



# **Step by Step Guide for Establishing a Farmers' Market Association**

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## Developing a Farmers' Market Association

**M**anagement for farmers' markets can be provided from a number of sources. For example, non-profit associations, such as anti-hunger groups, may sponsor a farmers market as a means to ensure a fresh food supply to their constituency. In this case, the non-profit association would define the goals of the market, establish the rules and regulations, set fees, promote and provide a manager for the market. Farmers participating in a sponsored market may have little input into the way the market is operated and promoted to the public.

To maximize farmer input in the operation of a farmers' market, the market needs to be farmer-run. A farmer-driven market gives the farmers involved a sense of ownership in the market. This results in a greater commitment to seeing that the market is a success. Farmers/vendors will participate more in the general operations, cooperate more with the rules of the market and with each other, promote the market themselves, and work harder toward market improvement since it will have a direct impact on their own business.

To provide structure to the management of farmer-driven markets a Farmers' Market Association or cooperative needs to be established. This is a legally incorporated organization with a set of by-laws and a board of directors that act as the governing body of the Association. Those participating in the market become members of the Association or cooperative and are given voting rights in determining their board and in policy matters the board brings to the general membership for acceptance.

Establishing a Farmers' Market Association is not hard to accomplish. Often this can be taken care of during the slow winter months when the market membership has the time to get together and work the details through. The following pages will guide you through the procedure.

### Step One

To begin the process of establishing a Farmers' Market Association all parties to the market should come together to discuss the issues. First, they need to understand what a Farmers' Market Association is and what it can do for the market. An association is a governing structure for a farmers' market that is farmer/member-driven. It runs with a board of directors elected by the membership and a set of officers usually elected by the Board and follows a set of by-laws that has been voted upon by the membership. The board of directors sets the policies for the Association and the market and contracts with a manager to cover the daily operations of the market. The manager represents the board to the membership, consumers and the community and his or her actions are held accountable to the board of directors.

This style of market management provides the market with:

- A management structure for the market that gives it stability and support growth
- Farmer/vendor input into the operations of the farmers' market, eliciting a stronger commitment to the ultimate success of the market
- A framework for dealing with the problems that arise at farmers' markets

Another consideration would be the costs involved with a Farmers' Market Association. The dollar cost is not significant. There is a small fee for filing for incorporation that must be paid. Legal advice may be necessary, but many times a lawyer, sympathetic to a farmers' market, will do the work pro bono for the Association. (Look for an attorney in the consumer make-up of the market. Is there a "regular" who is an attorney. Look also at relationships with the market farmers and vendors - spouses, relatives, or friends. If not, a local legal aid society may be able to connect you with an attorney willing to do the work for you as

a community service.) Finally, there is generally a membership fee for the farmers and vendors to join the Association and participate in the Association-run farmers' market. These fees are necessary to fund the expenses of the market; i.e. manager salary, insurance, advertising, Farmers' Market Federation of New York membership, etc.; and are added to the market fees collected at the market to make up the operating budget of the Association.

The real cost of a Farmers' Market Association comes in the time required of its members, its board of directors and its officers. Members are generally required to attend one to two membership meetings per year - fall wrap up and spring start-up meetings. The Board of Directors will hold regular meetings throughout the year to be certain that the operation of the market is being conducted effectively and efficiently. Officers put in the most time, preparing for and attending board and membership meetings, generally overseeing the daily operations of the market, as well as planning for the future growth and success of the market.

Now that the market participants understand what a Farmers' Market Association is, the benefits and the costs of operating with a Farmers' Market Association, they can vote on whether to proceed.

## **Step Two**

Next, the group needs to discuss the goals and mission of the Farmers' Market Association. Will the market be market's primary purpose? The goals for the market will determine things like what type of products should be sold at the market and what fees should be charged to those vendors.

Farmers' markets sponsored by anti-hunger coalitions will want the market to exist to serve a low income community. This kind of market will want primarily produce vendors rather than having an abundance of baked goods and crafts. This market will want to stress that each eligible vendor be certified for the Farmers' Market Nutrition Program and enroll in the food stamp program if there is an opportunity for food stamp clients to begin to use their benefits at a farmers' market. Fees charged to vendors, who are relying on a low income population for their sales, will normally be charged a small fee, in keeping with the smaller net profits that would be realized.

Another market may be established as a means to revitalize a downtown or business district. A market being used to draw business to a downtown or business district will want a much broader vendor base. This market will include farmers with a variety of product, not just fruits and vegetables, but bedding plants, fresh cut flowers, maple and honey, meat and dairy products, baked goods and homemade crafts. The wider the diversity of product offered the greater the numbers of people the market will draw into an area on market day. The spillover effect into neighboring businesses is about 2 additional businesses per shopper, so the more people a market can draw, the greater the economic boost to the community. Fees for vendors in this type of market would be higher than markets serving low income residents since the potential for profit is significantly better.

Perhaps the most significant goal for a market that is to be run by a Farmers' Market Association would be as an outlet for local agricultural products to be sold directly to consumers. The ultimate goal is to provide retail level pricing in order to boost profits and sustainability for local farms. Many times markets run under this goal will require that the market be "producer only". That way the local farmer does not have to compete against produce re-sellers, that tend to depress prices. It also gives the customer assurances that they are buying the freshest possible produce, supporting local farmers, and keeping their dollars floating in the local economy. Fees charged at these markets are usually based on a budget developed to cover the expenses of the association; i.e. insurance, manager fees, membership dues to the Farmers' Market Federation of New York, advertising and promotions and special events.

### Step 3

Now that we have determined the goals of the Association, we can begin to develop a set of By-laws. The By-laws is a legal document that provides a clear description of the structure of the Association and the method by which it will be operated. There are several key chapters that need to be included in the By-laws and each of these sections requires careful consideration by the drafters.

- Identify the Association. In this first section you would identify the name of the Association. This will be the legal name that will be filed with the Department of State and be used in all contracts, financial agreements and business documents of the Association.
- Objectives of the Association. In this section you would spell out the goals or mission of the market. These were developed in Step Two.
- Define the membership. Generally any vendor wishing to sell in the market is required to be a member of the Association. The goals of the market will help to determine who is eligible for membership and therefore eligible to sell at the market. Eligibility should be made very clear in this section so that there can be no dispute later. You may also want to include duties of the members if there are to be any. Some markets require members to perform work for the Association, participating in special events planning, performing a share of the set-up or cleanup of the market, etc. Whatever duties will be required of the members, they need to be spelled out here. This section may also want to address membership fees. It is generally left unspecified, leaving the determination of membership fees to be established by the board of directors annually.
- Defining the Board of Directors. A Farmers' Market Association is generally run by a board of directors that are elected by the general membership. In this section you'll want to address the issues of the Board of Directors. First, how many people will make up the board and who is eligible to be a board member? It is recommended that you have an uneven number of board members to eliminate the possibility of tied votes. You must also define the elections for the board of directors, when will they take place and where. This includes the election of officers - president, vice president, treasurer and secretary. The members of the board elect the officers, but when this should occur should be spelled out in this section of the by-laws. Another component of this section of the by-laws defines the length of a board term and may place a limit on the number of terms that a board member can remain on the board. For example, the Farmers' Market Federation of New York defines a term as two years and limits each board member to two consecutive terms.

This section also delineates the duties of the board of directors and the officers. It may include specific duties that will require board approval, such as setting dates, times and locations of its markets, and hearing and acting on grievances. It may also require a specified number of board meetings that a board member is required to attend to remain on the board. It may also require board members to serve on committees, which are also spelled out in this section of the by-laws.

The role of each of the officers is defined in this section as well. Generally, the president presides over meetings, has the authority to sign contracts for the Association, hire a manager for the market and oversee the general operations of the Association. The Vice-president is a back up for the President. When the president cannot perform one or more of his duties, the vice president steps in for him, or replaces him should the president step down mid-term. The treasurer will handle the finances of the Association; preparing a budget for annual approval, paying the expenses of the Association, maintaining accurate records of the income and expenses of the Association and making regular

reports to the Board of Directors and annual reports to the general membership. The treasurer would also be responsible for any tax filings and for having the books audited annually. The secretary would take minutes of each meeting and maintain a record of all board meeting minutes. It is not uncommon for the treasurer and secretary to be combined into one position.

The section on the Board of Directors may also want to address removal of board members and officers for just cause. The procedure is clearly spelled out; i.e. the number of board member votes needed to remove another board member, what notice needs to be given to that board member, and a procedure for being heard on the charges against him.

Resignation of board members also is dealt with in this section. The By-laws will either state that the position can be filled by board appointment until the next election, the position must be filled by special election or remain open until the next election. It is most common for the By-laws to allow the board to temporarily appoint someone to fill the position until the next elections.

Finally, this section would need to define a quorum for board meetings. The quorum defined needs to be met before business before the board can be conducted. For this reason, it is not uncommon for the quorum to be defined simply as "a majority of those present at a duly called meeting."

- Operations of the Board. This section of the by-laws deals with establishing the annual meeting. It may set a time of the year when this is to occur, required notice to membership, and define a quorum of members required to be present for the annual meeting to be valid.
- Amendments. This brief section will detail the requirements for amending the By-laws, calling for a member meeting with advanced notice of meeting and all amendments to be voted upon.
- Termination. Should the Farmers' Market Association be terminated for any reason, this article will define what is to be done with any remaining assets of the Association.

The By-laws are without a doubt the most important document of the Farmers' Market Association. They are the foundation on which it is built. For this reason great care must be taken in designing them. Typically, this process will take several meetings to get everything set and to reach consensus among the planners. It is not unusual for them to be rewritten many times before the final document is ready to be presented to the general membership for adoption.

A sample By-laws can be found in Appendix A.

#### **Step 4.**

Now that the By-laws are complete the planning group is ready to develop a membership agreement. This is basically an application to belong to the Farmers' Market Association and to participate in the Association-run farmers' markets. The agreement will note the costs of membership as well as the cost of participating in the Association markets. It will also outline the responsibilities of the members; i.e.

- participation in working committees,
- abide by the by-laws and market rules established by the Board of Directors,
- pay all fees assessed by the Association,
- present copies of all applicable licenses,
- agree to allow farm inspections by market representatives and
- hold the Association harmless in disputes the member may have with the Association.

The membership agreement will also define terms by which a member may be suspended or terminated from the Association and its markets. A signature of the member indicates agreement with all terms set forth in the membership agreement. A sample membership agreement is provided in Appendix B.

## **Step 5.**

This next step is important in developing the markets of the Association. The planning committee will break into several committees to be sure that all the tasks of establishing and operating a farmers' market are covered.

- Vendor recruitment. This committee will be charged with soliciting new vendors for the Association's farmers markets. There are many avenues they can explore. The NYS Department of Agriculture prints a "Guide to Farm Fresh Foods" which lists all farmers by region and county that direct market their farm products. The Guide details what products they have to sell and gives their name, address and phone number for contacting them. The county's Cornell Cooperative Extension office maintains a mailing list of farmers. While they probably will not provide you with the list, they usually will allow you to put together a letter that they will send to their mailing list for you. Ads in farm publications are well read and may bring in new vendors to the market. These are typically classified ads and are inexpensive. A press release announcing the formation of the Farmers' Market Association with a note that you will be accepting new farmers into the markets can be sent to local newspapers and farm newspapers. This also may create new leads for the committee to follow-up on. Of course, knocking on doors and talking with local farmers and asking them for suggestions works very well. It gives you the opportunity to explain the benefits of participating in farmers' markets and answer any questions the potential vendor may have about your market.
- Advertising and Promotion. This committee will determine a promotional campaign to bring the community residents to the market. They will explore the traditional venues of radio, television and print ads. They'll also look into other less costly means of promoting the market, such as printing flyers that can be posted in local shops and businesses, print and distribute bag stuffers to local shops that would be willing to promote the market by placing one of the market's flyers in each customer's bag at the checkout, and making arrangements with a local paper to print articles written by the committee that detail information and recipes on locally produced fruits and vegetables. Press releases about anything newsworthy at the market are another means of no-cost advertising. Send them out announcing the start of the new season, whenever there is an event or festival occurring at the market, welcoming any new vendor that may come into the market or announcing the arrival of fresh strawberries and local sweet corn. Also be sure to invite reporters to visit the market. The more they are involved, the more you'll find articles and pictures of the market published without you having to do anything other than cultivate the reporter's goodwill.

Signage will also be the responsibility of this committee. A large sign with the market's name, days, hours and season should be made and put up in front of the market each market day. Additional signage could be used around the market site to direct people to the market, i.e. Farmers' Market with an arrow. Banners make excellent signs. A banner crossing the main street with the market name, days, hours, season and location can be left up all season and remind people of the market every time they drive down that street.

The advertising committee may also be charged with developing and running special events at the market. Special events, while they may not generate immediate sales for the market farmers, they do introduce new people to the market that may continue to visit the market because of the positive

experience they had when attending the special event. These events do not have to be elaborate; they can be very simple. Demonstrations are always popular at a farmers' market. For example, chef demonstrations using foods found at the farmers' market or nutrition outreach by the local Cornell Cooperative Extension or other local nutritional service organizations. Craft demonstrations, especially old-time crafts like weaving and spinning, blacksmithing and coopering draw crowds from every age group. Musical entertainment is always appreciated by customers, although not always appreciated by the vendors who are placed near the music for the entire market day. Music does not have to be a band, but can be a lone musician playing guitar or fiddle or a local barbershop quartet, or any other. Variety is important so that you target all potential customers.

The advertising and promotions committee must develop a budget for their advertisements and special events. This budget will be given to the finance committee to be incorporated into the Association budget.

- Facilities. This committee will evaluate the location and operation of the Association-run markets. They will assess the effectiveness of current market space, review the dates and times of the market to be sure they correspond to product availability and consumer needs. They will also be charged with the responsibility of working with the local government to procure space for the market, obtain any permits or licenses they will need to operate the market (for example a show permit or a peddler's permit). This committee will develop the market rules and regulations for full committee approval or review the current rules and regulations and make recommendations for any changes needed. The facilities committee may also be charged with finding market insurance covering the Association's markets. And finally, the committee will need to apply to the New York State Department of Agriculture & Markets for certification into the Farmers' Market Nutrition Program and get their vendors certified as well.
- Finance. The finance committee will be responsible for the finances of the Association. They will open and maintain a bank account, pay all the expenses of the Association, make periodic reports to the board of directors and an annual statement of income and expense to the general membership at the annual meeting. This committee will also develop the budget for the Association and make recommendations to the full board or planning group for fees to be charged for membership and market space.

Once the committees have completed their tasks for the upcoming season, they will report back to the entire planning group with their final recommendations. The group will then come to an agreement on the annual budget, the rules and regulations for the market, market locations, dates and times, membership and market space fees and an advertising and promotions campaign and a schedule of special events.

## **Step 6.**

The group is now ready to host the first annual meeting for the newly formed Farmers' Market Association. All potential members and participants of the Association's farmers' markets should be invited to attend this meeting. Here the planning committee will lay out all of their work to the general membership. They will discuss the reasons they have chosen to develop the Farmers' Market Association and what the benefits will be to its members. They'll go over the budget developed and announce the fees to be charged in order to meet that budget. They'll present the membership agreement and the duties and responsibilities of members. They'll also need to present the by-laws for ratification. The annual meeting will give the general members an opportunity to voice their opinions on the work of the planning group. They may have suggestions to make or questions that need to be answered before they can vote to proceed

with the Association and before they can vote to ratify the by-laws. The By-laws, rules of the market, budget and membership agreement may have to have changes made, but these are usually minor if the committees kept the farmers needs in mind as they developed the Association.

Once the general membership has approved of the formation of the Association, agreed to abide by its governing documents, and ratified the by-laws, they now will elect their first board of directors. From the elected board, a slate of officers will also be elected to run the newly formed Association.

### **Step 7.**

Once the By-laws have been ratified by the general membership, the board will want to incorporate the Farmer' Market Association. Incorporating provides protections to the Association's board of director's and members from the liabilities incurred by the Association. Meaning, members' personal assets are separate from the Association's assets and cannot be held liable for debts of the Association. Incorporating also makes the Association a legal entity and allows them to secure funding and grants without requiring a sponsoring organization to funnel funds through. For example, the New York State Department of Agriculture & Markets has an annual Farmers' Market Grant Program. Without being a legal entity, the market would need a sponsor through which to apply for this grant. By incorporating, the Farmers' Market Association can apply directly for this and other grants.

To incorporate, a lawyer is usually hired to draft articles of incorporation for the Farmers' Market Association. This is a document that describes the Association and outlines the powers of the corporation. It also specifies what type of corporation this Association was formed under. In this case, it is most likely that the Farmers' Market Association would apply for a 501(c)6 non-profit trade association. The articles of incorporation, along with the By-laws are filed with the New York State Attorney General's office. Once they are recorded, you will receive a certificate of incorporation with the seal of the attorney general embossed on it.

Now you are ready to complete the IRS application for non-profit status. IRS Form 1024 needs to be completed and filed with the IRS to give the Association non-profit status. This process is time consuming and it is advisable to have a lawyer help with this. Once the paperwork is complete and sent to the IRS, it will take up to six months to receive a letter of determination authorizing the Association as a non-profit trade association. This means that any monies taken in by the Association will not be taxable as income to the Association. The letter of determination will also tell you that you need to file IRS Form 990 each year, should your income exceed \$25,000. This form is meant to demonstrate to the IRS that your Association has not changed and that your income is still qualified as tax exempt under 501(c)6 guidelines. The 990 can be easily accomplished by the Association treasurer.

At this time, the Farmers' Market Association is complete. It is now a legal entity and is a farmer-driven organization. By following the procedures established in the By-laws and working to the benefit of the farmers' market as a valuable resource for the marketing of local agricultural products, the Association should live a long and prosperous existence.

# Appendix A: By-Laws

## Article I -- Name

The name of this organization shall be XYZ Farmers' Market Association

## Article II -- Purpose

The purpose of this Farmers' Market Association is to operate farmers' markets in city/county/region. Our mission is to build markets to be profitable outlets for local agriculture and valuable sources of fresh foods for consumers.

## Article III -- Membership

Any person and his/her spouse, if applicable, residing in XYZ county(s); engaged in the growing and production of agricultural products, who agrees to abide by the Rules and Regulations of the Association, may become a member upon the approval of the Board of Directors. Membership is also open to persons who make their own homemade products or crafts, agree to abide by the Rules and Regulations of the Association, and are approved by the Association's Board of Directors. Special membership privileges may be granted to persons or organizations who want to support our organization but may not want to be vendors. Special membership shall have no voting privileges. The Board of Directors will consider each such membership individually.

Members will also be required to serve on a minimum of one committee of the Association. These committees may include, but are not limited to: advertising and publicity, special events, new market development, and facilities. Should a member not fulfill this obligation, then he/she will be fined fifty dollars (\$50.00), which will be due and payable before they will be accepted for membership in the upcoming year.

## Article IV -- Officers and Board of Directors

1. At a general meeting to be held no later than December 15th, elections will be held to elect members of the Board of Directors.

2. Only one person per membership may serve on the Board of Directors at the same time. Only one vote is permitted per board member even though a Board member may hold more than one office at any time.

3. The Board will consist of five (5) members with at least two (2) positions to be held by farmers. The following officers are to be elected annually and may not serve more than three consecutive one-year terms in the same office; terms start January 1 and run to December 31: President, Vice President, Secretary and Treasurer.

4. The Board members serve on a volunteer basis, but may be reimbursed for reasonable expenses as determined by the Board of Directors.

5. The duties of the Board of Directors shall be to transact all business of the Association, including but not limited to:

- a) Hiring market managers
- b) Financial, paying all expenses of the Association, seeking and applying for funding from outside sources, maintaining proper financial records, establish membership and market stall fees, developing an annual budget for approval by the general membership
- c) Maintain all records of the Association including membership roles, NYS sales tax records, FMNP papers, and any other records deemed necessary by the Board of Directors
- d) Make recommendations for amendments to the Rules and Regulations, as needed, for approval of the general membership
- e) Hear and rule on grievances

6. The President shall call and preside over meetings, appoint committees and perform duties in the interest of the Association.

7. The Vice President shall perform duties of the President in his/her absence.

8. The Secretary shall keep a record of the proceedings of all meetings, a record of attendance at all meetings, send a written notice to all the members at least one week prior to each meeting, attend to all correspondence of the Association, and perform any duties for the Association assigned by the Board of Directors.

9. The secretary shall also keep records of all markets, have possession of market books when markets are ended, make up new listings for the following year, have an up-to-date file of all members and the attendance at designated markets, obtain market show permits as required by law. He/she may appoint a committee if necessary in consultation with the President to delegate responsibilities to committee members.

The Treasurer shall collect and hold all Association money in bank accounts and pay all bills consistent with the approved budget. The Association's checking account will require the signature of two members of the Board of Directors, the treasurer and any one other member. The Treasurer shall present the books and records annually to the auditing committee consisting of a minimum of two members appointed by the President. The Treasurer shall keep complete financial records and present a report at each meeting of the Association. He/she shall present a detailed year-end report to the Board of Directors and is responsible for preparing a preliminary budget for the upcoming year.

#### **Article V -- Operations**

1. Association meetings will be held once each Fall to wrap up the market season and elect officers for the following year. They will meet once in Spring to present a budget and market dates and times for the general membership's approval. The dates of these meetings to be designated by the Board of Directors. Special meetings may be called at such other times, as the Board feels necessary.

2. The Board of Directors shall meet as necessary to transact the business of the Association, which cannot be accomplished at the regular Association meetings.

3. Members in good standing shall have the privilege of voting at all Association meetings. Members are allowed one vote per membership.

4. A nominating committee shall be appointed by the President. The duties of the nominating committee will be to prepare a slate of officers for the annual elections to be held at the Fall meeting of the Association.

5. The fiscal year shall be January 1 through December 31.

6. Proceeds derived from annual membership fees and stall rental fees shall be used to pay expenses of the Association, including, but not limited to, market liability insurance, membership in the Farmers' Market Federation of New York, advertising and promotion, special events, and market manager's salary.

#### **Article VI -- Amendments**

The By-Laws may be amended at any meeting of the Association by a two-thirds vote of the members present, provided due notice of such proposed amendments be mailed by the Secretary to the entire membership not less than fifteen (15) days prior to the said meeting.

#### **Article VII -- Termination**

Should the Association dissolve or become inoperative, any remaining money shall be disposed of according to the recommendation of the Board of Directors with the approval of the membership and consistent with applicable laws.

## Appendix B - Membership Agreement

### XYZ Farmers' Market Association

Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2002 between (Name of owner/member) \_\_\_\_\_ and the XYZ Farmers' Market Association, hereinafter known as XYZFMA

#### **I. Agreement to abide by the XYZ Farmers' Market Association Regulations:**

- a. I have read and agree to abide by the 2002 XYZFMA By-laws and Rules and Regulations.
- b. The information I have provided in this application is accurate and complete. I will provide the XYZFMA Board of Directors with additional information as needed to verify the claims made in this application and my compliance with the XYZFMA rules. The information I subsequently provide will likewise be accurate and complete.
- c. I understand the XYZFMA is a non-profit organization operating with limited funds. I acknowledge that the beneficial purpose (to assist small regional farmers or producers such as myself) will be impossible to pursue if it is subjected to costly litigation against the XYZFMA and its officers only after attempting in good faith to resolve the dispute through the XYZFMA Board of Directors or the Association with results in denial of a market acceptance, the denial of a product to sell, or wrongful suspension or termination from XYZFMA, to a return of market fees incurred during my absence from the market. I further agree that in the event I am unsuccessful in my litigation against XYZFMA, I will pay all costs, expenses, fees and disbursements incurred by XYZFMA in the course of its defense of said litigation and I will also pay XYZFMA a reasonable attorney's fee.

#### **II. Use of XYZFMA Sites:**

I agree to sell at XYZFMA locations only on the day(s) the market is scheduled, unless I receive written authorization to the contrary. I understand that while XYZFMA obtains permits, reserves designated space and promotes markets, XYZFMA can not guarantee market assignments or minimum sales at any market.

#### **III. Suspension and Termination:**

Unless otherwise specified in XYZFMA Regulations, any violation of this agreement may result in suspension or termination from XYZFMA at the discretion of the Board of Directors.

#### **IV. Duration of Agreement:**

This agreement applies to the current XYZFMA season only (2002), and in no way implies acceptance to the XYZFMA in the future.

Signed: \_\_\_\_\_

Business Name: \_\_\_\_\_