

Durham Roots Farmers' Market Rules and Regulations (2019)

Mission

The Durham Roots Farmers' Market at Brightleaf will give both the city dweller and the rural neighbor the opportunity to buy directly from urban and rural farms and community gardens, in an effort to better experience the link between the food they eat, the plants and flowers they enjoy, and the environmental stewardship and preservation of Durham City and County land and water resources. The Durham Roots Farmers' Market (thereafter called 'Market') will also provide grassroots economic development by providing a convenient and much-needed market outlet for Durham urban and rural producers. This market will pay particular attention to the needs of new and emerging farmers who farm in Durham City or County, and try to offer opportunities to young people to further their interest in agriculture in our County.

Types of Vendors

Member Vendor:

The producer's farm or garden is located within Durham County.

Organizational Member Vendor:

The applicant must be a designated representative of a cooperative, non-profit organization, church or individual school located within Durham County.

Non-member Vendor:

The producer's farm or garden is located within Orange, Person, or Granville Counties. A higher priority is given to producers within the Upper Neuse Watershed. Non-member vendors have no voting rights nor can they serve on the Board of Directors.

Vendor Application Process, Inspections and Regulatory Compliance

Vendors that wish to sell at the Market must complete the following:

- 1) The applicant shall submit an annual application appropriate to their vendor type, agree to market rules, and have their application evaluated by the Board. This process applies to both returning vendors and new vendors.
- 2) Allow Board Members, or their designee, to visit the vendor's agricultural and horticultural facilities to verify that products sold at the Market are in accordance with the 'products that can be sold' section in the General Rules section below, and that the farm is located appropriately for the vendor type. The initial visit will be an arranged on a mutually agreed upon date and time. Reselling any items other than vendor-branded promotional items is strictly forbidden. If concerns or complaints arise that a vendor is

not the producer of items being sold at market, the vendor agrees to allow unannounced inspections anytime during the market season by Board members or other designated person(s). Returning vendors will have their farm inspected each year subject to the discretion of the Board.

3) Everything sold by a vendor must be listed on the application and have been raised on the site or sites stated in the application and produced as outlined in Market Rules section “Product Restrictions and Products that can be Sold.” Additional items conforming to the Market Rules may be introduced with Board or Market Manager approval. The market allows overlapping product offerings by the vendors.

4) Violations. Each vendor is expected to know and follow the Bylaws of the Durham Roots Farmers’ Market and these Rules. Each vendor is responsible for ensuring that their sales representative follow the Market Bylaws and Market Rules. A vendor who is determined to have violated the Bylaws and/or these Rules will be issued a written warning by the Market Board or Manager, stating which provision the vendor has violated and briefly noting the specific nature of the violation. The warning will also notify the vendor of the vendor’s rights to appeal and the potential consequences of further violations. The Market Board or Manager will sign the warning and the offending vendor or their market representative will sign to acknowledge receipt of the warning. If the offending vendor refuses to sign the warning then the refusal will be noted and a Board Member or a Member Vendor will be asked to witness that the warning was presented to the offending vendor. Disciplinary action will be determined by the Board and can include: letter of warning, probationary status, prohibition from selling for a certain number of market days, monetary fines or termination of vendor rights. The vendor may appeal any decision within 5 days of receiving notice. The appeal should be addressed to the Board and copies sent to all Board Members at their home addresses by mail postmarked no later than 5 days after receipt of the warning, or sent by email within 5 days. The appeal should state the date and nature of the warning and the grounds of the appeal. The Board shall decide on the appeal within 30 days of receipt of the appeal.

Governance:

All Market Board meetings will be considered “Open meetings” and all members and vendors may attend. The goal of the board is to address issues that arise during the operation of the Market and to maintain the mission of the Market as stated above. All vendors residing in Durham County who participated for a minimum of 5 market days and any volunteer who participated during the previous year will be eligible to become elected to the Board of Directors in the subsequent year.

Market Manager:

The market requires a Market Manager be present on market days. The Board strives to have a compensated Market Manager, however, as the circumstances warrant, all vendors in this Market agree to be available to function as a back-up Market Manager. The responsibilities of the Market Manager include:

Ensure that set-up and take-down rules are followed.

Inspect for tent weights and collect the fee for violation.

Confirm all products are clearly labeled and priced.

Collect sales revenue information for each vendor for each sales day (collected anonymously) and transmit that information to the Board.

Collect stall fees from all vendors and deliver them to the Treasurer, President, or Board member.

Make sure the market area is clean post-market.

Respond to questions and complaints about the market.

Inform customers of market's pet policy.

Keep the Board informed of issues that emerge during the Market.

Operation of the Market. Activities not directly related to the mission of the market will not be allowed within the Market. Fundraising is not allowed on the premises with the exception of fundraising to support the Market itself and educational tents. Educational activities directly related to farming, food, food preparation, plant or animal culture, environmental stewardship are allowed on a limited basis – no more than two stalls per market day, upon prior agreement with the market manager, with a rotation of educational stalls based on need and in no case more than two weeks per entity, per each eight week time period. Stall fees may be forgiven for these educational activities by the Market Manager.

Severe Weather policy: The market will be open except under severe weather conditions. The Market Manager shall make the final call. Vendors will call the Market manager if there is some question about if the Market will be closed. If the weather becomes a concern (heat, wind, rain, etc.) during Market hours, upon consultation with vendors, the market can be closed before official closing to allow safe conditions for all.

General Rules:

Market Hours:

The Market operates from 9AM to 12PM every Saturday from April through the week before Thanksgiving. A special holiday market may be held before Thanksgiving with no market on the Saturday after Thanksgiving. Upon board approval, the market hours may be adjusted as needed.

Product Restrictions:

The Durham Roots Farmer's Market and its vendors can sell farmer-branded materials (tee shirts, etc.).

Vendors must be the original producer of all items. All items must be produced on the vendor's farm. Meats and milk can be processed in facilities located off of the farm, but the animal or milk must have been produced on the vendor's farm. If the farmer also farms at other locations, only the products produced in accordance with their vendor status can be sold at this Market. If the farm straddles a membership boundary, then all products produced on a contiguous parcel qualify for sales at the market. This applies to both direct sales and all products delivered by a vendor to customers at the market pursuant to prearranged sales (pre-orders, Community Supported Agriculture shares, buying club shares, restaurant sales, etc.) If a CSA is a joint effort of two or more producers, all must be market vendors. Pickup of all prearranged sales must be during market sale hours. No resale of products not grown or raised by the vendor is allowed.

Products that can be sold include:

- A) Vegetables grown by the vendor from seeds, sets, or seedlings.
- B) Fruits/nuts/berries grown by the vendor from trees, bushes, plants or vines.
- C) Eggs produced by the vendor's poultry.
- D) Honey produced by the vendor's bees.
- E) Value added foods (Processed Foods): preserves, relishes, jams, jellies, etc. made by the vendor; however, 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 only if the seller has passed the NCDA certification course. The main ingredient(s) in any of these products must have been produced directly (not purchased) by the vendor. Collaborations between vendors are acceptable, for example, a vendor with a commercial kitchen may sell jams using another vendor's blueberries. Such products shall be identified as collaborative products, regardless of the financial arrangement between the vendors, and can be sold from either vendor's stall. Ingredients exempted from the restrictions of this section include flour, sugar, oil, butter, milk, vinegar, pectin, and yeast. If an ingredient is not produced by a vendor, ingredients from another non-vendor

Durham County producer may be used on a case-by-case basis, subject to site inspection for verification of production. All value added items regardless of type and ingredients must be approved by the board. Sales of collaborative products (E+F) and exempt ingredients must be reported separately and can only constitute 50% of total sales averaged over the year.

F) Value added products: Fresh or dried flowers, arranged or not, foliage cuts, branch stems, pine cones, (arranged or not), cut trees, cutting boards or other wood products grown by the vendor. Soaps, hides, furs, and dog treats sourced from the Durham County vendor's animals satisfying item G below. Collaborations defined in (E) above are also permitted subject to the sales limitation in (E).

G) Poultry and livestock meats from animals raised by the vendor and living on their farm must satisfy the following requirements:

- i. Rabbits: All rabbits must be born on the farm.
- ii. Chickens: Meat birds must be on the farm by the end of their first week of life. However 'stewing' chickens (a retired layer flock) must have lived at least one year prior to processing for sale, but do not have to arrive at the farm by a specific age.
- iii. Pigs: 4 months prior to slaughter.
- iv. Sheep/lamb: 6 months prior to slaughter.
- v. Goats: 6 months prior to slaughter.
- vi. Beef: 9 months prior to slaughter
- vii. Bison: 9 months prior to slaughter.

Vendors who sell meat and or eggs must keep on file both dated receipts of purchase, or birth records, and dated receipts for slaughter of livestock and poultry. All animals on the farm must adhere to these rules, including animals sold through other venues.

H) Edible fungi grown by the vendor from spawn or collected on the vendor's farm.

I) Cheese from milk from a vendor's animals raised on the vendor's farm.

J) Plants: Plants offered for sale at the market must be grown by the vendor. Specifically:

- 1) Vendors may sell plants grown from seeds, rooted or un-rooted cuttings, plugs, bulbs, transplants or bare root liners.

2) In accordance with the 'producer only' rule, the following terms define what it means to have produced a plant for sale at Market.

- a) Plants grown from seeds, cuttings or bulbs may be sold at any time in production.
- b) Transplants offered for sale by the vendor grown from seed or cuttings may be sold at any time in production.
- c) Plants or transplants grown from purchased cell plug may be sold when the plants have been planted in larger cells or containers and grown by the vendor until the plant's roots substantially fill the larger container.
- d) Bare root liners of woody shrubs and trees may be purchased, however these must be held for at least 4 months before sale.
- e) Quart size plants may be purchased however, these must be moved up at least 1 pot size and held for at least 4 months before sale.
- f) Divisions, potted in any size must be grown for a minimum of 8 weeks and roots must substantially fill the new pot.
- g) Fresh grafts must be grown at least 4 months before being offered for sale.
- h) Plants bought in containers larger than 1 quart may not be sold at market.
- g) No purchased mature plants may be sold at market even if moved to larger containers.

3) Purchase receipts must be available to validate time of purchase, variety, and size of plants at time of purchase for any plant not directly propagated by the vendor.

Inspections. All vendors are subject to inspections without notice by one or more representatives of the Board at any point during the market season. Vendors should expect that the inspector may elect to take a photographic inventory of all products in the stall and in the transport vehicle and perform the inspection prior to the next market date to verify production of every product brought to market. A vendor's presence at market, in person or if represented by an employee or volunteer selling on behalf of the vendor, constitutes consent by that vendor to an inspection at any time before the next market date of the vendor's entire production acreage and facilities.

All products must be Listed on Application

Only crops or other products described with sufficient specificity in the membership application may be sold at the market. Vendors must submit an application amendment for any major new item(s) not described in the market membership application. Any major new item must be approved by the Board prior to sale and may require re-inspection of the farm. If there is a disagreement between the vendor and the Market Manager, the issue will be resolved by a majority vote of the Board. That item cannot be sold until the issue is resolved.

Licenses and Certifications:

All processed food items offered for sale, for example cheese, pickles and preserves, must meet state and local health regulations including the inspection of the prepared food seller's kitchen by NCDA health inspectors and labeling in compliance with regulations. Sellers of meat must have valid licenses. Vendors must have a copy of licenses/certifications on file with the Market Manager. No water or ice that comes into contact with meat may be deposited or allowed to drain onto the market premises.

Certifications for Labeling:

All items sold as Organic, Animal Welfare Approved, GAP certified, Certified Naturally Grown, Grass-fed or any other claims must meet the requirements of the certification being claimed and a current copy of the certification must be on file with the market manager each year. Only certified producers may display signs making claims of certification.

Packaged products: Packaged foods are regulated by the Department of Agriculture and Consumer Services under the provisions of G.S.106-121(13a) which defines 'packaged' as any container or wrapping which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers. Labels are required on packages set out for self-service, but are not required when someone hands out wrapped products ordered by a customer. Labels must bear the common or usual name of the product, declare ingredients in descending order of predominance, bear the name and complete address of the firm or party responsible for the manufacture or the product.

Liability Insurance:

Each vendor must carry Commercial General Liability insurance coverage for at least \$1,000,000 per occurrence and in the aggregate. A Certificate of Insurance must be on-file before a producer can begin selling at the market. **Durham Roots Farmers' Market, Property Advisory Services, Inc.**, and **SEHED Investment Group, LLC** must be listed as "additional insureds."

Leasing of Land:

A vendor may sell products grown or raised on land leased (or rented) in accordance with their membership status; however, the vendor or the vendor's employee, must be the person primarily and actively involved with the production of the product and must meet all Market rules and regulations. Perennial crops must be under the vendor's control for at least one completed growing season.

Guest Tents:

Size of Space:

The stall fee allows a single 10 ft x 10 ft space that may be shared with one additional vendor. All vendor products must be within their space, and large product displays or signs that extend into the customer walking area are not allowed. A vendor may request a contiguous double booth if the booth is unshared, the vendor has enough product to fill the space, and spaces are available. Only one tent is required in such a case. If the request is granted, then the stall fee is doubled.

Market Presence:

Vendors are expected to be set up and ready for business not later than 15 minutes prior to the opening of the market. Space for one pickup-sized truck and market canopy is provided. If trailers are going to be used, prior approval by the Market Manager must be obtained. Vendors may not leave prior to the closing time for safety reasons, nor may they take down their canopies or move vehicles out of the market during Market hours. Any exceptions of an emergency nature shall be at the Market Manager's discretion.

Music:

The only music permitted is music that the Market Manager arranges as part of the Market's activities.

Etiquette at Market:

Polite, friendly and respectful demeanor is expected at the market. All vendors are expected to participate in the Market in a spirit of cooperation and professionalism, and be mindful that the Market operates with the permission of and in the broader context of our host location and its tenants. Concerns about a vendor's activities, demeanor, and/or a significant suspicion of a rule violation that impinges on the market's reputation must be made to the Board and/or Market Manager for possible investigation.

Cleaning up:

Each vendor is required to sweep/clean up the area in and around his/her selling space at the end of the market day. Violators may be subjected to a \$20 fine for a repeat offence which must be paid before being allowed to sell again at the Market.

If samples are given, receptacles for waste collection must be provided by the vendor offering samples. Samples cannot be given out using toothpicks or forks. Small cups are suggested as an alternative.

No smoking in the Market.**Prices:**

Ideally prices should reflect the actual cost of goods, including overhead, plus profit. It is understood that many of the vendors depend on the Market for a significant portion of their income, or as an 'incubator' to evaluate if their agricultural enterprise is a financially realistic endeavor. The market is not a place to 'dump' extra product at a very low price as this activity undermines the integrity of the legitimate activity of charging a realistic price for goods. Nor

should prices be set unrealistically high as the reputation of the market affects all the vendors. Prices must be clearly posted for all items sold.

Taxes:

It is the responsibility of the vendor to be informed about what sales and use tax may be applicable for their particular product and to collect said tax. According to NC Gen Statute 66-255, the Market Manager must record a 'Daily registration' which shall include the vendors name and, permanent address. Farmers may display their agricultural exemption number **or** provide a written statement attesting to the fact that the items were produced by the person selling. (In the case of multiple vendors sharing a booth, a statement from the vendors not in attendance must be provided to the Market Manager.) Vendors shall comply with all rules and regulations of the State of North Carolina, and the County and City of Durham relating to the products they sell (including but not limited to State tax ID#, sales tax, labeling and processing laws, licensures, etc.)

Certified Scales:

Members may use only certified scales. If uncertified sales are used, the member will be barred from selling for the remainder of that market and will not be permitted to return until certification is documented.

Quality of Products:

If the member consistently brings poor quality product to the market, they may be subjected to additional farm inspection or asked not to bring certain items to the market for sale. This would be decided by the Board upon consultation with the Market Manager.

Sales data:

Each vendor is required to submit gross sales figures for each week the vendor attends the Market. Such reporting shall be done in an anonymous method set by the Board, and submitted within two days following each attended Market day.

No Pets

Members and customers are prohibited from bringing pets to the market. This does not apply to service animals.