



ECOLOGY CENTER'S

BERKELEY FARMERS' MARKETS

Policies, Effective January 31, 2022

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I. Introduction and Purpose

The Ecology Center Farmers' Markets are Certified Farmers' Markets operated by the Ecology Center, a non-profit environmental organization established in 1969. The Markets are run in accordance with state, county, and local laws. Their purpose is to provide the community with a place to buy fresh produce direct from the producer in a congenial atmosphere at a reasonable price, and to provide the producer a profitable and comfortable place to sell products.

The Ecology Center Board of Directors, elected by the members of the Ecology Center, is ultimately responsible for the Ecology Center Farmers' Markets and their operation, and approves the policies, rules, and regulations of the Ecology Center Farmers' Markets after consultation and recommendations from staff and the Community Advisory Committee. The Community Advisory Committee is made up of members of the local community, Market Managers, members of the Ecology Center board and staff, and sellers at the markets. The Market Managers implement the policies (after ratification by the Ecology Center Board), report to the Ecology Center Executive Director, bring major decisions to the Ecology Center Board of Directors, and make day-to-day decisions regarding the operation of the markets. Input from Sellers is always welcome in the form of written comments to Market Managers or in our annual vendor survey, but is most valuable in the form of ongoing participation in the Vendors' Advisory Committee and/or the Community Advisory Committee.

In issuing Market policies, it is not our intent to burden participants with needless rules and regulations, but to ensure a simple and smooth running market. We welcome suggestions to better our policies and our markets. All policies and rules will be enforced in a fair, nondiscriminatory, and equitable manner.

Because the Ecology Center Farmers' Markets are a program of the Ecology Center, whose mission is to promote environmentally and socially responsible practices, and because of the feedback we have received from the community, the Ecology Center Farmers' Markets have a special commitment to support sustainable agriculture and sustainable communities. The markets, therefore, will encourage small-scale, local farmers producing organically-grown produce and animal products; favor processed items that support local and seasonal sustainable agriculture; and discourage the use of excessive packaging, or practices that are out of alignment with our zero-waste policies.

II. Market Hours, Locations, and Schedule

Saturday Market - 10 AM until 3 PM year-round; Center Street at MLK Jr. Way, Berkeley

Tuesday Market - 2 PM until 6:30 PM year-round; Adeline Street at 63rd, Berkeley

Thursday Market - 3 PM until 7 PM year-round; Shattuck Ave at Rose St, Berkeley

The Ecology Center Farmers' Markets typically **close for Thanksgiving and between December 24th and January 1st each year**. Farmers' market staff will issue a schedule with specific closures to farmers and customers each year.

On rare occasions of extreme weather, natural disasters, or other unsafe conditions, it may be necessary for the Ecology Center to cancel, or close early, the farmers' market in order to maintain public, vendor, and staff safety, as outlined in Exhibit A: Closure Policies

III. Definitions

Approved Seller or Seller

Any Farmer, Fisher, or Non-Agricultural Vendor who has been approved by the Market Managers with consultation to the Committee to sell any product or products at any Ecology Center Farmers' Markets.

Agricultural Products:

Certifiable Agricultural Product

Agricultural products, which are certified under the jurisdiction of the county agricultural commissioner relative to inspection and verification of compliance with the provisions of this article, include fresh fruits, nuts, vegetables, shell eggs, honey, flowers, and nursery stock. Products that are characterized as services, arts, crafts, bakery, candies, soaps, balms, perfumes, cosmetics, pottery, clothing, fabrics, pastas, compost, fertilizers, candles, ceramics, foraged foods, and types of wares are considered ***non-agricultural products*** for purposes of these policies. A product that combines an agricultural product with a non-agricultural product or service in a manner that materially increases the purchase price of the product shall disqualify the product from being sold as an agricultural product for purposes of these policies.

Non-Certifiable Agricultural Product

Non-certifiable agricultural products include all certified agricultural products that have been processed; those products other than certifiable agricultural products noted above from any tree, vine nor plant and their flowers (including processed products); livestock (including rabbits) and livestock products; and fish and shellfish produced under controlled conditions in waters or ponds located in California. These non-certifiable processed agricultural products may include, or have added to them, a limited number of ingredients or additives which only act as preservatives or are essential to the preparation of the product.

Examples include pickles and cucumbers in a brine or vinegar solution for curing or pickling, natural smoking of meat or poultry for drying and preserving, flavorings such as smokehouse, hickory, or jalapeno added to shelled nuts, which do not change the visual identity of the product, sulfites added to dried fruits and vegetables, and sugar, and fruit juices, and to make jams and jellies.

Certified Farmers' Market

As Defined in California Food and Agricultural Code: A location authorized by the County Agricultural Commissioner where Certified Producers of Certifiable Agricultural Products may sell their produce directly to consumers exempt from standard pack and grading regulations. A Certified Farmers' Market is required to abide by current state legislation and regulations, and ensure all vendors do the same. The Ecology Center Farmers' Markets are Certified Farmers' Markets.

Certified Producer's Certificate, Producer's Certificate, Certificate, CPC, or Cert.

As Defined in California Food and Agricultural Code: A certificate issued by a County Agricultural Commissioner which verifies that the certificate-holder (Certified Producer) produces the fresh fruits, vegetables, nuts, shell eggs, honey, flowers, and/or nursery stock listed on land he or she controls, authorizes the sale of the products listed by the certificate-holder at Certified Farmers' Markets in the counties listed, and exempts the certificate-holder from standard size, pack, container, and labeling laws. CFM vendors are required to post original CPCs in plain sight at every market.

Land Which the Producer Controls

Land that the Certified Producer owns, rents, leases, or sharecrops.

Practice of the Agricultural Arts

As defined in California Food and Agricultural Code: The undertaking of being predominantly responsible for the decisions and actions encompassing the various phases of producing an agricultural product. The practice of the agricultural arts for fruit, floral, nut, vegetable, and other plant products includes directive or actual responsibility for all the actions of planting, growing, fertilizing, irrigating, cultivating, pest control, and harvesting. The practice of the agricultural arts for agricultural animal products includes directive or actual responsibility for a substantial time of the raising, feeding, veterinary care, and product harvesting.

Producer

As defined in California Food and Agricultural Code: A person, partnership, corporation, or an otherwise legally formed farm or ranch that produces agricultural products by the practice of the agricultural arts upon land that the person or entity owns, rents, leases, sharecrops, or otherwise controls and has the documented legal right to possession. A person or entity that rents, leases, or otherwise acquires the right to possession of property essentially only for or limited to the period of the harvest season of the agricultural products produced on that property shall not be considered a producer under the provisions of this chapter.

Processed Agricultural Product

As defined in California Food and Agricultural Code: Processed agricultural products shall be defined as agricultural products that have been altered or prepared by such means as, but not limited to, slicing, juicing, drying, shelling, smoking, freezing or cooking, provided, however, that the seller has produced all of the ingredients contained in the final product.

Farmer

A Producer of agricultural products as defined above.

Fisher

A person or entity who catches pelagic fish or shellfish from shore or from boats which the person or entity controls.

Non-Agricultural Vendor

Any vendor who sells processed food items that does not meet the definition of an agricultural product (certifiable, non-certifiable, or processed), non-food items made by the seller, or who offers a service (e.g. massage, or knife sharpening).

Organic***Certified Organic***

Describes products that are certified as organically grown by an authorized third party certifying organization that inspects the farm regularly and certifies to standards defined by the USDA National Organic Program.

Registered Organic

Describes products which are grown organically as defined in California Health and Safety Code Section 26569.11 (California Organic Foods Act of 1990) *and* which are listed on a current Organic Registration Permit received from the State of California by the grower.

Processed Food Items

As defined in California Food and Agricultural Code: Any product that does not meet the definition for either Certifiable or Processed Agricultural Products that is produced from raw ingredients by the seller through processes (such as cooking, baking, roasting, fermenting, freezing, juicing, sprouting) that change its physical or chemical structure.

Re-Selling

The sale at a Certified Farmers' Market of any product not grown, caught or prepared by the Seller (or by the Farmer being represented by the Seller on a Second Certificate). Certifiable Agricultural Products not appearing on a Seller's Producer's Certificate, or not listed as in season on the Producer's Certificate (except in the case of cold stored products), are considered not to have been grown by the Farmer.

Second Certificate

An arrangement whereby a Farmer at Market sells products on behalf of another Farmer. See Section *IV.B.1. Second Certificates* for more information.

Vendors Advisory Committee, or Vendor Committee

A voluntary Advisory Committee made up of a representative group of the Ecology Center Farmers' Markets Grower Members who agree to advise Market Managers about issues of product mix and other related topics for the general benefit of the Ecology Center Farmers' Markets. The Market Managers will be responsible for soliciting membership in order to maintain representation from a variety of farming regions, farm sizes, growers of different crops, types of commodities sold, seniority at the Ecology Center Farmers' Markets, etc. Committee communications occur by email, phone, and at-market consultation. Market Managers may convene virtual or in-person meetings up to four times a year; meetings may be combined with Community Advisory Committee meetings for the purpose of transparency and mutual understanding.

Community Advisory Committee, or Committee

The group of community members, Ecology Center staff and Board members, and Sellers who advise the Market Managers, particularly on issues relating to processed food, as described in *Section I. Introduction*. Ideal committee size is between 8 and 10 members, with a maximum size of 12. In order to be considered a member in good standing, an individual must have attended at least 3 of the most recent 6 committee meetings. New individuals interested in becoming members must attend 3 meetings in an advisory capacity before being considered members in good standing. If the Committee is concerned that Market Managers have stopped representing the values of the Ecology Center Farmers' Markets and Ecology Center, the Committee may bring the issue to the Ecology Center Food and Farming Director, Executive Director and Board to seek to remedy the situation.

Market

A Certified Farmers' Market, and the sections of Farmers' Market adjacent to the Certified Farmers' Market that contain Non-Agricultural Vendors, which is operated by the Ecology Center Farmers' Market Program.

Market Manager

Ecology Center staff person with responsibilities for managing the Ecology Center Farmers' Markets. Responsible to the Community Advisory Committee, the Food and Farming Director, the Ecology Center Executive Director, and Ecology Center Board of Directors.

Member

An Approved Seller who has been admitted to one or more Markets, who has been an Approved Seller for at least one calendar year, is current on membership fees and paperwork, and who abides by all Market rules and all State, County and City laws. *See Section VI for definitions of the privileges of membership.*

Conditional Seller

A Seller who has received approval from the Market Managers with consultation to the Community Advisory Committee to sell at a Market, during his or her first year as a Seller. All Sellers will be Conditional Sellers for their first calendar year selling at the Markets. Conditional sellers are not members of the market, and may be restricted in products offered for sale or in selling season at any time by the Market Manager. Conditional Sellers pay the same stall fees as members and are responsible for following all market, state, county, and City of Berkeley rules.

IV. Admission of Products and Sellers**A) Types of Vendors and Where Each May Sell**

- 1) **Farmers** - Certified Producers, Producers of Non-Certifiable Agricultural Products, and their Authorized Representatives, may sell at the market in the Certified Farmers' Market area. Specific location in the Certified section is per the Market Manager's discretion.
- 2) **Non-Agricultural Vendors and Fishers** - while the emphasis of the market is on farm products, non-agricultural food products add variety and ambiance to the market and will be permitted at the market on a limited basis outside the Certified Farmers' Market area. State law prohibits the sale of fresh whole fruits, nuts, vegetables, and flowers in the area outside the Certified Farmers' Market, but the same producer-to-consumer philosophy applies to all items sold at any Ecology Center Farmers' Markets. The Seller, and authorized representatives may sell these products. Reselling may be allowed by Sellers, in rare instances, outside the Certified Farmers' Market area, by approval of the Market Managers with consultation with Community Advisory Committee.

B) Types of Products, and Where Each May Be Sold**1) Inside the Certified Farmers' Market area:**

Members of the Market who are **Farmers** may sell:

- a) Any Certifiable Agricultural Product or Non-Certifiable Agricultural Product that is listed on his or her current valid Producer's Certificate **which is similar in product type and**

quantity to what he or she has sold in the previous year at the Market, during a season similar to the previous year's selling season, unless specifically restricted by the Market Manager, after consultation with the Farmers' Advisory Committee.

- b) Any other Certified Agricultural Product or Non-Certifiable Agricultural Product made from items listed on his or her current valid Producer's Certificate that has been approved for sale in the current year by the Market Managers, after consultation with the Farmer Advisory Committee, during the season for which it has been approved.

Conditional Sellers who are **Farmers** may sell any Certified Agricultural Product or Non-Certifiable Agricultural Product listed on their current valid Producer's Certificate which has been approved for sale in the current year by the Market Managers, with consultation by the Committee, during the season for which it has been approved. Conditional Sellers may be restricted in products offered for sale or in selling season at any time by the Market Manager without any Committee consultation.

Second Certificates

In some instances, a Certified Producer may bring the products of another Certified Producer to Market. These arrangements are generally termed "Second Certificates," and may be made only with the prior approval of the Market Managers. Second Certificates are permitted for a one-year period and only those items approved by the Market Managers may be sold. According to State law, a Certified Producer may not sell for more than two other Certified Producers through Second Certificates at any given time.

The name of the Certified Producer selling for another Certified Producer must appear on the Second Certificate which that primary farmer is carrying, and the name of the Second Certificate's holder (the other farmer) must appear on the primary (selling) farmer's certificate.

The Certified Producer selling for another Certified Producer shall be selling or offering for sale Certified Agricultural Products which s/he has produced which are greater at the beginning of each day of sale by weight or dollar value than the products offered for sale for the other certified producer.

A Second Certificate may not be renewed if the privilege is being abused or if the product being sold on a Second Certificate is preventing another Producer with similar products from entering or doing well at the Market. Special requirements and charges for Second Certificates are listed in the *Sections V. Paperwork, VII. At-Market Rules, and VIII. Fees and Penalties*.

2) Outside the Certified Farmers' Market area:

Members of the market who are **Fishers or Non-Agricultural Vendors** may sell any product that has previously been approved for sale at the market, and any product they are testing for potential addition to their product line (See below for testing rules), during a

season similar to the previous year's selling season, unless specifically restricted by the Market Manager after consultation with the Committee.

Conditional Sellers who are **Fishers or Non-Agricultural Vendors** may sell any product that has been approved for sale in the current year by Market Managers with consultation to the Committee, during the season for which it has been approved. Conditional Sellers may be restricted in products offered for sale or in selling season at any time by the Market Manager without any Committee consultation.

No fresh whole fruits, nuts, vegetables, or flowers may be sold outside the Certified Farmers' Market area.

3) Methyl Bromide and Methyl Iodide

No product or ingredient in a product sold at Market may be fumigated with methyl bromide or methyl iodide or grown in soil fumigated with methyl bromide or methyl iodide as of April 15, 1996, unless the soil is on land that was fumigated by an owner or leasee before the present Farmer acquired the land. In the case of Processed Items ingredients, the Seller may be required to provide all necessary information to aid in determining if ingredients have been grown using or fumigated with methyl bromide or methyl iodide.

4) Genetically Modified Organisms (GMOs)

No product, or ingredient in a product, sold at Market after October 1, 2000 may be grown from genetically modified seeds. Currently, the following crops and any ingredients containing them should be considered at risk of containing GMOs: soybean, canola (rapeseed), rice, corn (sweet and seed), tomato (Flavr-Savr type), potato, summer squash, papaya, sugar beets, and red-hearted radicchio. For Farmers, variety names on the producer's certificate and possibly seed receipts will verify non-GMO status. In the case of Non-Agricultural Vendors, unless some other method of verifying non-GMO status is approved by the Market Manager, any ingredients derived from these crops must be Certified Organic or purchased from a farmer at the Ecology Center Farmers' Markets. Ingredients that are required to be Certified Organic include, but are not limited to, sugar, baking powder derived from corn starch, all other corn products, all soy products, all rice products, and all canola products.

4) Bottled Water

Bottled water packaged in plastic may not be sold at the Ecology Center Farmers' Markets. Water packaged in glass or other materials may be sold by Market Manager approval only, with consultation to the Committee.

5) Styrofoam

Styrofoam is banned at the Ecology Center Farmers' Markets, and vendors may not use Styrofoam in any form to package any products sold at the Ecology Center Farmers' Markets.

6) Fishers

All items sold by fishers must be wild, local, and not on the Monterey Bay Aquarium's Seafood Watch "avoid" list.

7) Beer

Any beer manufacturer desiring to sell beer that has been produced by them must hold a certified farmers' market beer sales permit (ABC Type 84), which allows beer manufacturers to sell beer at certified farmers' markets in the same county or adjacent county to the licensed beer manufacturing facility. They also must hold either a beer manufacturer license (ABC Type 1) or a small beer manufacturer license (ABC Type 23). The manufacturer cannot sell more than 5,000 gallons of beer annually pursuant to all certified farmers' markets permits held by that beer manufacturer.

C) Application Process

1) New Potential Members/Sellers

Producers who would like to sell at any of the Ecology Center Farmers' Markets must submit the appropriate application (Farmer or Processed Item [includes fishers]), and any accompanying paperwork that is requested by the Market Managers. The Market Managers may, at times, solicit applications from producers who seem to be able to enhance the overall product mix at market. **All new Sellers at the Ecology Center Farmers' Markets will be Conditional Sellers for their first year of selling at the markets. Conditional Sellers may be restricted at any time by the Market Managers as to what products they may sell and what seasons they may sell those products, with or without consultation with the Farmers' Advisory Committee.**

2) Current Members/Sellers

Any significant planned change from previous years in types of products or quantities of specific products to be offered for sale at Ecology Center Farmers' Markets must be brought up to the Market Managers in writing as early as possible in the planning process for consideration. No significant planned change from the previous year in types of products or quantities of specific products offered for sale will be allowed without the approval of the Market Managers. A bumper crop of something normally grown is not a reason for concern.

Before admitting a new farmer whose products would overlap with those of current Members to the market, and before allowing a significant change in product mix by a current farmer/member, the Market Managers will consult with and seek input from the Farmers' Advisory Committee. Market Managers will be responsible for all final decisions.

3) The Market Managers will consider the following when making decisions on admissions of farmers or agricultural products into the Ecology Center Farmers' Markets:

- Space available at market

- Seller's commitment to sustainable agriculture, typically but not exclusively measured by use of organic growing practices
- Seller's use of sustainable production and labor practices
- Whether the Seller's product will enhance overall product mix at market without creating excessive competition
- Whether the farm is small to moderately sized, and operated as a family or cooperative business
- Seniority of seller at Ecology Center Farmers' Market
- Seller's history of compliance with state and local government regulations, ECFM policies, and regulations at other CFM's where they sell
- Seller's history of participation at ECFM and other CFM's
- Proximity of farm or production site to the Ecology Center Farmers' Markets
- Seller's commitment to promote producer to consumer relationships, (e.g. by farmer's presence at the market, by knowledgeable employees, and/or by educational information)
- Preference to a farm or business that is owned and/or operated by historically marginalized groups such as women, LGBTQ individuals, people of color, those previously incarcerated, disabled, or immigrants.

4) Animal Products

In the case of animal products (dairy, meat, eggs), the Market Managers will also consider the seller's commitment to sustainable and humane animal husbandry practices, which the Ecology Center Farmers' Markets defines as:

- Providing animals with their traditional diet
- Providing adequate space to roam without incurring stress
- Commitment to sustainable practices, ideally demonstrated with organic or other certification
- In addition, the farm must have an animal waste management plan, preferably cycled on the farm.

5) Non-Agricultural Vendors

a) Application

- Potential Processed Foods Vendors who would like to sell at the Ecology Center Farmers' Markets must fill out a Processed Food Application describing all the products they would like to sell.
- Current Sellers who want to sell a new product must submit their request in writing to the Market Managers. The request should include a list of ingredients for the item(s), and which of those are organic or bought from farmers at the Ecology Center Farmers' Markets. Market Managers may request samples of product and/or packaging as appropriate. The Community Advisory Committee will consider these requests at meetings.
- When space is available at the Market, the Committee will consider applications for new prepared food vendors at regular quarterly meetings and may request samples and packaging from potential new vendors when appropriate.

b) The Market Managers and Committee will consider the following when making decisions on admissions of Non-Agricultural Vendors or products into the Ecology Center Farmers' Market:

- Item should be a staple (i.e. bread, pasta), or have a high proportion of California agricultural products (i.e. fruits, nuts, vegetables).
- Products approved for sale at market after January 2007 must have approximately 80% (or more) of ingredients, which are either organically grown or purchased from farmers at the ECFM. Particular attention is paid to the use of organic animal products (dairy, meat, eggs). Non-Agricultural Vendors that grow or raise at least 50% of the ingredients used in their processed food products may be exempted from this requirement.
- Fish must be either on the Monterey Bay Aquarium's Seafood Watch "Best Choice" list or purchased from the fish sellers at the Ecology Center Farmers' Markets.
- Fresh ingredients should be in-season locally.
- Any chocolate or coffee used in products sold at market, should be Fair Trade whenever possible.
- Occasional exceptions for non-local or non-seasonal ingredients in processed foods may be made based on the ingredients' Fair Trade and Organic status, and the necessity of the ingredient in the specific product.
- Any non-local ingredients permitted in the ECFM as a staple food by the Committee must be organic.
- Preference is given to a business that is owned and/or operated by historically marginalized groups such as women, LGBTQ individuals, people of color, those previously incarcerated, disabled, or immigrants. Non-profit organizations, cooperatives, collectives, and local businesses may be given preference if their product is appropriate.

c) Committee Decisions

- 1) **Only Processed Items that have been approved by the Market Managers with consultation to the Committee may be sold at Market.** Market Managers will request sellers to remove from sale any processed item that has not been approved.
- 2) **Test Products** - Current Sellers may test new Processed Items at the market, without filling out a written request, **only** for the period of time until the next regularly scheduled Committee meeting, and only if the items being tested are within the general line of products already approved for sale, i.e., a new type of bread for a bakery, a new type of jam for a jam producer. The Seller must inform the Market Managers of any new product that s/he is beginning to test no later than three days before the market day that it is out for sale, and a written request for the new product containing a list of all ingredients must be given to the Market Manager before the next Committee meeting. The Market Manager has the authority to decide if the test product falls within the line of products approved by the Committee. The Seller may not continue to sell until a written request has been

turned in, according to the terms described above in the application process for Prepared Food Vendors, and has been approved by the Market Managers with consultation to Committee.

- 3) Priority of Farmers over Non-Farmer Non-Agricultural Vendors** - In evaluating new products for sale at market, Market Managers will give preference to Certified Agricultural Producers over Non-Agricultural Vendors. Non-Agricultural Vendors will not be admitted to the market to sell products already offered for sale by farmers. Market Managers may also allow farmers to sell products, or allow a new farm that has not previously sold at market to sell products that are already being offered for sale by Non-Farmer Non-Agricultural Vendors. Non-farmer Non-Agricultural Vendors may be restricted from selling any product at any of the markets, during any season, by the Market Managers after consultation with the Community Advisory Committee at quarterly meetings. These rules allow the Market Managers to prioritize farmers over non-farmers when they have similar products, and to prioritize farmers over non-farmers if necessary due to space limitations. If new restrictions on selling by non-farmer Non-Agricultural Vendors who are Members are necessary, at least one month's notice will be given before the restrictions take effect.

D) Product Mix

1) Product Mix and Restrictions

The overall goal of the Ecology Center Farmers' Market is to provide as diverse and varied a product mix as possible while balancing the needs of our farmer members. In order to manage this balance, the Ecology Center Farmers' Market may place product restrictions on participating vendors. Members are expected to alert Market Managers in writing, or on their annual crop calendar, of any products that they wish to sell that they have not sold in prior seasons. Newly admitted vendors that are conditional sellers may have restrictions placed on them that apply until such time as the Ecology Center Farmers' Market decides it is appropriate to remove such restrictions. Market Managers may consult with the relevant committee in determining if members or provisional sellers may sell the product(s) in question. In the event that the ingredients or production process of a vendor's product changes significantly, the Ecology Center Farmers' Market reserves the right to impose additional restrictions on product.

2) Member Input on Restrictions

Any Member of the market may bring up any concerns about ongoing or developing overlap or product mix to the Market Manager or Community Advisory Committee at any time. The Market Manager will bring up any concerns about ongoing or developing

overlap or product mix problems within the Certified Farmers' Market area with the Farmers' Advisory Committee before taking any action to restrict any Certified Producer Member. The Market Manager will bring up any concerns about ongoing or developing overlap or product mix problems outside the Certified Farmers' Market section at a regularly scheduled Community Advisory Committee meeting before taking any action to restrict any Non-Agricultural Vendor who is a Member. Any restrictions will be made with ample notice and due respect for business continuity.

E) Response to Solicited Applications and Written Requests from Current Sellers

The Market Managers will respond with a decision to any solicited applications, and to any inquiries from current Farmer/Sellers about additional products, within one month of receiving the application or the inquiry.

V. Paperwork

A) When Due

- 1) All annual paperwork required by the Ecology Center Farmers' Markets and all membership fees must be **submitted by Friday, February 4th or within three weeks of the receipt of these Policies.**
- 2) Additionally, Sellers are responsible throughout the year for providing Market Managers with copies of updated Producer's Certificates, Certificates of liability insurance, and all other permits upon expiration of the previous one, as well as any addendums to the current Producer's Certificate during a Seller's season.
- 3) In addition to the annual request, Prepared Food Sellers are responsible for providing a complete list of all ingredients, including which are Organic or purchased from the Ecology Center Farmers' Markets, to Market Managers upon bringing a new product to market to test.
- 4) All Sellers of Certifiable Agricultural Products and Non-Certifiable Agricultural Products are responsible for turning in to the Market Manager at the end of each market day an accurate and complete Daily List of Products Sold (load list).

B) Required Documents

- 1) **All Vendors:**
 - a) Ecology Center Farmers' Markets supplied materials:
 - Policy Agreement, including Methyl Bromide & GMO Ban Agreement and employee authorization
 - Current Year Sellers Schedule
 - b) General Liability Insurance, up to \$1,000,000, with Ecology Center listed as additionally insured.

2) ***The following (if applicable) are required for Farmers/Ranchers/Agricultural Vendors***

Annually:

- Ecology Center Farmers' Markets supplied materials: Crop Calendar
- Producer's Certificate from each county of production
- Producer's Certificate from farm listed on Second Certificate Contract
- Nursery License
- Organic certification documents
- Organic registration documents
- Aquaculture permit
- Egg Handler Registration
- Avocado License
- Certified Kitchen/Sanitary Facility Certificate from county where processing occurs
- Creamery License
- WIC Authorization Number and Farmer Authorization Status form
- Applicable third party certification (i.e. humane animal welfare)

Daily:

- Daily List of Products Sold (load list): Certified producers are required to fill out accurate load lists for the certified agricultural products sold at the market each week. All load lists must list the name of the certified producer, identity of each product sold (including varieties), and quantity sold. Load lists are collected at the end of the market by the market manager and are subject to inspection by the county agricultural commissioner's inspectors. If a vendor has a second certificate (subject to the requirements of these market rules), a load list pertaining to each separate certificate shall be filled out.

3) ***The following (if applicable) are required for Non Agricultural Vendors/Fishers***

- City of Berkeley Health Department Temporary Food Facility Permit
- Commercial Kitchen Certificate (or "Permit to Operate" from County Health Department) and/or CDPH Processed Food Registration
- Alcohol and Beverage Control License
- Fishing License
- Organic Certification
- Organic Processed Product Registration
- Current Products & Ingredients List (please note any requested additions or changes to your list from last year; any new items will need to go through approval process specified in our policies)
- One month's worth of receipts for all ingredients confirming that ingredients are in compliance with the Ecology Center's ban on GMOs, Methyl Bromide, and Methyl Iodide. Receipts should also confirm that at least 80% of ingredients used in your products are either certified organic or sourced from farmers' market vendors. **If**

your product is certified organic, you do not need to supply the Ecology Center with receipts.

- Any other product specific paperwork.

4) Upon Request of Market Manager

- Partnership and cooperative agreements
- Evidence to back up claims regarding growing practices, animal husbandry practices, or source and type of ingredients
- Evidence of an employee's status as an employee of the Seller
- Map of Growing Location(s)

VI. Seller's General Responsibilities

A) Membership

Approved Sellers will become Members after selling at the markets for one calendar year, if they choose to reapply. All Approved Sellers will be charged an annual fee. Members are distinguished from Conditional Sellers by their privileges and requirements. Membership is not a guarantee of ongoing participation in the market. The Approved Seller retains Market Membership season to season, provided that the Seller abides by the Market rules and all applicable State, County and City laws. If a Member sells their farm, land or food business, the new owner will not be a Member, and will not be guaranteed a place at Market beyond the current season. **Failure to pay Annual Membership Fees by the requested deadline may result in fines, and may ultimately result in loss of Membership status, so that the Seller would not be guaranteed a place in the Market beyond the current selling season.**

B) Paperwork

All Sellers are responsible for keeping all required paperwork current in order to maintain their status as Sellers. Failure to provide current applicable paperwork to Market Managers may result in fines and, ultimately, suspension. See *Section V. Paperwork*, for more information on what is required.

C) Re-Selling

No re-sale of any products are to be made in the CFM area, and no unauthorized re-sales are to be made in any part of the market.

D) Employees

Employees may represent Sellers at Market. However, the Seller or his/her Family Members are strongly encouraged to sell at least once per year. Sellers are also responsible for the conduct, including any violations of market policies, of their employees at market.

E) Partnerships

In order for partnerships to be Sellers, all partners' names must appear on the Producer's Certificate, or, in the case of Processed Food Vendors or Fishers, on the Ecology Center Farmers' Markets Policy Agreement.

F) General Compliance

All Sellers must comply with the rules and regulations stated herein, and must abide by decisions made by the Market Managers in consultation with the Community Advisory Committee.

G) General Liability Insurance

All vendors must have General Liability Insurance, up to \$1,000,000, and list the Ecology Center as additionally insured. Proof of insurance is required with all other paperwork, by or before February 4th, or as the previous years' expires.

VII. Attendance/Scheduling

A) Schedule

Each Seller must fill out the current year's Schedule form, stating her/his Market schedule for the year. Sellers are generally expected to attend the Market weekly, but other schedules can be arranged in advance, by approval of the Market Managers. Sellers may attend seasonally or year-round, depending upon their products.

B) Cancellations and regular attendance

- 1) Sellers are expected to attend market at the frequency and during the season that they have committed to. Sellers who cancel are expected to notify the Market Managers as soon as they know they need to cancel. If cancelling, sellers are expected to cancel at least 24 hours before a market. **Absences without 24-hour notification will result in warnings and fines (as delineated in section XI(A), p. 25), except in cases of emergency.**
- 2) **Sellers will be allowed three absences per market, per year, with at least 24-hour notice.** For absences beyond the allotted three per market per year, sellers will be required to pay the expected stall fee from the missed market. For non-agricultural vendors, the stall fee will be calculated as an average of the prior three markets attended. **If vendors have more than 3 unexcused absences (less than 24-hour's notice) or no-shows without an excuse, per market per year, we reserve the right to suspend or expel the vendor from that market.**
- 3) Sickness, lack of product, and vehicular breakdown are among the few legitimate excuses for missing a market. **Once a vendor's three allotted yearly absences are used, irregular attendance for other reasons, including wet weather and anticipated slow sales, may be grounds for suspension or lack of membership privileges.**
- 4) Any changes in a Seller's agreed upon attendance schedule must be coordinated with and approved by the Market Managers. Occasionally missed markets due to emergencies of crop needs are acceptable, but frequent absences of three weeks or more must be specifically approved by the Market Managers. Failure to do so may result in suspension or termination from the Market.
- 5) Sellers are expected to come to Market regardless of weather conditions. Ecology Center Farmers' Markets are small markets and depend on regular attendance of sellers to continue to exist as viable year-round markets.
- 6) If a seller decides to leave the Berkeley farmers' market permanently, they must give staff written notice by emailing farmersmarkets@ecologycenter.org, at least four weeks in advance.

C) Rainy Days

The Ecology Center Farmers' Markets are always open when it rains, and in general, attending Sellers will be charged a stall fee for rainy days. In rare cases, Market Managers will reduce fees charged at market on rainy days.

D) Guaranteed Spaces

Members are guaranteed a space at Market during their stated season(s), unless specifically restricted by the Market Manager. Every effort will be made by the Market Managers to make space available to members who want to sell at other times than their stated season, but they are required to communicate ahead of time.

VIII. General Market Rules

A) Setup and Safety

- 1) Sellers should arrive early enough to be ready to sell by the Market's opening time, and will be considered late if not set up by that time. Repeated lateness is a violation of Market rules, and may result in fines, suspension, or expulsion from the Market. (See XI for Violations and Penalties.)
- 2) In general, Sellers maintain the same spot at market from week to week, unless extenuating circumstances arise. Market Managers make every effort to ensure that Sellers who arrive at a regular time can park in their regular space, but there are no guarantees.
- 3) Sellers must park as directed by the Market Manager.
- 4) Vendors may not drive vehicles within the market for any reason from 15 minutes prior to the official start of the market until 15 minutes after the official end of market. Sellers who need to make special arrangements due to deliveries, unavoidable late arrival or unavoidable early departure, must make arrangements with the Market Managers ahead of time. Vendors that will be arriving late or leaving early must park outside of the market and carry product to their assigned space.
- 5) Early Sellers must not begin setting up their stalls, product, or equipment in the traffic lane until Market Managers have closed the street to traffic.
- 6) Sellers must set up stalls facing the street, allowing for a 12-foot emergency access lane on Tuesdays and Thursdays and a 15-foot emergency access lane Saturdays between their set-ups and those of the Seller across the way or street meridian.
- 7) Sellers' displays must not unduly obstruct the flow of customer traffic or be dangerous in any way. Sellers must alter their displays at the request of Market Managers.
- 8) All shades and shelters must be adequately tied down, secured, or weighted immediately, and umbrellas will not be permitted on days with high wind.

B) Signage and Labeling

- 1) *Farm/Vendor Identification*

As per CDFA guidelines, all Agricultural Vendors must post a conspicuous sign or banner at the point of sale that states the name of the farm or ranch, the county where the farm or ranch maintains the production grounds that produced the products being offered for sale, and a statement that “We Grew What We Are Selling” or “We Raised What We Are Selling” or “We Grow What We Sell” or similar phrases that clearly represent that the farm or ranch is only selling agricultural products that they themselves have grown or raised on California land that they possess or control.

2) **Permits and Licenses**

All required permits and licenses (i.e. current embossed Producer's Certificates, Farm Facts Sheets, Nursery Licenses, Food Industry Permits, etc.) must be prominently posted at the Seller's stall and clearly visible to customers.

3) **Prices**

All sellers must have prices of all items clearly displayed. Collusion and deceptive pricing practices are prohibited. Bargaining with the customer is specifically allowed.

4) **Scales**

All scales must bear a current seal from a County Sealer of weights and measures.

5) **Ingredients**

All processed items, both bulk and packaged, must be labeled with a declaration of identity (ingredients list) which should note those ingredients that are organically grown. Packaged processed items must also be labeled with the net quantity/weight of the commodity in the package and the name and address of the producer. Endors are not required to label non-packaged items, but vendors must have a list of ingredients for all products available to provide to customers.

6) **Second Certificates**

If a certified producer is cross-referenced, and authorized to sell on another certified producer's behalf, the certified producer must:

- Conspicuously post each valid CPC and the respective sign or banner
- Not sell the same commodity, variety, or product on the same day, at the same CFM
- Separate each certified producer's agricultural products
- Have a documented, signed agreement in place before sales commence
- Provide a product list (load list) to the market manager within 48 hours of the conclusion of the market day

7) No boxes or containers will be allowed on any display table that show any identifying marks other than those of the Seller, or of the Producer for whom the Seller is selling.

8) **Growing Practices Information must comply with the following:**

- a) All Farmers must complete clearly and accurately to the Market Managers' satisfaction the questionnaire about the farm and growing practices, and clearly display the Ecology Center Farmers' Markets Farm Facts Sheet. All products currently offered for sale must be accurately described on the Farm Facts Sheet displayed.
- b) For Farmers selling solely certified organic products, Seller must display a sign with the logo of their certifying organization (CCOF, QAI, etc.).

- c) Farmers selling products that are certified organic and products that are not certified organic at the same booth must clearly label each item as "Certified Organic" and "Not Certified Organic." The Organic and non-Organic items must be clearly separated from one another on the table or display.
- d) **If a farm is not registered as organic with the State Department of Agriculture and, if organic production volume is over \$5000 annually, not certified as organic by a USDA-authorized third party certifier, it is illegal to call the farm's products organic.**
- e) Farmers who do not grow organically but do not *at any time* use synthetic pesticides (including herbicides, insecticides, nematocides, etc.) may use the term "No Synthetic Pesticides" in their signage.
- f) Farmers who do not grow organically but do not use synthetic pesticides *at any time* on the plants or trees producing the product may use the term "No Synthetic Pesticides on Plants/Trees" in their signage.
- g) Farmers who do not use synthetic pesticides on tree fruit after fruit set may use the term "No Synthetic Pesticides on Fruit" in their signage.
- h) All of the signage requirements stated above also apply to the spoken word, and Farmers and their employees must represent their products as described.
- i) **All claims about growing practices made verbally must also be clearly stated on the Farm Facts Information Sheet.**

C) Compliance with Health and Related Laws

When selling at the market, sellers and their products shall comply with all applicable requirements of the CalCode, the California Sherman Food Drug and Cosmetic Law, and the California Direct Marketing Law, including:

- 1) All produce and containers of produce must be kept at least 6 inches off the ground.
- 2) Food preparation (except trimming) is prohibited in the CFM area.
- 3) Processed foods must be processed in an approved facility and properly packaged and labeled under clean and sanitary conditions.
- 4) Dried fruits and shelled nuts sold in an unpackaged bulk form must be displayed with a cover and conform to dispensing methods approved by the Berkeley Health Department.
- 5) All non-washable agricultural products on display, such as dates, must be protected from contamination from the public with covers or sneeze-guards.
- 6) No live animals may be kept or allowed within 20 feet of any area where food is stored or held for sale.
- 7) There shall be no smoking in the market.
- 8) Sellers selling non-agricultural food products are required to have a valid permit from the Berkeley Health Department, and are not considered part of the Certified Farmers' Market.
- 9) Samples may be distributed in accordance with the following guidelines:
 - a) Keep samples in clean, covered containers
 - b) Use toothpicks or disposable utensils to distribute the samples.

- c) Dispose of pits, peels, and rubbish in leak proof garbage receptacles with close-fitting lids.
- d) Use clean disposable plastic gloves when cutting produce for samples.
- e) Produce intended for sampling must be washed and cleaned.
- f) Utensils and cutting surfaces must be washed and sanitized (use a chlorine solution of one teaspoon liquid bleach per gallon of water).
- g) Cutting surfaces must be smooth, non-absorbent, and easily cleanable.
- h) Any samples of potentially hazardous foods, including, but not limited to, melons, must be stored at or below 45 degrees Fahrenheit. All samples must be disposed of after 2 hours from the time the sample was prepared.

NOTE: Any farmer/vendor who opts to begin sample January 1, 2022 is required to sign the additional *Exhibit D: Sampling Compliance Guide & Agreement*.

- 10) Sellers preparing food on-site and/or sampling must set up a hand-washing station with running water and soap. Hands must be washed between handling of food, of money, and of raw meats.
- 11) All iced products must be stored in ice chests at or below 41 degrees Fahrenheit, with a thermometer in each ice chest. All hot products must either be served immediately after cooking, or stored at or above the specific temperature requirement for the product specified by the CalCode, with a food thermometer on hand for temperature tracking.
- 12) Each Seller must provide a container for garbage at her/his stall and take all garbage and recycling back to the farm or business.
- 13) Beer sellers must sell and operate in compliance with applicable laws. Beer sellers may only sell one day per week at each Market. Beer sellers may only sell sealed containers of beer; pre-filled and sealed growlers may be sold, but beer sellers may not refill any containers or growlers.
 - a) When sampling Beer sellers must sell and operate in compliance with applicable Direct Marketing Rules and public health regulations, labeling, permitting, documentation, and other laws, including, without limitation, Section 23399.45 of the California Business and Professions Code. When offering samples, beer sellers must comply with the following:
 - Beer sellers must separate the instructional tasting event area from the remainder of the Market by a wall, rope, cable, cord, chain, fence, or other permanent or temporary barrier supplied by the beer seller
 - Only one beer seller, member of the beer seller's family, or employee of the beer seller may conduct an instructional tasting event at each Market
 - Beer sellers may not pour more than 8 ounces of beer per person per day
 - No consumer may leave the instructional tasting area with an open container of beer

If a Seller has been warned of the need to comply with health regulations, fails to do so, and then is inspected and found in violation, the Seller will pay any fines levied against the Ecology Center for any infraction.

D) EBT Cards, WIC, Coupons and Gift Certificates

- 1) **CalFresh EBT cards:** Sellers are required to accept Ecology Center Farmers' Markets Food Stamp Tokens (copper coins) for CalFresh-eligible, non-heated food items only. No change may be given for these tokens, and full value of the product must be given to the customer for the full token value.
- 2) **WIC/Farmers' Market Nutrition Program coupons:** All WIC-authorized Sellers of fresh fruits and vegetables are required to accept Senior and WIC/Farmers' Market Nutrition Program and Fruit and Vegetable Coupons or checks according to the regulations established by the organizers of that program. No change may be given for these currencies, and full value of the product must be given to the customer for the full currency value.
- 3) **Market Match:** All Sellers selling fruits and vegetables are required to honor the Market Match tokens (silver coins). Market Match is good for unprocessed fruits, vegetables, herbs and edible plant starts only. No change may be given for these tokens, and full value of the product must be given to the customer for the full token value.
- 4) **Ecology Center Farmers' Markets coupons and gift certificates:** All Sellers are required to honor coupons and gift certificates in the form of \$2 wooden Promo Tokens and \$5 brass Market Dollar tokens distributed by the market management. All such tokens will be redeemed for cash on the day received. Change may be given for these tokens. If you are not sure of the validity of any coupon or token, please ask the Market Managers to verify its legitimacy, but in general, the Market Managers will reimburse Sellers for all such tokens.
- 5) **Redemption:** All tokens, food stamps, coupons and gift certificates described here are redeemable as part of the Seller's stall fee, or for cash from the Market Manager at the end of the market day. Please ensure when accepting tokens as payment that they are Ecology Center tokens. Ecology Center Market Managers will not be able to reimburse Sellers for tokens from other farmers' market organizations.

E) Cleanup, Departure, and Security

- 1) Sellers are responsible for maintaining security of the street closure and restroom facilities as directed by the Market Managers. **This includes keeping cones and barricades in place and keeping the restrooms locked when directed by the Market Managers.**
- 2) Sellers are expected to sell for the duration of the Market, unless they run out of product. Early departures are not permitted. Exceptions for emergencies may be made by Market Managers on a case by case basis.
- 3) Sellers should begin packing up at the end of Market hours, and should be ready to leave an hour after Market hours are over.
- 4) Sellers are responsible for cleaning up their stall area after each market (even if it's someone else's garbage), and may be fined for failure to do so. Market Managers have a dustpan and broom.

- 5) Non-Agricultural Vendors will not be allowed to pay their stall fee prior to ½ hour before the Market closing time. Sellers are expected to bring enough product to last the length of the Market.
- 6) Sellers at the Tuesday and Thursday Markets are responsible for lighting up their stall during the fall and winter months when it is dark outside, for both safety reasons and to create a festive atmosphere that advertises the market to passers-by. Sellers are expected to provide their own lighting for night markets.

F) Bag and Packaging Requirements (effective March 7, 2009):

- 1) When providing customers with a bag at market, vendors may charge customers \$.25 per bag. For purchases totaling over \$10, vendors may waive the \$.25 charge.
- 2) Bags offered by vendors for use by customers will meet all of the following criteria:
 - Be produced from renewable resources
 - Be free from polyethylene
 - Be compostable (if non-paper, must meet ASTM 6400 standards for compostability)
- 3) Packaging and utensils offered by vendors will meet all of the following criteria*:
 - Be compostable (if non-paper, must meet ASTM 6400 standards for compostability) or produced from non-plastic recyclable material or be a durable, non-plastic container offered with a deposit and intended for return to the vendor for sanitary reuse.
 - All straws offered at market must be made of paper. Plastic and/or plant-based plastic (PLA) straws are not allowed in market. **
 - Exemptions may be granted out of consideration for health, safety, product viability, or other reasons as recommended by the Community Advisory Committee. Requests for exemptions must be submitted in writing and will be considered at the next regularly scheduled meeting of the Community Advisory Committee. Exemptions will stand until a viable packaging alternative becomes available.

G) Musicians

Musicians may play for the purpose of general entertainment for our customers. Musicians must schedule with Market Managers ahead of the market day, and check in at the Ecology Center booth upon arriving at market. Before performing, musicians must ask the vendors selling on either side of and across if it is OK to perform. Vendors have the right to request that musicians not perform nearby. Amplified music is not allowed (exceptions made by Market Manager on a case-by-case basis). The Market Manager has full authority to move a musician to a different spot, to decide when the market is too full to accommodate more musicians or to ask musicians to leave. In order to perform at our three markets, musicians must sign up in advance by calling us at 510-548-3333 or emailing farmersmarkets@ecologycenter.org. Musicians may sign up for a maximum of two market days per month and can play for no longer than 2.5 hours per market.

***Note: Due to the Coronavirus pandemic, all music and events that encourage social gathering have been suspended until further notice.**

H) Tabling

Information tabling or volunteer signature collection on behalf of nonprofit, political, or community organizations is permissible at the Ecology Center Farmers' Markets as space allows. We retain the right to decline nonprofits, community groups, and campaigns whose issues or approach are not aligned with our organization's or farmers' markets' goals, values or that disrupt or interfere with market operations or vendor sales.

Non-profit and community organizations are allowed to table one market day per month, i.e. one Thursday, one Tuesday, and one Saturday, for informational purposes only, free of charge. Parties are responsible to bring their own tables, chairs, tents, and adequate weights. Equipment may be rented if available and scheduled ahead of time with Market Managers. Signature gatherers within the borders of the market should be working directly with their organization and not paid on a per-signature basis. Sales, solicitation of donations, or the promotion of commercial ventures other than ECFM farmers and food vendors is not permitted. Markets are Zero Waste Zones and do not allow disposable plastic giveaway items and any product being given away must be approved in advance. All tabling must be arranged in advance of the market by contacting the Market Manager at 510-548-3333 or emailing farmersmarkets@ecologycenter.org. Under no circumstance is it allowed to sell and any product being given away must be approved in advance.

I) No Solicitation

Under no circumstances may anyone, for any reason (including information distribution, panhandling, selling, signature collection, etc.) specifically approach people inside the bounds of the market, or otherwise block customers from our vendors. After a warning, such behavior will result in removal from the market.

J) Customer Complaints

We expect the highest level of customer service from our vendors. The Ecology Center Farmers' Markets takes complaints from customers very seriously. In the event that a written customer complaint is filed against a vendor, farmers' market staff will show the vendor the complaint as soon as possible and work with the vendor to remedy the problems. In the event that additional complaints are received within a six month period, fines, suspension, or expulsion may result.

IX. Fees

Effective April 1 2022 unless otherwise indicated:

A) Farmer Fees

Fees for all agricultural producers are as follows:

- Tuesday South Berkeley: \$53 per 10 X 10 foot stall space
- Thursday North Berkeley: \$47 per 10 X 10 foot stall space
- Saturday Downtown Berkeley: \$58 per 10 X 10 foot stall space

Fees for all agricultural producers are calculated per 10 square foot stall space. For example, a vendor using 30 square feet at a stall fee rate of \$53 would be charged a total of \$159. Beginning

April 1, 2022, farmers will be charged for square footage (tent, umbrella space or other space being used for product/display) both horizontally and deep.

The stall fee of both Agricultural and Non-Agricultural vendor's stall fee will be calculated based on the size of their stall (tent, umbrellas, tables, or product on display) OR truck size (if parked on site), whichever is larger. Sellers are welcomed to offload and park elsewhere to avoid fees related to unused space used up by truck. The Market Managers reserve the right to ask the Seller to park perpendicular to the curb, or to have another Seller set up in front of the excess length of the vehicle, or to require the Sellers to offload and park elsewhere. The Market Manager will make every effort to place vendors so that the regular set-up spots work for everyone.

B) Discounts

Local "backyard" gardeners (at managers' discretion) and non-profit organizations pay half of the membership fee and stall fee.

C) Winter Rates for Tuesday and Thursday Markets

From December 1 through March 31 stall fee rates at the Tuesday and Thursday Markets will be reduced by \$4 per 10-foot stall space.

D) Second Certificate Fee

Farmers selling on second certificates will be charged an extra \$15 per day for each second certificate.

E) Non-Agricultural Vendors

- Non-Agricultural Vendors will be charged \$20.00 plus 6% of gross income for a 10' x 10' stall per day, **but no less than \$50 for Downtown Berkeley and no less than \$45 South and North Berkeley**. Vendors occupying an additional 10' X 10' space will pay an additional \$45 per 10' X 10' space.¹
- Non-profit Non-Agricultural Vendors will be charged \$10.00 plus 5% of gross income per 10' x 10' stall per day.
- Non-member Non-Agricultural Vendors will be charged 10% of gross income per 10' x 10' stall per day, but no less than \$40, when invited in only for special events.
- Non-Agricultural Vendors providing "Services" (e.g. knife sharpening or massage) will be charged 10% of gross sales per 10' X 10' stall per day, with a minimum of \$15 for Downtown Berkeley and South Berkeley and \$10 for North Berkeley.

F) EFFECTIVE JANUARY 1, 2022: Non-Agricultural Fish/Seafood Vendors

- Non-Agricultural Vendors who sell fish and other seafood will be charged \$20 plus 6% of gross income for a 10' x 10' stall per day, **but no less than the Agricultural rate of \$47 for North Berkeley, \$52 for South Berkeley, and \$58 for Downtown Berkeley, per 10' x 10'**

¹ Market staff may allow for additional space for food preparation and/or cooking without charge, however this will be as space allows and must be approved in advance and in writing by market staff.

stall space. Vendors occupying additional 10' X 10' spaces will pay an additional \$45 per 10' X 10' space.

G) Non-Agricultural Craft Vendors

- Non-Agricultural Craft Vendors, including those selling handmade soap, body products or art and crafts will be charged \$20 plus 6% of gross income per 10' x 10' stall per day, **but no less than \$35, per 10' x 10' stall space.**

H) Annual Membership fees

- Members of one Market: \$75/year
- Members of two Markets \$100/year
- Members of three Markets \$125/ year

I) Changes in Fees

All fees are subject to change

X. Market Integrity

A) Inspections

In order to ensure that the Markets are in compliance with direct marketing, organic labeling, health and safety, and other laws, Sellers must grant permission for Market Managers and other Market representatives to enter the Seller's premises for reasonable inspection of land and production and processing facilities. Sellers will be inspected as often as it is feasible for Market Managers to schedule visits.

B) Market Onsite Inspections

In addition, Market Managers will conduct regular at-market inspections to ensure compliance with all applicable laws. Sellers must grant permission to Market Managers, as well as Health Department and Agricultural Department inspectors, to inspect market booth at any time.

C) Additional Documents

Furthermore, Sellers must, upon request of the Market Managers, furnish copies of all relevant documents, including, but not limited to: receipts for seed, supplies, and ingredients; farm plans; lease or partnership agreements; and proof of ownership documents.

D) Use of Evidence

Information derived from the Seller, an inspection of the Seller's property or paperwork, or reasonable and substantiated evidence from a State employee or other Farmers' Market Association, may be used to determine that a violation has occurred.

E) Disclosure

Each producer consents to Ecology Center's disclosure of information and observations obtained in the course of inspections to governmental authorities, other certified farmers' markets, market vendors, or consumers.

XI. Violations and Penalties

A) Minor Infractions (Penalties refer to repeat offenses occurring within one calendar year)

	1st Offense	2nd Offense	3rd Offense
1. More than 3 absences from a market in one year	Stall Fee	Stall Fee	Stall Fee*
2. No show without calling to cancel	Warning	Stall Fee	Stall Fee + \$25*
3. Farm or business name not displayed	Warning	\$10	\$25
4. Required permits not posted	Warning	\$10	\$25
5. Prices not posted	Warning	\$10	\$25
6. Scale not currently certified	Warning	\$10	\$25
7. Failure to comply with zero waste policies	Warning	\$10	\$25
8. Inadequate growing practices signage	Warning	\$25	Suspension*
9. Processed Item improperly labeled	Warning	\$10	\$25
10. Processed Item sold without permission	Warning	\$10	\$25
11. Failure to clean up stall space	Warning	\$10	\$25
12. Failure to tie down & secure shelters	Warning	\$10	\$25
13. Non-compliance with relevant laws or regulations (including but not limited to Direct Marketing Regulations, Cal Code, and Local Health)	Warning	\$25	Suspension*
14. Failure to turn in List of Products Sold	Warning	\$10	\$25
15. Selling ingredients at risk of GMO contamination	Warning	\$25	Suspension*
16. Failure to comply with Community Code of Conduct	Warning	\$25	Suspension*
17. Failure to comply with COVID-19 Guidelines	Warning	\$10	\$25*
18. Arriving to market late/packing up early	Warning	\$10	\$25*
19. Driving in market within 15 minutes of market hours	Warning	\$10	\$25*
20. Violations of other ECFM Policies not listed above	Warning	\$10	\$25

** Could result in possible suspension or expulsion from the market.*

Failure by vendors to comply with reasonable requests or instructions issued by a Market Manager may result in fines, suspension or expulsion. In the event that vendors fail to comply with a request or instructions related to health or safety issues, Market Managers may take immediate action to remedy the situation.

B) Repeat Violations Penalties

Repeated violations of the same rule beyond a 3rd Offense within any year-long period will result in fines up to \$50 and/or temporary or permanent suspension from the Market, at the Market Managers' discretion.

C) Re-Selling (Peddling)

Items not listed on the Producer's Certified Producers Certificate, or items sold at a time out of sync with the season specified on the Certified Producer's Certificate are considered re-sold. Re-selling is

a violation of California Direct Marketing Law, and will be penalized with fines and suspension or expulsion from the Market, as determined by the Market Managers with consultation to the Committee. Fines will be no less than \$100 and no more than \$5,000. Violations will be reported to county Departments of Agriculture, or other appropriate authority. Reasonable and substantiated evidence from a State employee or other Farmers' Market association of re-selling at any California Certified Farmers' Market will result in suspension or expulsion from the Ecology Center Farmers' Markets. The Ecology Center reserves the right to disclose information and observations obtained in the course of inspections to governmental authorities, other certified farmers' markets, market participants, consumers, and other third parties.

D) False Organic Labeling

Selling or labeling product as organic that does not meet the requirements outlined in the National Organic Program regulations is a violation of market policy and will be penalized with fines and/or suspension or expulsion from the Market, as recommended by the Committee. Fines will be no less than \$100 and no more than \$5,000. Violations will be reported to county Department of Agriculture, or other appropriate authority and may result in civil penalties.

E) Harassment Policies

Harassment by Sellers, their employees or family members, toward customers, other Sellers, or Ecology Center staff or volunteers will not be tolerated. This includes, but is not limited to, use of abusive, profane, demeaning, or intimidating language or behavior and sexual harassment. This also includes slandering language regarding others in the market that may be heard by customers or other vendors. Harassment by Sellers, their employees or family members may result in suspension or termination from the Ecology Center Farmers' Markets. Appeals may be made as outlined by the Direct Marketing Law.

In order to create a thriving, safe community gathering space, the Ecology Center also encourages Sellers to abide by and share the *Community Code of Conduct (Exhibit B)* with its other owners and employees.

F) Other Violations

Negligent violations such as excessive disregard for ECFM Policies (i.e. more than three types of multiple infractions within a three-month period), violations that endanger the public's health, and other serious violations will be handled on a case-by-case basis, and may result in fines and/or suspension or expulsion, as determined by the Market Managers with consultation to the Committee.

G) Appeals

1) Appeals for Certified Producers:

Sellers who have been penalized for violations shall receive a written Notice of Intent to Take an Action if the action includes a fine, suspension or expulsion from the market. The Notice shall state the specific reasons for the proposed action. The Notice shall be delivered in person or mailed to the market participant prior to an imposition of a fine, suspension or expulsion from the market unless

an immediate suspension is necessary to protect the public health, safety or welfare. The Notice shall advise the participant that he or she has fifteen calendar days to submit a written appeal of the proposed action. If an appeal is submitted in a timely manner, the Market Manager shall arrange a date and time for the appellant to appear before the Community Advisory Committee or Market Manager for an administrative hearing. The Community Advisory Committee shall provide a recommendation to the Market Managers at this hearing. The administrative hearing shall provide the participant with an opportunity to present evidence and argument regarding the reasons stated in the proposed action and the appropriateness of the proposed action. The administrative hearing shall result in a written decision upholding, reversing or modifying the proposed action. The decision shall be issued within fifteen calendar days of the conclusion of the hearing.

2) Appeals for Non-Agricultural Vendors:

Non-agricultural sellers who have been penalized for violations may appeal the decision to the Community Advisory Committee. Appeals must be made in writing within 15 days of the action at issue, and shall be considered by the Committee within 30 days of the appeal request. The Seller may present his/her case to the Committee at that hearing. The Committee will notify the Seller of its recommendation within 15 days of the appeal hearing. While the Committee is considering an appeal of a suspension or expulsion, the Seller will not be allowed to attend the Market.

XII. Exhibits

Exhibit A) Market Closure Policy: Last Updated: March, 2020

Purpose

The Ecology Center Farmers' Markets' primary goal is to create a thriving community gathering space in which farmers and local food artisans can sell directly to the public, contributing to the health and success of their businesses. We aim to keep the markets safe, vibrant, welcoming and full with a diversity of products. In order to do this, we aim to operate the market year-round, rain or shine, and ask every vendor to do their part to achieve this goal. However, in rare occasions, it may be necessary for the Ecology Center to cancel, or close early, the farmers' market in order to maintain public, vendor, and staff safety.

This document aims to outline the conditions under which a market closure may be considered or initiated, clarify best practices during closures in order to mitigate negative impacts on vendors, and create greater transparency and feedback between Ecology Center, the farmers' market vendors, and the farmers' market shoppers.

It was drafted with input from farmers' market staff, Ecology Center leadership team, market vendors, the Community Advisory Committee, and was ultimately reviewed and passed by the Ecology Center Board of Directors.

Possible Market Closure Conditions

There are a number of known and unknown conditions that might precipitate a market closure. Below are some that have occurred in the market's history that might precipitate a market closure or cancellation in the future:

- *Extreme Weather and Natural Disaster*

Extreme weather, and specifically high winds can be one of the most dangerous elements in a market setting. Per our policies, markets operate rain or shine (or wind) and we require vendors to adequately tie down and weight their canopy every market day to avoid hazards created by wind and gusts. Please reference *Operating in the Wind: Requirements & Best Practices* document.

In cases where sustained wind and gusts are predicted above 30 mph, where even weights and ropes, properly used, can not secure canopies, the Ecology Center may explore cancelling a market in advance, ideally informing vendors no less than 24 - 48 hours in advance.

In some cases, when the market is experiencing winds between 25 to 30 mph, it may be necessary to make a decision about a high wind closure on market day, or while out at the market. Staff may make the determination to ask vendors to take down their tent, pack up early, and/or may choose to not charge stall fee or penalize vendors with an absence who do so.

There may be other naturally-occurring, unpredictable weather events and natural disasters that may influence a market closure, including a major earthquake, flood or other natural disaster:

- *Violence or Threat of Violence at or Near Market Site:*

In the past there have been a number of rallies and counter protests in Berkeley in the park adjacent to the market. Several of these resulted in violent clashes between the groups, as well as a generally unsafe environment, including rock lobbing, brawling in the street, and tear gas. Threat of this kind of violence would not only be dangerous for customers, vendors, and staff, it scares and deters many customers from attending.

In cases where this kind of threat is planned during market hours, the EC will make efforts to resolve the issue before the market day, including reaching out to groups asking them to reschedule their rally/protest to a non-market day; communicating with City staff and law enforcement to understand the likelihood and level of threat; considering moving the market to a contingency location. If such threats occur, unplanned, during market hours, staff may consider an early closure.

- *Other unsafe conditions such as fire, smoke, chemical spill, extreme heat, etc.:*

Immediate dangers like fire or chemical spills at or near market would require prior or immediate market closures. In the case of immediate dangers on market days, staff may direct vendors to leave the site without packing up in order to avoid immediate danger.

In the case of smoke which impacts the air quality at the market site, the EC may consider closure in the Very Unhealthy range (201- 300), and Hazardous range (301-500), especially in the case of prolonged exposure. The Ecology Center will generally not operate the market(s) if the City of Berkeley declares a Public Health Emergency for smoke or any other similar environmental reason.

Market Closure Decision Making Process

Consultation: If appropriate and there is adequate time (more than 72 hours), EC staff will email/call vendors selling at the market to request their thoughts, opinions, and preferences, and/or to be surveyed. This may not always be appropriate or possible given time constraints, but vendors will be consulted whenever possible.

Advance Decisions: Food & Farming Director will work with Market Staff to devise and present possible scenarios regarding the threat to Ecology Center Deputy Director and Executive Director. Whenever possible, vendors selling at the market and the Community Advisory Committee will be consulted and surveyed. The group will then discuss pros and cons of each scenario and make a decision regarding closing or keeping the market open. Factors that may be considered in this decision include, but are not limited to:

- Level of risk to health and safety of customers, vendors, and staff
- Impact on vendor sales / business
- Vendors' options and preferences
- Impact on reputation of the Berkeley Farmers' Markets and the Ecology Center
- City of Berkeley staff, elected officials, or other experts' opinions and preferences
- Other nearby Farmers' Markets' closure decisions
- EC experience with similar situations in the past
- Amount of time to alert vendors and customers of closure

Day-Of Decisions: If there is an immediate threat to the health or safety of any person involved in the market, the Market Manager should take immediate action to de-escalate or address hazard, up to and including closing or evacuating the market immediately.

If it is safe to do so, Market Managers will discuss any early closure of market with Food and Farming Director and Deputy Director or Executive Director, in-person, or over the phone. They will

also consult most or all vendors present at market that day in order to inform their decision about an early closure.

If vendors feel unsafe with conditions at the farmers' market, while the market remains open, they should discuss an early pack up of their stall with the on-site supervising market manager.

Note: Whenever possible, the Ecology Center will communicate emergency market closures to vendors at least 24 - 48 hours in advance. There may be cases where it is absolutely necessary to close the market with less than 48 hours notice, but the Ecology Center will make every effort to provide at least 48 hours notice to vendors.

Communications

As mentioned above, if there is time and it is appropriate, the Ecology Center will seek vendor input on market closure decisions, including surveying vendors. In the case of input or to inform vendors of a decision, staff will reach out by email first, and phone if vendor does not have an email.

If EC has determined that a closure is necessary for the health and safety of customers, vendors and staff, we ask that vendors help to inform customers of the closure through their own website, social media, and other communications methods. The Ecology Center will utilize at-market signage, newsletter, advertising, social media and earned media. On market days, when a closure is necessary, staff will make every effort to clearly communicate an early closure time to customers and vendors, verbally and other platforms, when possible.

In the spirit of solidarity and professionalism, we also ask that vendors demonstrate support for the Market Managers' / Ecology Center's market closure decision. Once a decision is made, vendors are invited to share their feedback with the Farmers' Market Program Manager and Food and Farming Director directly. This feedback may inform decision making in the future. Vendors who do not comply with the emergency instructions of the Market Manager may be fined or suspended.

Conclusion

This document may need to be revised in the future depending on changes to climate and prevalence of aforementioned possible market closure conditions. The Ecology Center will avoid farmers' market closures whenever possible and will only consider it on rare occasions, as stated above. Thank you for your participation in the Berkeley Farmers' Markets!

Exhibit B) Community Code of Conduct: *Last Updated November, 2020*

The Berkeley Farmers' Market is a community gathering space set up to strengthen ties between farmers, food artisans, and shoppers, and to foster a more healthy, sustainable, and just food system. This Community Code of Conduct lists the guiding principles and standards for how we expect individuals to interact with each other within the Berkeley Farmers' Markets.

1. All are welcome here. Hate is not.

Everyone has a right to be here and to feel safe. This space shall be free of any comments or actions, including microaggressions*, that disparage someone based on race, age, size, gender, ability, sexual orientation, religion, immigration status, or mental health status.

2. Respect is welcome here. Harassment is not.

All interactions at the market must be respectful and consent-based. No unwelcome touching or advances, movement-blocking, leering, sexually degrading commentary, sexual gestures, or physical or sexual harassment.

3. Dialogue is welcome here. Argument is not.

This community values the sharing of diverse perspectives. Dialogue requires curiosity, listening, compassion, and patience. This is not the place to preach, verbally dominate, shout down, or force your opinions on captive audiences.

4. Good intentions are great, IMPACT is what matters.

We expect everyone to think before they speak or act. The impact of your actions is much more important than your intentions. Ask, will your actions achieve your intent? If you are not sure, consider another approach that ensures the other party will receive your action feeling as respected and dignified as you would like to feel.

*brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative slights and insults toward members of a marginalized group

Exhibit C) Vendor Agreement Addendum re: COVID-19

This addendum is effective on the date of the signature last-applied hereto and becomes an addendum to the terms and conditions of the agreement, in whatever form existing,

between the vendor named below ("vendor") and the entity which operates the market listed below ("market"), authorizing the vendor to operate at the market. In exchange for the mutual terms and agreements set forth herein, the parties hereto do hereby agree as follows:

1. If an individual vendor, member of their household, or member of their staff/employee experience symptoms related to COVID-19 (including shortness of breath or difficulty breathing, fever or chills, fatigue, new loss of taste or smell; and listed in full detail here -

<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>):

- a. The individual vendor or staff/employee cannot be onsite at market.
- b. The individual vendor or staff/employee cannot return to market until at least 24 hours have passed since their last fever of 100.4 or higher without taking any fever reducing medication.
- c. If the individual vendor or employee affected is tested for COVID-19; the vendor or employee cannot be onsite at market until they receive a negative test result.

* These directions follow CDC guidance which can be found here:

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html>

2. If an individual vendor, member of their household, or member of their staff/employee test positive for COVID-19:

- a. The individual vendor or staff/employee cannot be onsite at market.
- b. The vendor will inform Ecology Center market staff immediately.
- c. The individual vendor or staff/employee cannot return to market until:
 - I. 10 days since symptoms first appeared **and**
 - II. 24 hours with no fever above 100.4 without the use of fever-reducing medications **and**
 - III. COVID-19 symptoms have improved

* These directions follow CDC guidance which can be found here: [When You Can be Around Others After You Had or Likely Had COVID-19](#)

- d. The vendor should conduct contact tracing with staff (found [here](#)):
Determine who has had or may have had close contact with the individual within 48 hours of that person feeling sick or testing positive. Close contact is defined as being **within 6 feet or less for 15 minutes or more**, or having direct contact with their body fluids or secretions while they were not

wearing a facemask, gown, and gloves. Close contact also includes people who live with, take care of, or are taken care of by the person with COVID-19.

- e. The vendor should inform all employees and staff members of possible exposure. All staff and employees that may have been exposed should self monitor for symptoms for 10 days after the last day that the case was at work.
- f. If the vendor or vendor staff/employee has attended market during the time they may have been COVID-19 positive, Berkeley Farmers' Market management may notify management staff, volunteers, and other vendors, and inform customers of potential exposure. Vendor may share a statement or post for Ecology Center to share with community.
- g. The vendor's business should follow the "COVID-19 Prevention" regulations from the California Department of Industrial Relations found here <https://www.dir.ca.gov/title8/3205.html> as well as guidance from the Department of Agriculture's "COVID-19 FOOD INDUSTRY GUIDANCE" found here: <https://www.agriculture.pa.gov/foodforthought/Pages/Article.aspx?post=90>

3. If an individual vendor, a member of their household, or member of their staff/employee has had contact (within six feet for more than 15 minutes) with someone who has tested positive for COVID-19:

- a. The individual vendor or staff/employee cannot be onsite at market.
- b. The individual should isolate for 4-5 days and then get tested for COVID-19. If the individual receives a negative test result and they are asymptomatic, the individual may end isolation after 10 total days.

4. If the California Department of Industrial Relations and/or Department of Public Health or a local health department issue further regulations, guidance or directives, subsequent to the signatures being applied hereto, that guidance or directive(s) must be followed.

- a. The terms and conditions herein are subject to change as COVID-19 regulations and guidance from the California Department of Industrial Relations, California Department of Health and the CDC are updated.
- b. The market reserves the right to revise the terms and conditions herein to serve the interests of public health and safety.
- c. Market management will notify vendors of any such revisions by email, effective the next market day.

- d. In the event of a public health emergency, the market, through its designee(s), may communicate revisions verbally, effective immediately upon communication, and such verbal communications shall have the same force and effect as if set forth herein in writing.
- e. This addendum, and any other changes to the vendor agreement for this market season, will be reviewed prior to the start of the next market season.

The parties hereto, intending to be legally bound, do hereby execute this addendum on the date set forth below and by and through persons duly authorized to enter into agreements on behalf of their respective interests.

Exhibit D: Sampling Compliance Guide & Agreement

We will again be allowing sampling at the Berkeley Farmers' Markets. **This is subject to change**, based on public health guidance. If you choose to sample, our market managers will be enforcing all health department requirements. If you do not follow the guidelines below, as well as any relevant Berkeley Public Health Department requirements, **you may be subject to fines and the revocation of this privilege**.

Thank you for helping to keep our community safe and healthy.

Clean, Controlled, and Covered Sampling

Sellers must first **clean** their produce of any dirt and debris; **control** their samples by ALWAYS being the one to distribute samples; and keep them **covered** to avoid contamination. Anyone preparing or distributing samples must wear a **mask** over their mouth and nose at all times.

Hand Wash Station

All forms of sampling or food preparation require a hand wash set up, consisting of:

1. A 4 to 7 gallon potable water container with a valve
2. a wastewater catch bucket
3. paper towels
4. liquid hand soap.

You must take your waste water with you, **you may not dispose of it on site**. **Handwashing should happen frequently and always after sneezing, coughing, touching face or hair, and handling money.**

Utensil Wash Station

If preparing samples on site, a utensil wash set up is required, consisting of:

1. A **wash** bin (contains soap/detergent),
2. A **rinse** bin (containing clean water), and spout (not a button).
3. A **sanitizing** bin (containing diluted bleach or water+Quaternary tablets) to kill disease causing bacteria. (We recommend having appropriate **sanitizer test strips** to verify proper concentration of sanitizing solution.)

All three must allow you to fully submerge your cutting board, knives, tongs or other implements being used for sampling. You must take your waste water with you, you may not dispose of it on site.