

Official Rules of the Durham Farmers' Market

1. **Definitions.**
 - a. **By-Laws:** By-Laws for the Durham Farmers' Market
 - b. **Craft item:** An item that demonstrates the manual skill, technique, and proficiency of the market member, as well as prepared foods prepared by the market member
 - c. **Craft Member:** A market member that sells craft items and for whom craft sales accounts for 50 percent of the market member's average booth sales or display space over the course of the season
 - d. **Farm Member:** A market member who sells direct farm products and value added farm products produced or grown by the market member
 - e. **Market day:** 8:00 am-12:00 pm during the Saturday Main Season Market, 10:00 am-12:00 pm during the Saturday Winter Market, and 3:00-6:00 pm during the Wednesday Market
 - f. **Market Member:** A business that is approved by the Board of Directors to sell at the Saturday Main Season Market, Wednesday Market, and/or Saturday Winter Market. All market members must meet the qualifications listed in the following sections.
 - g. **Market season:** April 1- March 31 of the calendar year
 - h. **New Market Member:** A market member who has been accepted into the market by the Board of Directors and is selling at the market during his/her first market season
 - i. **Returning Member Application:** The form that market members must submit to the Market Manager each year by December 31 in order to remain eligible to sell during the upcoming market season
 - j. **Seniority:** Please see the definition below at section 6(f)(5)
2. **Market Member Qualifications.**
 - a. Each market member must reside and produce items to be sold at the Durham Farmers' Market within a 70 mile radius of the Durham city limits and within in the state of North Carolina.
 - b. The Durham Farmers' Market is a "Producer Only" market; as such, each market member must be the original producer of the items sold.
 - c. All items sold at market must be produced by a market member or a designated representative of the market member.
 - d. A market member may lease land for crop production. However, the market member must perform all operations from seed/start to harvest.
 - e. The Board of Directors (BOD) or Market Manager may conduct an inspection of any market member's farm/facility at any time to verify a crop's origin.
 - f. Any market member who engages in re-selling products outside of the farmers' market that is of the same or similar nature as the products sold at market may be subject to additional requirements in order to verify the legitimacy of products sold at the Durham Farmers' Market.
 - g. A market member who purchases land with a perennial crop on it may sell that crop in the year of purchase.
3. **Market Operation.**
 - a. Market Operating Schedule
 - i. The **Saturday Main Season Market (SMSM)** is open from the first Saturday in April through the Saturday before Thanksgiving **from 8:00-12:00 pm**. Market members must arrive by 7:30 am to set up. If a Member does not notify the Market Manager in advance and arrives after 7:30 am, the following penalty will result: 1.) First offense – written warning;

- 2.) Second offense - \$20 fine; and 3.) Third or subsequent offenses - \$50 fine.
- ii. The **Saturday Winter Market (SWM)** is open on Saturdays from December through March from **10:00 am-12:00 pm**, under the same rules as SMSM, except there will be no set up allowed before 8:30 am and no sales before the opening bell. In addition, attendance at SWM has no effect on seniority calculations for SMSM.
- iii. The **Wednesday Market (WM)** is open on Wednesdays each week from mid-April through mid-October from **3:00-6:00 pm** under the same rules as SMSM, except there will be no set up allowed before 2:00 pm and no sales before the opening bell. In addition, attendance at Wednesday Market does not affect seniority for SMSM. The BOD by the Annual Meeting of each calendar year will set the Wednesday Market schedule.
- b. All market members approved to sell at the SMSM are also eligible to sell at the SWM and WM. The BOD may, at its discretion, approve new applicants to sell at either the SWM or WM only, without granting the right to sell at SMSM.
- c. Reserved spaces at market
 - i. Market members with reserved spaces must notify the Market Manager if they will not be selling at SMSM or SWM on any given Saturday by 5:00 pm on the Thursday before the SMSM or SWM that they will miss. Failure to notify the Market Manager by this time will result in a fine equal to the member's space fee.
 - ii. Market members may not move their vehicles into or out of the market area during times when such movement would pose danger to people in the shopping area. **No market member will be allowed to leave before the end of market except in the case of an emergency.**
 - iii. See Section 6 below for information about space allocation at market.
- d. Market Signage Guidelines
 - i. Prices must be clearly posted for all items sold.
 - ii. Market members determine their own prices, but it is recommended that prices reflect accurate and fair value.
 - iii. Only certified organic growers may use the term "organic" in their advertising at the Durham Farmers' Market.
- e. Market members are responsible for cleaning up the area around their stalls after market.
 - i. Failure to clean up the area may jeopardize the market's use of the site and will not be tolerated.
 - ii. No water or ice that comes in contact with meat or fish should be deposited or allowed to drain on market premises.
 - iii. Failure to clean the space will result in a fine equal to the stall fee on the market day.

4. Market Member Responsibilities.

- a. Fees:
 - i. All fees are in effect from April 1 to March 31.
 - ii. Annual membership fee of \$100 must be paid by each market member by December 31. Annual membership fees are nonrefundable, regardless of whether or not the member attends market during the course of the season.

- iii. **Stall Fees** are set by a vote of the membership at the annual meeting. Current stall fees are as follows:
 - **Saturday Main Season Market** \$30 for one space, \$60 for a second space (total of \$60 to occupy 2 spaces).
 - **Saturday Winter Market** daily fee is \$20, single spaces only.
 - **Wednesday Market** daily fee is \$15, single spaces only.
- b. Attendance at the Annual Membership Meeting is mandatory for all market members. Any market member failing to attend the Annual Meeting will be assessed a fine of \$10 and will forfeit his/her right to a reserved space for the year. Market members may send a proxy to the Annual Meeting. The proxy cannot be another market member. The market member must alert the BOD of the identity of the designated proxy in writing. The letter designating the proxy must be received 10 days prior to the Annual Meeting. The BOD may make an exception to this rule for health emergencies, provided the market member contacts a Board Member prior to the Annual Membership Meeting.
- c. Market members must provide a copy of all documentation (kitchen inspection, lease agreements, etc.) with their annual Returning Member Application.
- d. Market members wishing to sell a new category of product must have the product approved by the BOD prior to selling the product at the market.
- e. A hard copy of the Rules and By-Laws will be provided to any market member upon request. These documents are also available on the Durham Farmers' Market's website.
- f. To remain a market member in good standing, a member must attend the Market a minimum of 10 market days per market season, April 1- March 31. Any market member who does not participate at least 10 market days in the previous season must reapply as a New Member Applicant and pay the New Member Application Fee. The BOD does not guarantee reinstatement of a market member who reapplies as a New Market Applicant under this subsection.

5. Application Process for New Market Members.

- a. Any individual wishing to become a new market member must submit a nonrefundable application fee or fees and a completed and signed New Member Application in one or multiple parts or stages. The New Member Application will be available on the Durham Farmers' Market's website, along with information about the deadline. The BOD may refund any portion of the application fee it sees fit.
- b. The BOD will review all complete New Member Applications, make inspections of farms or production sites, select new market members, and send decision letters to all applicants by March 1 of each calendar year. New market members will be eligible to sell at each market for which the member has been approved beginning April 1.
- c. If the BOD accepts an applicant as a new market member, the new market member must submit the following to the Market Manager prior to the Annual Membership Meeting in March:
 - i. \$100 annual membership fee
 - ii. Returning Member Application supplied by the Market Manager
 - iii. A contract between the new market member and the Durham Farmers' Market acknowledging the member's agreement to abide by the rules of the Durham Farmers' Market
 - iv. All appropriate documentation, including copies of any necessary licenses, permits and insurance

6. Market Member Space Allocations.

- a. Each market member is allotted one space. No shared spaces are permitted.
- b. The Market Manager will grant second spaces, as space permits, to qualified Farm Members.
- c. Obtaining a Double Space
 - i. A Market Member with reserved space privilege must apply for a double space in the returning membership application including a letter justifying need for a double space.
 - ii. The board will make a determination for the member if they are granted double space eligibility prior to the annual meeting. Eligibility applies only for the current year.
 - iii. At the space selection, during the annual meeting, when eligible members come up in the seniority list, they may select a double space if two empty spaces are available.
- d. Retaining a Double Space
 - i. In order to maintain the privilege of reserving a Double Space, a market member must:
 - attend market and occupy both spaces at least 27 weeks; and
 - demonstrate a clear need for use of a double space.
 - ii. If it is decided that the market member's Double Space is underutilized the Board must promptly notify the market member in writing. The following penalties may apply:
 - rescind the privilege for the market member to reserve a double space for the coming season; or
 - place the market member on probation for the subsequent market season.
- e. Non-reserved spaces will be available and assigned on a first-come, first-served basis as directed by the Market Manager.
- f. Reserved Spaces
 - i. The reserved space selection for SMSM and WM will take place once a year at the Annual Membership Meeting. A market member's reserved space preference may only be communicated by the individual market member or the duly designated proxy in attendance at the Annual Membership Meeting. Swapping spaces after this annual selection is not permitted except under extraordinary circumstances and with permission of the BOD.
 - ii. The reserved space selection for SWM will take place once per year at the end of October. The Market Manager will notify members of the meeting date and time 30 days in advance. The SWM space selection process operates under the same rules as SMSM and WM.
 - iii. To qualify for a reserved space at the SMSM, SWM or WM, a market member must have participated in that market at least 66 percent of the weeks of its operation during the previous season. A member may appeal in writing to the BOD for a hardship exemption prior to the Annual Meeting.
 - iv. Returning members who had a reserved space at the SMSM, SWM, or WM the previous season and who have met the requirements to reserve a space at that market for the upcoming season have first right of retention to maintain the same reserved space for the upcoming season. Any resulting open spaces may then be selected by those eligible to

- reserve a space for the upcoming season in accordance with the rules of the seniority system.
- v. Seniority for the purposes of space reservation at the SMSM, SWM or WM will be calculated by taking an average of the number of weeks of a member's attendance at that market in each of the last three years plus the number of years the member has attended 66 percent or more of the total weeks of operation of that market with a cap of 15 years for the years component of this equation. The years component shall include all years of 50 percent attendance earned while the 50 percent rule was in effect, that is, 2015 and prior. Ties in seniority will be settled by awarding the higher ranking to the member with the highest total number of weeks for all years in attendance at whichever market is under consideration.
 - vi. **Reserved spaces will only be held until 30 minutes before market opening** unless prior notice is given to the Market Manager. Market members with reserved spaces must notify the Market Manager by Thursday at 5:00 pm if they will not be attending the market that week.
 - vii. During special circumstances, such as extreme weather or to fill in empty spaces, the Market Manager may give members the opportunity to move stall locations on a one-time basis to address these special circumstances.

7. Role of the Market Manager

- a. The Market Manager has the following responsibilities: conduct onsite operations of the market; communicate with vendors; serve as the liaison between the market and local organizations, businesses, the City of Durham, and other partners; manage projects at the direction of the BOD; plan and oversee special events at the market; manage all marketing and advertising activities of the market; coordinate volunteers; seek out funding opportunities and manage fundraising for the market; create and manage an annual budget for the market in coordination with the BOD; supervise all market staff; ensure safety of Market Members and customers at market; and handle all market recordkeeping. The Market Manager has the authority to collect all required fees and to monitor the market in order to ensure market member compliance with all rules of the market and policies established by the BOD. The Market Manager will require compliance with all such rules and policies. The BOD may hire an Assistant Market Manager to support the Market Manager in carrying out these duties.

8. Complaint Process

- a. Any Market Member or Durham Farmers' Market customer may file a complaint with the BOD. Complaints must be submitted in writing to the market's P.O. Box, via e-mail, and/or hand delivery to the Market Manager or member of the BOD. The Market Manager or a member of the BOD may follow up with the individual submitting the complaint to request additional information.
- b. The Market Manager will consider all complaints and will forward important complaints to the BOD in a timely manner. If the complaint concerns the Market Manager, the complaint will go directly to the BOD. Any action to be taken will be determined by the BOD. If inspection is deemed necessary it can be conducted at any time. A letter will be sent to the market member regarding the nature of any infraction.
- c. The Board of Directors may vote to suspend for a fixed period of time or to

expel permanently any Member for cause (By-Laws Section 8). Members have the right to notice before any such action is taken. Cause may include, but is not limited to:

- i. Failure to submit to or abide by decisions made by the Board of Directors, including the Market Rules, or to accept any ruling of the membership. All rules are subject to fines and consequences:
 - A first violation will result in a verbal warning.
 - A second violation will result in a written warning and a \$25 fine.
 - A third violation may result in the suspension or termination of the vendor's membership, the suspension or expulsion of the responsible individual (owner or staff), and/or further fines.
 - ii. Selling or offering for sale any product not grown or originally produced by the Member.
 - 1st violation: Immediate four-week suspension and BOD review.
 - 2nd violation: Indefinite suspension or termination of membership.
 - iii. Failure to pay dues in accordance with the By-Laws.
 - Annual dues are not refunded when a Member is expelled for any reason.
- d. The BOD reserves the right to prohibit the sale of any product at the market. A member of the BOD's Executive Committee will consult with BOD members present at the market and can decide to prohibit the sale of a particular product when it is in the best interest of the market or to prohibit a vendor from selling any products on that market day.
- e. Questions concerning the Rules or By-Laws should be submitted in writing to the BOD.

9. Eligible Market Products

Direct Farm Products

- Vegetables grown from seeds, sets, or seedlings grown on land owned or leased by the market member.
- Fruit, nuts or berries grown on land owned or leased by the market member.
- Plants grown by the market member from seed, bulbs, transplants or cuttings grown on land owned or leased by the market member.
- Bulbs propagated by the market member.
- Cut and/or dried flowers, herbs or seeds, raised by the market member on land owned or leased by the market member.
- Honey and bee products from the market member's bees.
- Meat and eggs from livestock owned by the market member, subject to provisions in the Meat and Egg Producer Rules.
- Fish caught within market radius, subject to BOD approval.

Value Added Farm Products

- Cheese or milk products from the member's animals or produced by an NCDA inspected farm or dairy. The BOD must be provided with a copy of all inspection documents.
- Dried, cured or otherwise processed meat products, subject to provisions of the Meat and Egg Producer Rules.
- Floral arrangements from fresh or dried flowers grown on the

farm.

- Other items made predominantly from products grown or gathered on the member's farm.

Prepared Foods

- Preserves, pickles, jams, vinegars, etc., made by the market member. No "low-acid" canned foods such as green beans, corn, peas, carrots, etc., may be sold. High acid, or acidified foods (pickles, tomato products, etc.) may be sold if the seller has passed the FDA certification course. A copy of the certification must be on file with the Market Manager.
- Fresh baked goods made by the market member.
- Beverages that may be sold include coffee, herbal teas, and lemonade.

Crafts

- Crafts include prepared foods and hand-made items. Hand-made crafts must comply to the crafts statement and rules

- a. No re-sale of produce or other products is allowed.
- b. The BOD may conduct an inspection of any market member's farm/facility at any time to verify a product's origin.
- c. No live animals may be sold or given away at market.
- d. All products sold at market must meet state and local health regulations including, but not limited to, U.S. Department of Agriculture (USDA), N.C. Department of Agriculture & Consumer Services (NCDA), and Durham Health Department guidelines and regulations, as applicable.
- e. All produce must be of top quality, as determined by the Market Manager.
- f. Products that may be sold at the Durham Farmers' Market are listed below. If more than 50 percent of a market member's average booth sales or display space over the course of the season is of craft items, the market member is considered a Craft Member. All Craft Members must abide by the Crafts Statement and Guidelines below.
- g. The sale of all meat, poultry, fish and all products not listed above must be approved by the BOD. Market members must abide by the Meat and Egg Producer Rules below.
- h. Prepared foods are considered craft items and prepared foods vendors are considered Craft Members of the market.
- i. If members are making deliveries (CSA, etc.) at the Durham Farmers' Market, all contents must be eligible for sale according to these rules unless granted special permission by the BOD.

10. Crafts Statement and Rules

- a. Crafts will be permitted for sale at market. Crafts that are farm related or that source local materials are especially encouraged. Artisans are encouraged to include information about the source of their local materials and/or the history of their craft. Acceptance of craft applicants will be based on space availability, category of craft, materials used, general quality and workmanship. Market members classified as farmers may sell non-farm crafts. These crafts must meet all guidelines contained herein and be approved by the BOD. If more than 50 percent of a market member's average booth sales or product display over the course of the season are of craft items, the market member is considered a Craft Member.

- i. Crafts, for the purpose of the Durham Farmers' Market, shall be determined to be: an item that demonstrates the manual skill, technique, and proficiency of the crafts person.
 - ii. Non-farm crafts are produced from materials not grown or harvested by the member. Prepared foods are considered to be non-farm crafts.
 - iii. Farm crafts are value-added farm products produced predominately from materials grown and harvested by the crafts person. Farm crafts are not subject to the guidelines for non-farm crafts.
- b. Specific Criteria
 - i. All crafts must be hand crafted by the member.
 - ii. Crafts, excluding prepared foods, must be the product of a home or cottage type industry using an intermediate type technology rather than an industrial type production. To be considered "hand crafted," the item must show evidence of manual skills obtainable only through a significant period of experience and dedication. The craft component materials must be sufficiently modified from their original state to demonstrate fine craftsmanship.
- c. Examples of unacceptable items would be, but not limited to: tracings or paint by number, printed materials, ceramics or pottery from commercial molds, wood carvings using duplicating machines, kits in any form, and any other items which clearly do not reflect originality of design.
- d. The value of purchased raw materials shall not exceed 30 percent of the selling price.
- e. All crafts must be of excellent workmanship both in quality and design.
- f. All crafts vendors must comply with and abide by all Rules and By-Laws of the Durham Farmers' Market.
- g. The Market Manager has the discretion to immediately remove any craft item considered objectionable. The BOD must review the Market Manager's decision at the next scheduled board meeting and make an official ruling on the matter.

11. Meat and Egg Producer Rules

- a. Market members who sell meat and/or eggs must comply with local, state, and federal laws and regulations designed to ensure that such products sent into commerce are wholesome, unadulterated, and properly labeled. NCDA&CS enforces these laws. Any market member who receives, stores, transports and/or sells USDA-inspected meat products is required by law to register as a meat handler with NCDA&CS. Any market member who is required to have a meat handler's license must have a copy on file with the Market Manager.
- b. In accordance with the DFM "producer only" rule, the following terms define what it means to have produced meat and/or eggs for sale at market. All meat and egg producing livestock must be kept and cared for by the member on his/her farm for a period of time as defined below.
 - i. Rabbits: All rabbits must be born on the market member's farm.
 - ii. Poultry: Meat birds must be on the farm by the end of their first week of age. However "Stewing Chickens" (a retired layer flock) must have lived on the market member's farm for at least one year prior to processing for sale, but do not have to arrive at the farm by a specific age.
 - iii. Egg layers: Eggs sold by a market member must be from birds kept on the market member's farm.
 - iv. Livestock: Any other livestock purchased (not born on the

farm) must be held by the market member for a minimum of:

- Pigs: 4 months
 - Sheep/Lamb: 6 months
 - Goats: 6 months
 - Beef: 9 months
 - Bison: 9 months
- c. Market members who sell meat and/or eggs must keep on file both dated receipts of purchase, or birth record, and dated receipts for slaughter of livestock and poultry. Upon request by the Market Manager or BOD, the market member must produce these records.
- d. No water or ice that comes into contact with meat may be deposited or allowed to drain onto the market premises.

12. Value Added Meat Products Rules

- a. Value added meat products are created when meat is processed into other products. Examples include sausage, jerky, meats cured by smoking or drying, and hot dogs. Value added meat products are allowed, provided that 100 percent of the meat is from animals produced by the market member in accordance with the definitions and guidelines above. Casings for sausage are excluded from the 100 percent requirement. Other non-meat items, such as spices, are allowed in value added meat products. Information on how and where the value added product is produced should be provided with the market member's application.
- b. Charcuterie products are considered a prepared food and subject to the "non-farm crafts" rules. Charcuterie includes cured, dried, or preserved meat products, such as salami, pâté, and craft sausages. Charcuterie crafters are not required to raise their own meat, meat must be produced within 70 miles of the DFM, strong preference will be given to applicants who sourced directly from DFM members. Charcuterie crafters must adhere to NCDA&CS (NC Dept. of Ag and Consumer Relations) regulations, as well as County Health Dept. inspection at an owned or shared kitchen. Market manager must be provided with a copy of the inspection report each time the kitchen is inspected. Any market member who receives, stores, transports and/or sells USDA-inspected meat products is required by law to register as a meat handler with NCDA&CS. Any market member who is required to have a meat handler's license must have a copy on file with the Market Manager."

Appendix to the Official Rules of the Durham Farmers' Market

Appendix A: Transition Plan Guidelines

A transition plan must contain the following components:

- a. Narrative document titled "Transition Plan for [your business]" with date of submission, address and city, state.
- b. Previous owner(s) or ownership group along with dates for term of operation/participation.
- c. Previous principal farmer(s) or business operator(s) with phone and e-mail contact info.
- d. New/additional owner(s) or ownership group along with dates for transition of operation/participation.
- e. New principal farmer(s) or business operator(s) phone and e-mail contact info.
- f. Copy of deed, lease or LLC document as evidence of transfer/transition.
- g. Description and length of relevant experience of new principal farmer(s) or business operator(s).
- h. Description and length of active participation of new principal farmer(s) or business operator(s) in farm/business.
- i. Any change in business location, hours, product offerings, employee count, etc.
- j. Description of how new principal farmers(s) or business operator(s) will ensure product continuity and local production of product.
- k. Description of business' history of involvement with DFM and why retaining membership in DFM is important to business model.
- l. List of all business assets retained in farm/business.
- m. List of new assets being acquired in/for the transition.
- n. Future business goals and strategy of new principal farmer(s) or business operator(s), including possibility of name change.
- o. Resumé for new business owner(s).

In order to complete the transition plan review process, the new owner(s) must complete a New Member Application, which can be obtained by contacting the Market Manager. The BOD must also conduct an inspection with the new business owner(s). Finally, the new business owner(s) will be required to submit any certifications and permits for their business.

Appendix B: Guest Vendor Program

The Board of Directors has the right to invite a guest vendor to sell its product(s) at the market. A guest vendor is a non-member who offers a product or service that enhances the overall market. A guest vendor may be invited to participate at the discretion of the Board of Directors. A guest vendor is not a member of the market and does not have any member rights. A guest vendor may sell its products at the market strictly on a space available basis. A guest vendor's participation shall be re-evaluated every year by the Board of Directors. All guest vendors must abide by the guest vendor program policies, which are outlined below.

- a. Guest Vendors must comply with all applicable Durham Farmers' Market Rules and By-Laws, with two exceptions. First, the 70-mile radius rule is waived for Guest Vendors. Second, a licensed seafood dealer may work with multiple licensed commercial fishermen to sell Category 3 products at the market.
- b. Acceptance as a Guest Vendor does **NOT** make the vendor a market member and the Guest Vendor does **NOT** attain any of the privileges of membership, such as seniority, space reservations, or voting rights.
- c. Durham Farmers' Market staff will ask for references to confirm that the Guest Vendor produces all items sold.
- d. The Board of Directors will approve both the vendor and their proposed market products. Only products that complement the current product mix at the Durham Farmers' Market will be considered. Guest Vendors are only approved for the current

- market year and must re-apply to be considered for the following season.
- e. Guest Vendors will only be permitted to sell in unoccupied spaces at the market. A Guest Vendor will receive their stall assignment from the Market Manager upon arrival.
 - f. Guest Vendors are responsible for following all applicable health department and NCDA guidelines to ensure food safety. In addition, seafood vendors must comply with the rules of the NC Division of Marine Fisheries. Guest Vendors must supply the Market Manager with copies of all permits and certifications.
 - g. Guest Vendors must provide proof of liability insurance and add the Durham Farmers' Market as "additionally insured" on their policy.
 - h. Guest Vendors must contact the Market Manager at least 72 hours in advance of the market if they are unable to attend the assigned date.
 - i. Guest Vendors must supply a newsletter submission every time they attend the market. Submissions are due to the Market Manager by Thursday at 4:00 pm.