility and labeled as such to be sold at a farmers' market.
- Poultry produced in quantities more than 1,000 birds per year must be processed in either a USDA or Missouri inspected facility and labeled as such to be sold at a farmers' market.
- Meat and poultry processed in a custom exempt facility may not be sold in a farmers' market.

**List of Missouri's Official Plants Under Inspection**

**Out of State Meat and Poultry Producers Selling in Missouri**
Out of state owners or operators wanting to sell meat and poultry or meat and poultry products in the state of Missouri (interstate) must have their products processed in a USDA inspected processing facility. The USDA maintains this list of inspected establishments.

**Meat and Poultry Labeling Instructions**
Establishments are responsible for ensuring that labeling used for meat and poultry products is not false or misleading. Labels must be submitted to the Missouri Meat and Poultry Inspection Program or the USDA/FSIS for approval prior to use. Mandatory features on the finished product label include:

1. Name of the product
2. Ingredients statement, if needed
3. Inspection legend and establishment number
4. Handling statements, e.g., keep refrigerated, keep frozen, etc., if needed
5. Safe handling instructions
6. Net quantity of contents statement, if needed
7. Signature line (manufacturer's or distributor's name and address)
8. Nutrition labeling, if needed

**Sale of Livestock and Live Poultry**

5. **Sale of Livestock**
Regulations regarding the sale of livestock (mammals, fish, amphibians and reptiles) vary greatly by species and breed. To request information about specific livestock varieties, contact the Missouri Department of Agriculture, Animal Health Division at (573) 751-4937.

6. **Sale of Live Poultry**
There are no state restrictions regarding the sale of live poultry that originate in the state of Missouri. There are many local and county restrictions and most farmers' markets will prohibit such sales due to the risk of contaminating other foods. To determine a local jurisdiction and the related guidelines visit the Missouri Department of Health & Senior Services' Directory of Public Health Agencies. When such sales are allowed, typically markets will establish space, distance and handling requirements to ensure consumer and vendor safety.

7. **Out of State Live Poultry and Livestock**
Any livestock not originating in the state of Missouri must obtain a Certificate of Veterinary Inspection and Entry Permit before entering the state. Entry Permits may be obtained from the Missouri Department of Agriculture, Division of Animal Health at (573) 751-3377 once the veterinary inspection has been approved.

8. **Pet Treat and Feed Manufacturing and Sales**
Anyone wishing to produce or sell pet (dog or cat) treats or feed in the state of Missouri must submit a Feed License Application before product may be distributed. Producers must also pay a $25 annual inspection fee and file a Product Listing Form for pet foods sold exclusively in packages of ten pounds or less and on specialty pet foods sold only in packages of one pound or less. For production or sales of larger quantities, a Quarterly Tonnage Report must be filed and additional inspection fees will apply.

All feed for animals must be clearly labeled in accordance with the Missouri Pet Food Regulations (2CSR 70-31.010-70-31.90) and include the following information:

1. Product name (and brand name if applicable)
2. Species of pet intended for
3. Guaranteed analysis
    - Crude protein .....x % (minimum percentage)
    - Crude fat……....x % (minimum percentage)
    - Crude fiber…….x % (minimum percentage)
    - Moisture……..….x % (minimum percentage)
4. Ingredients – in descending order by weight
5. Feeding directions – The principle display panel (front of label) must state "treat" or "snack" and the feeding instructions must say "This product is intended for intermittent or supplemental feeding only."
6. Name and address of the manufacturer or distributor including:
    - Name of business
    - Street address (may omit if business name is listed in local phone directory)
    - City, state and zip code
7. Quantity statement – net weight in ounces or net count of treats

For questions or clarifications contact Missouri Department of Agriculture, Bureau of Feed and Seed Inspection at (573) 751-4310.

**9. Selling Eggs**

Egg quality is highly important to producers, consumers and food safety. The Weights, Measures and Consumer Protection Division of the Missouri Department of Agriculture licenses egg producers, dealers and retailers and inspect eggs sold in Missouri for quality. Anyone selling eggs or egg products to anyone other than a consumer on the farm must obtain a Missouri Egg License. There are four types of license:

1. The Egg Dealer License is required for packing eggs to be sold by someone other than the producer to the consumer.
2. The Egg Retailer License is required for someone selling another producer's eggs to consumers.
3. The Limited Retail License is required for producers selling eggs directly to consumers off the farm, at farmers' markets or at roadside stands.
4. The Processors License is for any person engaged in breaking eggs or processing egg liquids, whole egg meats, yolks, whites or any mixture of yolks and whites with or without adding other ingredients to be sold as egg products.

Under the Missouri Egg Law, "Eggs" refers to "the shell eggs of a domesticated chicken, turkey, duck, goose or guinea that are intended for human consumption." Producers of game bird eggs such as quail or pheasant must obtain a Class I Wildlife Breeder Permit from the Missouri Department of Conservation. The quality handling and storage requirements for all eggs are outlined by the USDA and the Egg Products Inspection Act. (need new link) http://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap15-sec1034.htm

**10. Selling Dairy Products at the Market**

The sale of all milk and dairy products in the State of Missouri is governed by the State Milk Board. Missouri's State Milk Board (SMB) was created in 1972 to encourage orderly and sanitary production, transportation, processing and grading of fluid milk and processed milk products for consumption intrastate, as well as interstate.

**Sale of Cheese and Cheese Products**

Producers and processors wishing to sell cheese in the state of Missouri must adhere to the following process, rules and regulations.

1. Producers must submit farm and plant plans with their request for approval to the State Milk Board.
2. After approval of the plans, the milking parlor and plant are inspected at intervals to ensure that they meet the requirements of the Rules and Regulations and are constructed according to the approved plans.
3. After final inspection of the milking parlor and plant facilities, the producer must make a request for a farm certification and apply for a plant license.
4. After obtaining farm certification and a plant license, another inspection is made of the production process, including label review and pasteurizer testing, if pasteurized milk is used. If final inspection and label review are satisfactory then the plant may be allowed to produce and sell product.

**Sale of Raw Milk and Raw Milk Products**

1. The sale of uninspected raw milk or cream in Missouri is permitted only when the purchase point of origin is at the farm or it is delivered directly to the purchasing individual for their own use. 196.935 RSMo 2000
2. Licensed and inspected raw milk or cream producers and processors may sell product at farmer's markets according to AGO 114-75. 196.931 RSMo 2000 defines "graded fluid milk and fluid milk products."
3. Producers and processors wishing to sell raw milk or cream at farmers' markets must first apply to the Missouri State Milk Board to obtain a permit and comply with regulations pertaining to proper bottling, capping and labeling of raw milk products. 2 CSR 80-3.010 - 2 CSR 80-3.130

Local authorities may further restrict the sale and regulate the delivery of raw milk. To determine a local jurisdiction and the related guidelines, visit the Missouri Department of Health & Senior Services' Directory of Public Health Agencies

Complete Listing of Missouri State and Federal Dairy Regulations

**11. Sales by Weights and Measures**

All sales by weights and measures such as ounces, pounds, quarts, pints, gallons, etc. are regulated by the Missouri Department of Agriculture, Weights, Measures and Consumer Protection Division. When selling by weight, all scales determining the billable rate must be inspected and Certified by an Inspection Agent with the Missouri Department of Agriculture.

When measuring by volume, the Missouri Department of Agriculture has adopted the National Institute for Standards and Technology Handbook. The publications in this handbook outline all acceptable packaging and labeling requirements for various products being sold by volume. To avoid any confusion or possible issues, most vendors will sell by quantity, such as bags or bunches, and use volume containers such as pints, quarts and gallons for display purposes only and market them as small, medium and large containers.

The Missouri Department of Agriculture, Division of Weights and Measures offers this guide as well. Missing a correct link,

## 12. Sale of Live Plants

Anyone growing or buying plants to sell in the State of Missouri must be registered as a Nursery Grower or Nursery Dealer. The intent of the registry is to make sure outbreaks of plant disease or the transport of invasive species can be quickly identified and contained to prevent environmental catastrophe and ensure safe production methods.

### Nursery Growers Registration

The Nursery Grower's Registration fee is based on the size of the growing operation. Growers must maintain a list of all locations where nursery stock is grown, maintained or offered for sale. When requested, growers must also be able to provide the state entomologist or his inspectors the names and address of the person(s) from whom, and the localities where, the original plants or plant products were obtained.

### Nursery Dealer's License

The Nursery Dealer's License fee is based on the volume of plants to be sold. Each nursery dealer, before selling, offering for sale or otherwise distributing nursery stock within this state, shall annually obtain a nursery dealer's registration-inspection certificate for each individual location from which the dealer sells or offers for sale nursery stock. Each nursery dealer shall make the application on forms to be provided by the state entomologist for each individual location, which shall include:

1. The name and complete address of the nursery dealer's place of business for which such certificate is requested
2. A declaration that the applicant will obtain and distribute only inspected and certified nursery stock
3. An up-to-date listing of all sources from which the producer secures nursery stock

Each nursery dealer shall pay, at the time of making the application, the annual registration-inspection fee as set forth in the rules made pursuant to sections RSMO 263.010 to 263.180. Nursery dealer registration-inspection certificates expire September 30 each year.

### Flowering Annual and Vegetable Exemption

In Missouri, growers or dealers selling only annuals or vegetable plants directly to consumers are not required to obtain a Nursery Growers or Nursery Dealers License.

**Title 2—DEPARTMENT OF AGRICULTURE**
**Division 70—Plant Industries**
**Chapter 10—Missouri Plant Law Rules**
**2 CSR 70-10.010 Nursery Stock Defined**

PURPOSE: This rule defines nursery stock as used in sections 263.010–263.080, RSMo and the corresponding rules.

(1) Nursery stock shall be understood to mean all plants having a persistent woody stem, perennials, bulbs, roots, crowns, corms, rhizomes and tubers capable of propagating, including strawberry, asparagus and rhubarb, but excluding seed potatoes and other garden vegetables. Grass sod, stolons and plugs distributed for the purpose of propagation are also included in the term nursery stock.

Complete Listing of Missouri Certified Nurseries

## 13. Growing Plants for Harvest and Produce for Sale

Other than the business requirements for selling, there are no licensing or registration requirements specifically for growing plants to harvest for consumption as pulp, for food, or other uses such as vegetables and other crops. However, there are regulations regarding the care of vegetables, or any other crop to be sold, during the growing process. Anyone applying chemicals of any type, organic or synthetic, to produce an end product to be sold, is required to obtain a Certified Applicator License from the Missouri Department of Agriculture and adhere to reporting and registration requirements of the license.

## 14. EBT, Debit/Credit Cards and SNAP (Food Stamps) at Farmers Markets

Farmers' markets and vendors in Missouri may be authorized to accept Electronic Benefit Transfer (EBT) cards, the most common method for distributing funds for the Supplemental Nutrition Assistance Program (SNAP). Markets may accept the payments on behalf of and distribute funds to vendors, or vendors at farmers' markets not authorized to accept EBT, may become authorized to accept EBT cards as a business. For farmers' markets or vendors to accept EBT cards, they must first complete and submit the USDA Food Stamp Application. Once that application is approved, the USDA will issue the market or vendor an FNS number and instructions on how to remit and collect payments.

The USDA offers the SNAP at Farmers' Markets Handbook to guide vendors and markets through the complete process and best practices for accepting Food Stamps and EBT at a farmers' market.

### Free Government-Supplied POS Devices

If a vendor or market has not been authorized to accepted EBT payments prior to November 18, 2011, they may be eligible to receive a free wireless EBT, Credit and Debit card machine valued at $1,200 and up to $45 for four months toward the payment of monthly fees. All markets that conduct $100 dollars or more in SNAP business per month are eligible for a free point of sale (POS) device for EBT transactions only. The machines do not require a monthly service fee if sales exceed 100 dollars per month. The market must have electricity and a phone line to utilize the free equipment.

### Manual Vouchers

Manual vouchers may be used when the market transactions amount to less than 100 dollars per month or if the market is unable to have a POS device on site. The market must first obtain an FNS number. This process does require a phone to verify the availability of funds and places a hold on the customer's EBT account for the purchase amount. Once the transaction is completed on paper, the market mails the signed vouchers to the state's EBT processor by the deadline for payment by direct deposit.

Many markets that are eligible for a free POS device, but do not have a phone line and power on site, will use manual vouchers. The market may keep the device at an off-site location and clear all the manual vouchers through the device at the end of the day instead of mailing them.

### EBT/SNAP Contacts

To obtain an EBT device or inquire about accepting SNAP in Missouri contact:

Janet McCubbin
Family Support Division
Missouri Department of Social Services

615 Howerton Court Jefferson City, MO 65102-2320
P.O. Box 310
Jefferson City, Mo. 65102-0310
Email: Janet.McCubbin@dss.mo.gov
Phone: (573) 751-4328
Fax: (573) 526-4494

15. **Good Agricultural Practices (GAPs)** and **Good Handling Practices (GHPs)** are a collection of principles applied in on-farm production and processing to ensure safe and healthy food and agricultural products. The goal of these programs is to create a balanced production system that creates economic, social and environmental sustainability. GAPs and/or GHPs may be applied to different farming systems and at different scales. Such programs typically include specific methods, such as integrated pest management, integrated fertilizer management and conservation agriculture. GAPs and/or GHPs have four main goals:
    - To economically and efficiently produce sufficient, safe and nutritious food
    - To protect, sustain and enhance natural resources
    - To protect, sustain and enhance farming enterprises and contribute to sustainable livelihoods
    - To meet cultural and social demands of society

    There are currently no state or federal requirements for GAP or GHP certification in the United States. The USDA operates and Missouri participates in a voluntary audit/certification program to verify that farms use Good Agricultural Practices and/or Good Handling Practices. The USDA GAP/GHP Guidelines and Principles are based upon a 1998 Food & Drug Administration publication entitled, "Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables."

    USDA GAP/GHP Audit Verification Checklist
    List of Missouri USDA GAP/GHP Participants

16. **Food Safety for Consumers**

    Ensuring the safety of Missouri's agricultural products is a top priority for the Missouri Department of Agriculture. Each of the Department's five divisions works to ensure that consumers continue to enjoy a safe, wholesome and affordable food supply, as a healthy food system begins on the farm and ends with healthy communities. From the Animal Health Division to Plant Industries or Weights Measures and Consumer Protection to Agriculture Business Development, the Missouri Department of Agriculture is focusing on the safety of our food, working to raise awareness and strengthen food safety efforts among producers, processors and consumers.

    To learn more about each department's role and food safety resources in Missouri visit the department online at http://agriculture.mo.gov.