

NOTICE OF RULE ADOPTION—FINAL RULE

**STATE OF MISSISSIPPI
Central Market Board**

Specific Legal Authority Authorizing the promulgation of Rule:

Miss. Code Ann. §69-7-109(d)

Reference to Rules repealed, amended or suspended by the Proposed Rule:

MS Farmers Market Rules and Regulations

Date Rule Proposed: June 23, 2005

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule:

Rules Governing operation, vendor stalls, produce, nursery/landscape, and specialty foods and crafts.

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

An oral proceeding was held on this rule:

Date:

Time:

Place:

An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

This rule as adopted is without variance from the proposed rule.

This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

The rule as adopted differs from the proposed rule. The differences however are:
Within the scope of the matter in the notice of proposed rule adoption,
The logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted response thereto, and
The Notice of Proposed rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: August 29, 2005

Jake Hutchins, Market Manager

Signature and Title of Person Submitting Rule for Filing

Mississippi Farmers' Market

Rules and Regulations

Definition of Terms

1. **Crafts** – Products that have been developed by the handiwork of artisans and crafters to create a value-added good.
2. **Market Manager** – A state employee designated by the Board to supervise the daily operations of the Mississippi Farmers' Market and to implement the guidelines and decisions of the Mississippi Central Market Board.
3. **Mississippi Central Market Board** – Governor appointed individuals in cooperation with the Mississippi Commissioner of Agriculture as outlined in Section 69-7-103 of the Mississippi Code of 1972.
4. **Nursery/Landscape** – Horticultural and arboricultural plant materials used for aesthetic purposes.
5. **Produce** – Raw, horticultural and agronomic products to include all varieties of fruits, vegetables, herbs, nuts and cut flowers.
6. **Specialty Foods** – Processed goods derived from raw commodities to include but not to be limited to refined, baked, canned and cooked foods, honey, and eggs.
7. **Stall** – Pre-designated space for rent on the market premises.
8. **Vendor** – One who meets the requirements of the Mississippi Farmers' Market certification process and sells produce or other approved products at the Market.

Purpose

- The Mississippi Farmers' Market ("the Market") is created to promote and provide a marketplace for Mississippi grown fruits, vegetables, plant materials, and other products made in Mississippi. These rules apply only to the Market on Jefferson Street. The primary objectives of the Market are to offer a diverse product selection, attract a large and repeating customer base, and afford farmers a profitable location to sell produce and other goods.

Time of Operation

- The Mississippi Central Market Board ("the Board"), shall have the authority to establish days and hours of operation of all sectors of the Farmers' Market at the Fairgrounds with monthly reevaluation of such operating guidelines.
- All participating vendors must adhere to hours of operation.

Vendor Certification and Selection Priority

- All vendors must complete the Market Certification Form upon annual application for participation in the Market.
 - Mississippi Department of Agriculture and Commerce staff will evaluate submitted certification forms and approve those deemed eligible.
 - A copy of the approved certificate must be posted in plain view during operation for all vendors at the market.
 - All items intended for sale shall be listed on the certificate, and only those items approved for sale will be allowed.
 - It is the intent of the certification process to ensure all products for sale are produced by those actively involved in the production process and that only those individuals may become eligible vendors at the Market.
- Vendors shall be selected and stalls allocated to promote equity, diversity, and a competitive environment to benefit both vendors and customers.
- Mississippi Department of Agriculture and Commerce staff shall perform inspections on vendor property after certifications have been completed.

Operating Guidelines

- The Board shall have the authority to set rent rates for vendors on Market grounds and shall reevaluate such rates on an annual basis. Rates shall be set to support financial stability of the Market and to encourage participation in the Market.

- Each vendor, whether in cooperation with other growers or not, shall individually pay a stall fee. Rental fees will be paid on a daily basis for each stall space occupied.
- Vendors must use the space as authorized by the Market Manager.
- Vendors must notify the Market Manager before delivering, engaging in business, or occupying space on the market grounds.
- At no time may a vendor's display restrict the view of other vendors at the market.
- No vendor may sub-lease or sub-let their space at any given time.
- The Market Manager must approve signage.
- Vendors may have coolers, as approved by the Market Manager, in the rented space.
- The Market will provide waste containers and basic electrical service. The Market will not provide electrical cords or other electrical extensions.
- The Market will also provide water connections for the vendors. The Market will not provide hoses or other connection equipment needed to dispense water.
- Hoses and other watering apparatuses must be put away and turned off immediately upon termination of use and must not pose a threat to others.
- Standing water must be swept to the nearest drain.
- No vendor shall enter into price agreements to raise, lower, or fix prices for products on the Market. Vendors are not to influence other vendors to sell lower or higher other than through natural competition.
- Each vendor operates privately and separately, and it is the individual responsibility of each vendor to comply with all State, County, City and Federal laws concerning packaging, labeling, taxation, etc.
- No vendor is to approach customers while at the location of another vendor. No calling out of prices will be permitted.
- Use of the product label "Organic" must be in accordance with all Federal and State laws, rules, and regulations.
- No live animals shall be offered for sale at the Market.
- No smoking or tobacco use shall be allowed in the building.
- No alcohol, intoxicating beverage or narcotic, nor any person under the influence thereof, shall be allowed on the market premises.
- Loitering in or around the Market after designated operating hours is prohibited.
- No eighteen-wheelers shall be allowed on Market grounds.
- No repairs on vehicles, other than emergency repairs, may be performed on Market grounds.
- All vehicles belonging to or used by the vendor must be parked directly behind their rented stall or in customer parking, and must be moved on a daily basis (cannot stay after Market closes).
- No soliciting of products other than approved items will be permitted.
- No pets are allowed in the building with the exception of dogs aiding the handicapped.
- No loading or unloading of products in a stall in front of the customer walkway is allowed.
- No person shall deface or damage the Market building.
- Vendors are responsible for the actions, behavior, and dress of their representatives, employees or agents. Shoes and shirts must be worn at all times.
- All vendors and vendor personnel are responsible for a daily proper disposal and removal of refuse, discards, and garbage from their rented space, including, without limitation, the ten feet in front and rear of rented space and five feet on all sides of any vehicle parked at a rented space.
- Vendor displays and storage must be kept sanitary on a daily basis.
- The Market is not liable and assumes no responsibility for any personal items or property in or around the stall(s).
- The Mississippi Department of Agriculture and Commerce has the right to invite any outside vendor for temporary, promotional events with those individuals adhering to only the 'Operational Guidelines.'
- To the fullest extent allowed by law, each vendor shall indemnify, defend, save, hold harmless, protect and exonerate the Board, its directors, employees, agents, representatives, the Market Manager, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages and losses for personal injury, death or property damage, including, without limitation, court costs, investigative fees and attorneys' fees arising out of such vendor's operations on the Board's grounds, and whether caused by the vendor or his agents, employees or subcontractors. Each vendor shall be solely responsible for all costs and/or expenses associated with such defense.
- Vendors may leave their products and other property in the stall space over night only if the rental fee has been paid in advance.
- Upon departure, all space for which tenant is responsible, as described above, must be left clean.
- If the vendor has been absent from Market and rent has accrued, tenant must, upon his return to the Market, pay all delinquent rent and/or fees before engaging in business again.

- The Market Manager reserves the right to eject from the grounds any individual who interferes with the commerce and operation of the Market.
- If a vendor violates any of these rules, he may be debarred by the Market Manager from operating as a vendor at the Market.
- If the Mississippi Legislature or the United States Congress fails to appropriate the funds necessary to operate the Market, the Market Manager may debar any or all of the vendors from operating at the Market.
- The Market Manager may debar any or all of the vendors from operating at the Market at the convenience of the Market Manager.

Produce

The following rules and regulations are only applicable to those vendors selling fresh produce, nuts, and cut flowers and foliage.

- A single vendor may rent a maximum of three consecutive stalls, with approval by the Market Manager.
- Products originating from outside of Mississippi are strictly prohibited. Only under extenuating circumstances such as special events or promotional activities planned by the Mississippi Department of Agriculture and Commerce will out-of-state products be allowed at the market.
- Produce products will receive preference for space over plant materials and other goods available at the market.
- Trees and produce shall not be sold from the same stall.
- Pre-packaged items sold by weight must be labeled in a manner pursuant to Section 75-27-41 of the Mississippi Weights and Measures Law.

Nursery/Landscape

The following rules and regulations are only applicable to those vendors selling plant materials classified as either Nursery or Landscape.

- If available, a single vendor may rent a number of consecutive stalls, with approval by the Market Manager.
- Vendors, if deemed eligible by the Market Manager, may expand the size of their operation for an additional fee by utilizing the parking area behind the stall. Expansion displays must not block the driving space of other vendors at the market and must adhere to the width and length restrictions of the rented stall(s).
- At no time may the vendor expand beyond the side and front lines of the stall(s).
- A tent or other shading structure that has been approved by the Market Manager maybe placed directly behind the stall to expand the rented stall.
- Re-stocking is permitted. Vendors may be subject to a surcharge in an amount determined by the Board and reviewed annually for every truckload brought in. Payment will be given to the Market Manager immediately upon delivery.
- The Bureau of Plant Industry must certify all vendors selling nursery plant materials before entering the market. Proof of certification and licensing must be provided and on file with the Market Manager.
- All plant materials sold at the market must have been grown in Mississippi. Plugs and other starter plants not originating in Mississippi may be considered a Mississippi product if and only if it is finished in the state. For such consideration, the plant material must not be in its original container, and it must have matured in Mississippi for a minimum of four weeks.
- All plant materials must be disease and pest free.
- Vendors may water plants as necessary but may not spray fertilizer, pesticides, or any other chemicals at any time at the Market.

Specialty Foods and Crafts

The following rules and regulations are applicable only to those individuals selling goods that have been processed altered from its original form as well as to those individuals selling farm raised eggs.

- In the event a stall is vacant and vendors selling produce or nursery/landscape materials are not available or a lack of variety is present at the market, the Market Manager may rent a stall to a vendor selling specialty foods.
- Government approved methods for preparing, storing, handling, and packaging of food products must be adhered to.
- All processed foods products are to be packaged, covered, sealed, or wrapped at all times.

- Complaints regarding quality, unsafe practices, or reports of illness must be given directly to the Market Manager.
- Only crafts that are handcrafted by the vendor will be allowed.
- All products are subject to revocation by the Market Manager.