

Cumberland County Planning Department

Urban Agricultural Series

FARMERS' MARKETS MODEL ORDINANCE

INTRODUCTION & HOW TO USE MODEL

Agriculture is an important land use in Cumberland County with 156,000 acres (44%)¹ of the County in farmland. Many challenges face farmers today including development pressure, cost of land, rising production costs, and volatility of commodity markets. Farmers' Markets allow farmers to sell their produce directly to consumers, which help support small farms. It also provides fresh produce to residents, serves as community gathering places, and revitalizes downtown areas.

This model ordinance was developed by the Cumberland County Planning Department using a variety of ordinances from municipalities in the county and around the state and from ordinances in surrounding states. The model is intended to provide a thorough review of issues involved in regulating Farmers' Markets in urbanized areas. Municipalities are not recommended to implement this entire ordinance without modification. Rather, municipalities should review this ordinance, examine their local situation, and adopt the regulations that make the most sense for their municipality.

Any text in the following model ordinance in *italics* is an option that a municipality may or may not choose to implement. In these cases, the ordinances that were reviewed for this model were inconsistent in how, and if, they regulated certain aspects of Farmers' Markets. Municipalities should choose if they want to adopt these regulations in their jurisdiction. Ordinance language not in italics is recommended to be included in municipal ordinances, although some modification may be necessary.

In some cases, there could be multiple ways to regulate a certain aspect of Farmers' Markets. In these cases the word "OR" has been placed in the text of the ordinance. Municipalities should choose the option that works best with their existing ordinances and regulatory framework.

In some instances, a range of options may be provided. In these cases, the sample range is provided in brackets with the regulations commonly found in other ordinances and an "XX" (15',20', XX) to indicate that municipalities may want to adopt a different standard.

¹ PA Agricultural Statistics 2010-2011

Farmers' Market

SECTION 1: PURPOSE AND INTENT

- Permit Farmers' Markets to promote locally grown food and agriculturally related products.
- Promote healthy living through locally produced and grown food and agriculturally related products.
- Ensure that Farmers' Markets complement adjacent land uses and do not have negative impacts on nearby properties.

SECTION 2: DEFINITIONS

Farm Products – Items sold at a Farmers' Market from a Producer. Farm Products shall include but are not limited to agricultural products such as fruits, vegetables, mushrooms, herbs, nuts, eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese and other dairy products), and seafood.

Farmers' Market – A retail sales use operated by a governmental agency, a nonprofit organization, or one or more Producers that primarily sells Farm Products and Value-added Farm Products directly to consumers. Farmers' Markets can include indoor and outdoor display and sales. A Farmers Market may be a principal or accessory use of a site.²

Market Manager – A person or organization that manages the operation of the Farmers' Market, assigns space to producers and sellers, directs the maintenance of premises and records, and performs related duties as required.³

Producer - The person or entity that (a) raises or produces farm products on the land that the person or entity farms and owns, rents, or leases; or (b) a person or entity that creates (by cooking, canning, baking, preserving, roasting, etc.) Value-added Farm Products.

Value-added Farm Product – A product processed by a Producer from a Farm Product, including but not limited to baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee and other beverages, smoked or canned meats or fish, sausages, or prepared foods.

Vendor – A farmer or other person designated as having the right to participate in the market.

² In Pennsylvania, the term "Farmers' Market" is not defined by law and can be used by anyone. Generally, ordinances require most of the items sold to be Farm Products. The temporary and seasonal nature of some Farmers' Markets allows it to be located on the same lot as a principal use; generally with an institutional, public, or commercial use.

³ From the perspective of participating vendors and local officials, the Market Manager plays a critical role by running the market, enforcing the rules, resolving disputes, and providing answers to questions. The responsibilities of the Market Manager are often set out in the market's rules. The Market Manager can act as the applicant for zoning and building permit applications on behalf of the Farmers' Market.

SECTION 3: PERMITTED USES

- A. Farmers' Markets are permitted by right in Commercial / Industrial zoning districts subject to the requirements of this section.
- B. Farmers' Markets are permitted by Conditional Use/Special Exception in Mixed Use zoning districts (i.e. Village, Downtown, Neighborhood Commercial) subject to the requirements of this section.⁴
- C. *Farmers' Markets are permitted by Conditional Use/Special Exception in Residential zoning districts as an accessory use to nonprofit organizations, churches, schools, private clubs and organizations.*⁵

SECTION 4: SPECIFIC CRITERIA

A. Setbacks

- 1. Outdoor Farmers' Market structures, including display stands, booths, tables, and stalls shall comply with the accessory building setbacks in the district in which it is located unless a more restrictive setback is required by this section.
- 2. Outdoor Farmers' Market structures, including display stands, booths, tables, and stalls shall be setback (25', 50', XX') from adjacent residential property lines and zoning districts.

OR

- 3. Outdoor Farmers' Market structures, including display stands, booths, tables, and stalls shall be setback from adjacent residential property lines and zoning districts in accordance with Section XX of this ordinance.⁶
- 4. *Structures shall be setback at least (10, 15, 20, XX) feet from a street right of way and shall not be situated such that it interferes with any clear sight triangle.*
- 5. *Screening shall not be required for Farmers' Markets when adjacent to residential districts/uses if the market is accessory to nonprofit organizations, churches, schools, private clubs and organizations.*⁷

⁴ If an existing mixed use district is generally commercial in character, allowing Farmers' Markets by right may be more appropriate for that zone.

⁵ Farmers' Markets may not be appropriate for all residential zones. If allowed, its impact is usually minimized through restrictions on outdoor sales, hours of operation, maximum square footage, and setback requirements.

⁶ This Section refers to existing buffer/setback requirements in the zoning ordinance for a commercial use adjacent to a residential use/zone.

⁷ Farmers' Markets that are accessory to other uses are generally not screened because of their temporary, seasonal nature. Structures associated with Farmers' Markets are usually erected and removed the same day.

B. Area/Coverage

1. The retail sales area shall be considered to be that of the smallest rectangle, or other regular geometric shape which encompasses all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The retail sales shall include all indoor and or outdoor areas as listed above.
2. *Farmers' Markets in Residential zoning districts shall have no more than ten (10) vendors or a retail sales area of no greater than 2,000 square feet.*

C. Height

1. Outdoor Farmers' Market structures shall be in conformance with building height regulations for accessory structures of the zoning district in which it is located.

OR

2. *Outdoor Farmers' Market structures shall be in conformance with building height regulations for principal structures of the zoning district in which it is located.*

D. Parking

1. Off-street parking shall be provided at the rate of one (1) space per each (200, 300, XX) square feet of retail sales area.⁸

OR

2. During the hours of operation, dedicated and exclusive parking shall be provided at the rate of a minimum of (1, 2, XX) space(s) per vendor.

OR

3. The applicant must demonstrate that sufficient parking spaces and loading spaces will be available or provided for all uses proposed.
4. In zoning districts where there is no minimum parking requirement, there shall be no parking required for a Farmers' Market.
5. In the event that a Farmers Market is located on a property that has a principal use with days or hours of operation that do not overlap with the days or hours of operation of a farmers' market, any parking spaces serving the principal use may be counted toward the required number of parking spaces for a Farmers' Market. In the event that a farmers' market is located on a property that has a principal use with hours of operation that overlap with the hours of operation of a farmers' market, shared parking may be permitted only if the applicant can demonstrate that the parking provided will be sufficient for each use.

⁸ If this option is chosen, the number of parking spaces should be consistent with the municipality's existing parking requirements for retail uses. 1 parking space for every 200 square feet of retail space is commonly used for retail uses.

6. *An application for a permit to operate a Farmers' Market shall include a parking plan showing the number and location of parking space. The plan shall also include locations used for unloading and loading products.*
7. No vehicles shall block access to neighboring properties or traffic flow while unloading and loading material.
8. *Vehicles used for unloading and loading products shall only be parked on the premise on the days of operation.*
9. *All parking areas must be an all-weather dust free surface.*
10. *The ingress/egress shall be improved with a dustless surface.*

E. Hours of Operation

1. Hours of operation, including set up and removal of all displays and products, for outdoor Farmers' Market shall be limited to the hours between sunrise and sunset.

OR

2. All outdoor display and sales of merchandise shall begin no earlier than (XX) and cease no less than one hour prior to sunset.
3. *Hours of operation, including set up and removal of all displays and products, in (residential, mixed use) zoning districts shall be developed at the discretion of the (governing body) and protect neighbors from light, noise, disturbance and interruption.*
4. *No Farmers' Market in (residential, mixed use) zoning district(s) shall operate more than (1, 2, XX) day(s) per week and for more than (4, 5, 6, XX) hours per day.*

F. Market Operations

1. All Farmers' Markets shall have a Market Manager authorized to direct the operations of all vendors participating during all hours of operation.⁹
2. All Farmers' Markets shall have an established set of operating rules addressing the governance structure of the Farmers' Market, hours of operation,

⁹ A key ingredient in the operation of a market is the person who runs the market on a day-to-day basis and is responsible for making the operational decisions. Decisions such as the selection of vendors and set-up sites for their booths must be made, and weekly stall fees must be collected for a market to exist and succeed.

maintenance and security requirements and responsibilities, and appointment of a Market Manager.¹⁰

3. At least (60, 75, 80, XX) percent of the products for sale shall be Farm Products or Value-Added Farm Products. At least (60, 75, 80, XX) percent of the vendors regularly participating during the market's hours of operation shall be Producers, or family members or employees of Producers.¹¹
4. Exterior public address systems for outdoor Farmers' Markets shall be arranged and designed so as to prevent objectionable impact on neighboring properties.

OR

5. There shall be no use of public address systems with outdoor Farmers' Market activities.
6. *In Residential zones there shall be no use of public address systems with outdoor Farmers' Market activities.*
7. All temporary structures used for outdoor Farmers' Markets shall be removed on the same day of operation. In the event that an outdoor Farmers' Market will operate for two or more consecutive days on a property, temporary structures shall be removed after operations or stored in a building on site.
8. All applications shall include a plan for the cleanup of litter. Exterior trash receptacles shall be provided for all outdoor Farmers' Markets. All trash generated from a Farmers' Market shall be disposed of immediately following the closing of the operation.
9. *An outdoor Farmers' Market cannot obstruct a sidewalk or path that is part of a pedestrian or bicycle transportation system.*
10. *The operator of the Farmers' Market shall not lease space to or permit vendors to conduct business at the Farmers' Market unless the vendor's principal place of business, home or farm is located within (25, 50, XX) miles from (INSERT MUNICIPALITY).¹²*

¹⁰ The rules determine who can be a vendor, what products can be sold, how the market will operate, the cost to be a vendor, and what the market experience will be like for shoppers. The rules are also important from a legal perspective because they become part of the agreement between the vendor and the market, establishing each party's rights and obligations.

¹¹ Requiring the majority of products sold to be farm products or value-added farm products help to distinguish a Farmers Market from a "flea market" or other type of market. Also, it is suggested that the majority of vendors be producers, which allows farmers to sell directly to consumers.

¹² Some markets define trade areas to create markets specifically for local farmers. A legal issue may arise from vendors living outside the area who want to participate. As long as it is addressed in the market rules or ordinance, there is little legal basis for such a challenge. However, if a market is sponsored by a municipality, excluding vendors by where they live may become an issue (National Center for Agricultural Law Research, Univ. of Arkansas).

11. All Farmers' Markets and their vendors shall receive all required operating and health permits and licenses from the Pa. Department of Agriculture or local health department.¹³ These permits/licenses (or copies) shall be in the possession of the Farmers' Market Manager or the vendor, as applicable, on the site of the Farmers' Market during all hours of operation.
12. *The Market Manager of a Farmers' Market and all vendors shall carry liability insurance at amount approved by (INSERT MUNICIPALITY).*
13. *A site plan shall be submitted with the permit application showing all existing improvements on the property, off-street parking areas and driveways (including traffic control patterns), and the specific area (dimensioned) of the property to be occupied by the Farmers' Market.*

¹³ In Cumberland County, Camp Hill Borough and East Pennsboro Township have local health departments to complete food safety inspections and licensing. The rest of the County is covered by the Pa. Dept. of Agriculture.