

# 2022-2023 Market Rules and Guidelines

## Morgantown Farmers’ Market Growers Association

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## **i. DATE OF ISSUANCE**

**These rules were approved by the MFMGA membership on October 11, 2018 and continued for 2022-2023. The last revisions for this set of rules were approved at the November 18, 2021 membership meeting. These rules apply specifically to the May 2022 through April 2023 market year and henceforth unless otherwise modified. These rules supersede all previous versions of MFMGA Market Rules and Guidelines.**

## 1. DEFINITIONS

**Good-standing:** A vendor is in “good-standing” when all sales data have been submitted appropriately, fees and commissions paid, and the vendor is not currently under market suspension

**Local:** Within a fifty (50) air-mile radius of Morgantown

**Market year:** May 1, 2022 through the following April 30, 2023

**Producer-only:** All products sold must be grown or produced by the vendor. Processed products including prepared foods or other value added products must feature agricultural products produced within the local area.

**Vendor:** the actual producing individual or business entity, an immediate family member of the producer, or the farm operator listed as the “vendor” on the Morgantown Farmers’ Market Growers Association Membership Application. Product sales at the market may be conducted by representatives of the vendor.

## 2. PURPOSE

The Morgantown Farmers’ Market Growers Association (MFMGA), a nonprofit organization<sup>1</sup> registered in the State of West Virginia, creates and operates producer-only farmers’ markets in the Morgantown area. The MFMGA markets provide farmers within a 50 air-mile radius of Morgantown (Appendix A1) with direct product marketing; encourage regional farming; provide consumers with fresh, locally grown or produced products in a convenient location; and provide educational opportunities for market customers at the point of sales and vendors on marketing their products. The MFMGA Market Rules and Guidelines are used to ensure the integrity of all products sold at the MFMGA Markets; compliance with all appropriate regulatory requirements; and promote consumer health and safety at the markets. All market vendors and their representatives must adhere to these rules.

## 3. MFMGA MARKET YEAR

The MFMGA market year is the period from May through the following April. Individual markets generally operate only for selected months during this period.

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<sup>1</sup> MFMGA is a nonprofit, tax-exempt organization under section 501(c)(3) of the Internal Revenue Code (final approval August 2014).

## 4. MFMGA MARKETS

The MFMGA operates markets in the Morgantown area. These rules apply to all markets with specific rules for individual markets as noted.

### 4.1. Morgantown Farmers' Market (MFM—Summer Market)

The MFM—Summer Market operates weekly on Saturday mornings from 8:30 am to 12 pm (noon) beginning the first weekend in May through the first weekend in November. The market is held at the Morgantown Market Place, an outdoor pavilion located at 415 Spruce Street, Morgantown. Market dates may vary from year to year.

### 4.2. Morgantown Farmers' Market (MFM—Winter Market)

The MFM—Winter Market operates on a reduced schedule once or twice monthly from mid-November through April at an indoor location. The market location and specific market dates will be determined in late summer of the market year.

## 5. MFMGA MEMBERSHIP

Membership in the MFMGA is by application only. All applicants are reviewed and approved by the MFMGA Board of Directors annually. Current members must reapply each year. Previous acceptance of an applicant by the MFMGA does not entitle the applicant to acceptance for the forthcoming or future market years. MFMGA membership categories include “Vendor”, “Associate”, and “Friend of Market” members. MFMGA voting privileges are granted to Vendor and Associate members-in-good-standing. Voting privileges will be suspended for members not currently in good-standing (e.g., failure to report sales or pay fees; or under market suspension for market rule or by-law violations). Membership fees are non-refundable.

### 5.1. Vendor Membership

Vendor membership (voting) is open to producer-only individuals/businesses/entities that meet the eligibility criteria described below for the nature and geographic location of their business, types of produce and other products to be sold, licensing, insurance, and miscellaneous other requirements. Approved Vendor *member-in-good-standing* status (i.e., no outstanding MFMGA debts from prior market periods and/or unexpired market suspensions) and pre-payment of all membership and space fees for the forthcoming market year are required to sell at MFMGA markets. **The annual Vendor membership fee is \$75 for returning vendors and \$100 for new vendor applicants.**

### 5.2. Associate Membership

Associate membership (voting) is open to the non-vendor Morgantown community at large who wish to materially participate in the MFMGA through member activities such as education, communications, and/or marketing efforts; member meetings, committee work, and/or the Board of Directors; and to promote the goals of the MFMGA. Associate membership is not open to family members, employees, business partners, and other

individuals directly involved in the operation of MFMGA vendor member farms or businesses. **The annual Associate membership fee is \$50.**

### 5.3. Friend of Market Membership

Friend of Market membership (non-voting) is open to the community at large who wish to support and promote the goals of the MFMGA. Friend of Market members may participate in MFMGA member meetings, but may not submit or second motions on the floor or vote. **The annual Friend of Market membership fee is \$25.**

### 5.4. Membership Applications and Due Date

Membership applications are available from the MFMGA website, the Market Manager, and the Mon County Extension Office at 270 Mylan Park Lane, Suite 250, Morgantown. Vendor applications are accepted for the forthcoming market year beginning January 1 each year. Vendor applications with all required documentation and fees for all MFMGA markets must be submitted to the MFMGA Market Manager by **March 1**. Incomplete applications will not be considered. Vendor applications received after the March 1 due date and on or before **April 1** will be considered on a case-by-case basis at the Board of Directors' discretion pending space availability and other eligibility criteria. **No Vendor applications will be accepted after April 1.**

Returning vendors may submit a provisional application as described in Section 7.7 on or before October 1 of the current market year. Associate and Friend of Market memberships are accepted throughout the year.

Newly accepted Vendor and Associate members approved by the Board of Directors from January through April are entitled to voting privileges at the start of the forthcoming market year (e.g., May 2022-April 2023). New associate members accepted at other times of the year are entitled to voting privileges for the duration of the current market year.

## 6. VENDOR AND PRODUCT ELIGIBILITY

### 6.1. Producer-Only Requirements

The MFMGA supports local agriculture through providing venues for direct marketing of products grown or produced with locally grown agricultural foods and educating farmers/producers and consumers about the benefits of building sustainable "local" food markets. MFMGA markets are "Producer-Only" markets requiring that all products sold must be grown or produced by the vendor within a 50-air mile radius of Morgantown, West Virginia. Processed products including prepared foods or other value added products must feature agricultural products produced within the MFMGA local area as described in the product eligibility guidelines. **The resale of agricultural products by vendors at MFMGA markets is expressly prohibited except as authorized under provisional sales agreements approved by the MFMGA Board of Directors.**

**Resale of products, including from neighboring farms, may be cause for immediate expulsion from MFMGA markets and termination of vendor membership.**

A producer vendor may be a sole proprietorship, partnership, or a private, closely held corporation. Herein the applicant is defined as the “Vendor” where the vendor may be the actual producing individual or business entity, an immediate family member of the producer, or the farm operator.

**6.1.1. Vendor exclusions**

The following vendor categories are excluded from MFMGA markets:

- Farm marketing cooperatives or corporations <sup>2</sup>
- Other corporations or farm operator arrangements where the corporate entity is detached from the local farm operations
- Vendors selling shares or subscriptions in or distributing products for Community-Supported Agriculture (CSA) operations at MFMGA markets
- Food concessions not meeting the producer-only criteria
- Value-added products not meeting the producer-only requirements (e.g., products prepared in a processing facility from ingredients purchased by the vendor)

Businesses operating commercial storefronts are not excluded from vendor membership. However, the businesses still must meet the producer-only criteria and may only sell processed items that feature local agricultural products.

**6.2. Producer-only exemptions**

The resale of agricultural products by producer-vendors is not generally permitted. However, from time to time the Board of Directors may identify or an individual vendor may request that a specific product be granted a provisional sales arrangement. Provisional sales arrangements are only granted when a customer desire for the product has been identified and the product or sufficient quantities of the product are not currently available at the MFMGA markets. When the Board of Directors identifies a product for provisional sales, the Board will work with vendors to identify potential local or West Virginia sources of the product and identify a vendor willing to acquire and sell the provisional product. If a vendor requests to sell a provisional product, the vendor must identify the source and apply in writing to the Board of Directors to establish the provisional product sales arrangement. The request must be submitted at least two weeks prior to intended sale of the product.

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<sup>2</sup> That is, marketing cooperatives or other businesses, including incorporated and unincorporated coops, whose primary function is to transport, package, distribute, and/or market farm products (crop and livestock) from member farmers/producers.



Provisional sales arrangement will be reviewed during the market season, as needed. Provisional sales arrangements may be canceled by the Board of Directors if they are not deemed to be functioning as intended or there are other problems arising with the arrangement and the approved vendor including, but not limited, to the vendor not maintaining good vendor status.

Vendor sales arrangements are only valid for a specified time not to exceed the market season. Vendors may request renewal of their provisional sales arrangement with their annual vendor application or during the market season, at the vendor's discretion. However, renewals requested with the annual application are preferred.

If a MFMGA vendor requests to sell products that they have grown or produced under the producer-only guidelines that are currently being sold by them or another vendor under a provisional product sales arrangement the producing vendor will be given preference for the sale of the product. At the Board of Directors' discretion the provisional sales arrangement may be allowed to continue for a specified time not to exceed one year to allow the sale of inventory by the vendor selling under the provisional arrangement, or if the new vendor is not deemed to be able to supply the market with adequate product, the provisional vendor may be allowed to continue sales on a year to year basis until an adequate supply of the product is available from producer-only vendors.

### **6.3. Product Guidelines**

All products sold must comply with the West Virginia Departments of Agriculture and Health regulations, federal regulations, and other applicable governmental requirements. See the West Virginia Department of Agriculture website<sup>3</sup> for product requirements and prohibited products. West Virginia and Federal Government regulations supersede any guidelines that may be included in the MFMGA rules but that have not been updated to comply with current regulations.

All items sold by vendors must comply with the regulatory labeling requirements. Vendors must provide the MFMGA Board of Directors sample labels for any product requiring labeling upon request during the application review process or during the market season. Vendors who use an off-farm processing facility must provide as a part of their annual application the contact information (name, address, and telephone number) for each processed product. The processing facility does not need to be within the local market area. Vendors who purchase ingredients for value-added products must purchase ingredients from local farmers as prescribed below. Vendors purchasing local ingredients must include contact information for the source of their ingredients with their annual application. Upon request, the vendor must provide the MFMGA Board of Directors invoices for the purchased ingredients.

<sup>3</sup> Available at <https://agriculture.wv.gov/licenses/food-products-and-aquaculture-licenses/>

or from the County Extension Office

**Specific product requirements are:**

**6.3.1. Baked goods**

Fresh baked goods, including breads, tortillas, pastries, pies, tarts, and granola, must be made from scratch. Use of commercial mixes, crust, or flavored fillings is not allowed. Baked goods sold the MFMGA markets should highlight regional produce and seasonal ingredients. Although “local” ingredients are encouraged in all products sold, at least 25% of the baked-good categories for sale must have more than trace quantities of local agricultural ingredients (i.e., water does not count). “Local” ingredients such as eggs, fruit, herbs, vegetables, or meat used in the baked goods must be grown by the producer or purchased from a “local” grower.

**Example 1:** If a vendor’s only baked goods are 4 varieties of muffins, 1 of the varieties must use local ingredients. That is, if blueberry muffins are the qualifying product, the blueberries and/or eggs must be “local” for the muffins to be an allowable item. Note, the 25% criterion is based on the number of product categories, not the number of items within or across categories (i.e., the vendor could sell 40 muffins in all, but criterion does not require that 10 muffins be blueberry).

**Example 2:** If a vendor sells 2 varieties of bread, blueberry muffins, and cinnamon rolls, at least one of the types of bread, or the blueberry muffins, or the cinnamon rolls must use local ingredients.

**6.3.2. Cheese, butter, yogurt, and frozen dairy products**

Cheeses or other milk-related value-added products must be from milk produced on the producer-vendor’s farm (farmstead products) or purchased from “local” dairy farms (artisanal products). All dairy products must be pasteurized and comply with state and county health codes.

**6.3.3. Beverages**

Local beverages can be sold at the MFMGA markets. All beverages must be adding value to local agriculture products.

**6.3.3.1 Cider**

Cider must be produced from the producer-vendor’s own orchard or a leased orchard, but may be processed at an off-farm facility.

**6.3.3.2 Tea and Coffee**

Due to the fact that coffee and tea cannot be grown within the “local” area (50 air miles) of the market, beans/leaves sourced outside the area can be used. Ingredients for coffee beverages must be roasted within the “local” area (50 air miles) and brewed by the producer/vendor. Ingredients for tea beverages must be processed or fermented and brewed by the producer/vendor within the “local” area (50 air miles). Drinks sold at the MFMGA markets should highlight regional and seasonal ingredients. “Locally” available ingredients such as, but not limited to, maple syrup and honey must be grown by the producer

or purchased from a “local” producer. Although “local” ingredients are encouraged in all products sold, items that are not always available locally, such as milk and sugar, can be used in the prepared beverage drinks at the MFMGA markets, but producers using the most “local” ingredients will be given preference. No commercial sweeteners or mixes may be used. All beverages/drinks should be made from scratch. Any necessary health department permits, alcoholic permits, certificates, etc. must be provided upon applying.

#### **6.3.3.3 Other Beverages (e.g., smoothies, hard cider, beer, infused waters, juices)**

Ingredients (fruits, grains, vegetables, mixes) must be as locally sourced as possible, all products must contain a minimum of 25% local ingredients, and verification must be done to prove this. Any necessary health department permits, alcoholic permits, certificates, etc. must be provided upon applying. Alcoholic beverages may not be served in open containers or consumed on site. Off premises consumption only. No commercial sweeteners or mixes may be used. All beverages/drinks should be made from scratch.

#### **6.3.4. Condiments**

Condiments such as mustard, relish, or ketchup must be made by the producer-vendor with their own produce or ingredients purchased from other local farmers. Processing must comply with local and state health codes. Condiments must be processed by a licensed processing facility.

#### **6.3.5. Eggs**

Eggs must be from the producer-vendor’s own poultry.

#### **6.3.6. Farm-related merchandise**

On a case-by-case basis, vendors may sell farm-related merchandise (e.g., vendor oriented products such as farm bags or note cards with farm scenes). The merchandise should use “locally derived ingredients” to the extent possible (e.g., handmade paper from the vendor produced fibers) or be made by the vendor.

#### **6.3.7. Flavored oils and vinegars**

Flavored oils and vinegars must be prepared by the producer-vendor and include flavoring agents produced by the vendor. Base oils and vinegars may be purchased, but the products must be clearly labeled as to the origin of the non-vendor ingredients and the vendor’s annual application must identify the purchased ingredients.

#### **6.3.8. Floral materials, cut flowers, and Christmas trees**

Flowers and other floral plant materials must be grown on the grower’s own farm or greenhouse. Flower and herb bouquets or wreaths, if approved for sale, may have limited non-vegetal decorative accents (e.g., ribbon), but no artificial foliage, fruit, or vegetables may be used. Christmas trees must be grown from seedling to maturity by the producer-vendor.

### **6.3.9. Flowers, plants, and trees**

Live potted flowers, plants, bedding plants, and trees must be from the producer vendor's own farm or greenhouse. Producers must start bedding, potted plants or trees, and flowers either from seed, cell pack, bulbs, cutting, or plugs, or from bare root or dormant stock (e.g., azaleas, hydrangeas, and roses). The plants must be well established in its current container, by the seller. No resale of pre-finished plants is allowed.

### **6.3.10. Grains, grain products, and nuts**

Grains must be grown by the producer-vendor. Grain products may have producer-grown grains or purchased grains from local farmers or mills. When specific grains are not available in the region, out of region grains may be purchased, but must be minimized to the extent possible. Ingredients for mixes, cereals, meal, or flour prepared by the producer-vendor must feature local farm ingredients such as dried fruits and nuts as well as locally grown and ground grains. Nuts sold by producer-vendors must be harvested from their own or leased orchards/trees. Nuts may be processed by off-farm facilities.

### **6.3.11. Honey**

Honey must be from the producer-vendor's own hives, but may be processed off-farm.

### **6.3.12. Jams, preserves, fruit butters, syrups, purees, pesto, salsa and other related value-added products**

Value-added products such as jams, apple butter, maple syrups, and fruit or vegetable salsas or pesto must be freshly made from scratch by the vendor (not using store-bought mixes), using seasonal ingredients from their farm or another "local" farm. Processing must comply with local and state health codes. Sauces, salsas, canned vegetables and fruits must be processed by a licensed processing facility.

### **6.3.13. Meat**

All meats must come from producer-vendors. Meat must be processed as required by regulations at a federal or state inspected facility as pertains to the producer's circumstances. Meat processors, per se, who do not grow their own livestock, are not allowed as vendors. However, appropriately licensed vendors may sell meat that they have processed providing that the meat source is traceable and is not mixed with meat from other producers even if those producers are in the local area.

#### **6.3.13.1. Beef**

Beef must be raised by the producer-vendor and have been located on producer-vendor's farm from within two weeks of "weaning" from mother or no older than 7 months and were born and lived their lives in the prescribed "local" market area.

#### **6.3.13.2. Fish and shellfish**

Fish and shellfish raised by the vendor may be sold, provided that they are

processed and sold according to state and county health guidelines. No wild caught fish may be sold.

**6.3.13.3. *Lamb and goat***

Lamb/Goat must be raised by the producer-vendor and have been located on producer-vendor's farm from birth.

**6.3.13.4. *Pork***

Pork must be raised by the producer-vendor and have been located on producer-vendor's farm from within two weeks of "weaning" from mother and were born and lived their lives in the prescribed "local" market area.

**6.3.13.5. *Poultry and rabbits***

Chickens, turkeys, ducks, and other fowl must be raised by the producer-vendor and located on producer-vendor's farm from "day old chicks" or less than one week old. Rabbits must be raised by the producer-vendor and located on producer-vendor's farm from birth. Poultry and rabbits may be processed by the producer vendor, to the extent allowed by federal and/or state regulations, or by commercial, inspected processors.

**6.3.14. *Pasta***

Eggs for pasta must be from the producer-vendor's own poultry or purchased from local farmers. Similarly, flavorings, and fillings must be grown by the vendor or purchased from a local farm. Preference is given to vendors selling pasta who also use local grains or potatoes.

**6.3.15. *Soaps, body care products, and candles***

Soaps, body care products, and candles must be handcrafted by using seasonal ingredients from the producer-vendor's farm or another "local" farm. Any herbs, milk, honey, or other natural products included in the products should be grown by the producer-vendor or purchased directly from another "local" producer. Candles and soaps should be naturally-based from a product grown in the "local" area (milk, honey, etc., NOT soy or other product of unknown origin).

**6.3.16. *Straw, hay, compost, and custom potting mix***

Straw, hay, compost, custom potting mix, manure, and other related agricultural products must be produced by the producer-vendor from material grown by the producer-vendor or processed by the vendor from material acquired from local farms. All products must be compliant with state and federal regulations including any applicable labeling and packaging requirements.

**6.3.17. *Vegetables, fruits, herbs, and mushrooms***

Vegetables, fruits, herbs, and mushrooms must be grown by the producer-vendor. Canned, dried, or otherwise processed items also must be grown by the farmer, but must be processed by an off-farm processing facility when required by regulatory requirements.

Vegetables, fruits, herbs, and mushrooms when used as ingredients in vendor-produced products shall be from the producer themselves or another local producer.

#### **6.3.18. Wood and bamboo**

Wood and bamboo must be grown and harvested by the producer-vendor. Firewood must be cut/split by the vendor, however lumber may be sawn and processed by a mill.

#### **6.3.19. Woodcrafts**

Woodcrafts (including birdhouses, arbors, planters, or other garden accessories) must be handcrafted by the vendor from wood grown on her/his farm or that of another “local” producer (preferably from trees native to the region).

#### **6.3.20. Wool, yarns and pelts**

Wools and pelts/fleeces must be from the farmer’s own animals. No more than 25% of non-“local” fibers may be added to the yarn during spinning. Carding, cleaning, and processing of pelts may be done at an off-farm facility.

#### **6.3.21. Other farm-related products**

Products not listed elsewhere in this section must comply with the same or similar constraints as imposed for all vendor grown or processed products. These products will be considered on a case-by-case basis during the application review.

## **7. VENDOR APPLICATION PROCEDURES AND REQUIREMENTS**

### **7.1. The Application**

The MFMGA Vendor Application for the forthcoming market will be available on the MFMGA website or from the Market Manager on or before January 1 each year. **Completed vendor applications with all required documentation and fees** are to be submitted to the Market Manager by March 1.

The application form includes: primary contact information for the vendor; vendor business name and details; vendor licensure information; business/farm location information; market participation and attendance information; market setup and space needs; and applicant signature line to certify that the vendor has read and agrees to abide by these MFMGA Market Rules and Guidelines. Applicants must include an **IRS “Request for Taxpayer Identification Number and Certification Form W-9”** with their application so that MFMGA can comply with federal regulations.

Applicants should use the Application Checklist to list all supporting documentation and fees included with the vendor’s application and to ensure that they have included all required materials in their package.

### **7.2. Product Plan**

Each vendor must submit a detailed product plan with their application packet. The Product

Plan must list all produce and other types of products that will be sold at the markets. A separate Product Plan must be submitted for MFM—Summer and MFM—Winter. The Product Plan must be comprehensive. Vendors are encouraged to include supplemental information for new types of products or products that would likely not be expected to meet the product eligibility rules.

#### **7.2.1. Unprocessed farm products**

Unprocessed farm products include, but are not limited to fresh fruits, vegetables, herbs, flowers and plants, Christmas trees, meat and fish, eggs, nuts, grains, dried beans, seeds, honey, straw and hay. Any products not produced on the vendor's property (owned or leased) must be indicated and the source specified.

#### **7.2.2. Processed food and farm products**

The Product Plan must list the processor and include source specifics for major ingredients or product components for process food and farm products such as fresh baked goods, jams, jellies, sauces, salsas, canned vegetables and/or fruits, cider, fresh and/or canned fruit and/or vegetable juices, maple syrup, dairy products, soaps, candles and body care products, woodcrafts, wools and pelts/fleeces, compost or other agricultural products.

#### **7.2.3. Addition of new products**

If during the market year a vendor wishes to add a product to their Product Plan, they must submit a written request to the Market Manager. The Market Manager and/or the Board of Directors will review the request. The vendor may only sell the new product if they receive written approval from the Market Manager or Board of Directors. Vendors should expect the supplementary product approval process to take two to four or more weeks pending the issues involved.

#### **7.2.4. Product samples and labels**

Product samples and/or sample product labels must be furnished upon request as a part of the application process. Additionally, the MFMGA Board of Directors and Market Managers reserve the right to request product samples or sample product labels at any time during the market season for compliance and/or quality review.

### **7.3. Licensure and Regulatory Permits**

Vendors are responsible for compliance with all required city, county, state, and federal regulations, licenses, permits, and certifications to sell products at the MFMGA markets for each location attended. Each vendor must include as a part of the application packet a copy of each pertinent license and permit for the products to be sold. Applications are not considered complete without the inclusion of all applicable licenses and permits.

### **7.4. Insurance Requirements**

The MFMGA carries general liability insurance for the MFMGA Markets. However, each vendor must carry insurance for general liability and property damage, as well as product liability coverage for sale of products at a farmer's market, in an amount not less than one

million dollars (\$1,000,000).<sup>4</sup> The policy shall specifically state that the insurance applies to participation in a farmers market. Also, the policy shall name MFMGA and other entities, if determined to be necessary, as additional insured, and shall maintain all other coverage as required by law. A copy of the Certificate of Insurance must be provided with the vendor's application to the MFMGA markets. If the insurance expires during the market season, the vendor must provide MFMGAs with a copy of the renewed insurance policy at the time of policy expiration. **Vendors without the required insurance coverage will not be allowed to sell at MFMGA markets.**

## 7.5. Hold Harmless Statement

Each applicant must submit a signed "Hold Harmless" statement as a part of their application packet along with their proof of liability insurance.

*All authorized vendors participating in the MFMGA Markets shall be individually and severally responsible to MFMGA (the fiscal agent) for any loss, personal injury, deaths, and /or any other damage that may occur as a result of the vendors' negligence or that of its servants, agents, and employees, and all vendors hereby agree to indemnify and save MFMGA harmless from any loss, cost, damages, and other expenses, including attorneys' fees, suffered or incurred by MFMGA by reason of the vendors' negligence or that of its servants, agents and employees; provided that the vendors shall not be responsible nor required to indemnify MFMGA for negligence, its servants, agents and employees. Because no insurance is provided to participants in the MFMGA Markets, each vendor must carry his/ her own product liability insurance and must be prepared to present it at the market.*

## 7.6. Pre-application Inspection Requests

Established producers who wish to apply as a **new vendor** to the MFMGA in the next market year may request a pre-application farm inspection in the current market year. Similarly, **returning vendors** who wish to apply for approval to sell new products in the next market year may request a pre-application farm inspection in the current market year. Pre-application inspections will be done in August and September of the current market year.

Frequently, a summer/early fall inspection will better demonstrate to the MFMGA Board of Directors the producer's capability and capacity to meet their product plan. Inspections performed later in the normal spring application period may be less successful in demonstrating the producers' production capabilities. Also, discussions between the producer and the inspection team may help improve the proposed product plan or identify why the regular March application might not be approved.

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<sup>4</sup> The policy dollar coverage must be equal to or greater than the current MFMGA general liability coverage.



Pre-application inspection does not guarantee approval for new vendors in the next market year nor MFMGA membership. Similarly, the inspection does not guarantee approval of new products for returning vendors. Additionally, although not anticipated, a pre-application inspection does not preclude the MFMGA from requiring an inspection during the spring application period. Pre-application inspections are only valid for one year.

To request an inspection, the producer must submit a written request to the MFMGA Board of Directors with a preliminary vendor application form and product plan(s), along with a non-refundable \$100 inspection fee. Pre-application inspection requests are only accepted from July 1 through September 1 of the current market year. The inspection fee paid at the time of the request will be applied to the membership fees due with the final application if the vendor is approved in the spring application process. MFMGA membership, escrow, and space fees and licensure/permit and insurance documentation should not be submitted with the pre-application inspection request.

By March 1 of the next year, the potential new vendor must submit a final application and product plan with all associated documentation and required fees. The application should note that a pre-application inspection was completed and the date of the inspection. Incomplete applications will not be considered.

## 7.7. Provisional Approval of Returning Vendors

*Returning vendors* who meet the qualifications described below may apply for “*Provisional Approval*” for the next market year. Provisional approval will only apply to products approved in the current market year. Provisional approval of returning vendors is intended to facilitate product planning and preparation by the established vendors in advance of the normal spring application period.

To qualify for provisional vendor approval for the next market year, the returning vendor must be a current MFMGA vendor in good-standing and have participated in one or more MFMGA markets for the current year and each of the two preceding years.

To obtain provisional approval, the returning vendor must submit a provisional application form and product plan along with a non-refundable \$50 application fee by October 1 of the current market year. Provisional vendor approval for the next market year will be determined on or about November 1 of the current market year.

By March 1 of the next year, returning vendors granted provisional approval must submit a final application and product plan along with all applicable licensure/permit and insurance documentation and space fees. If final vendor approval for the next market year is granted, the provisional approval application fee will be applied to the MFMGA membership fee normally due with the March 1 application. The new product plan may contain new products not previously approved for MFMGA markets. The new products may require re-inspection of the vendor’s operations and are not guaranteed approval.

Failure of a vendor to submit a final complete application package by the March 1 deadline will jeopardize their provisional vendor approval status. Provisional approval will be revoked

if a vendor is not in good-standing on March 1 of the next year or their final complete application package is not received on or before April 1. If the provisional approval is revoked, the provisional approval application fee will not be refunded nor applied to any outstanding balances due.

**Table 1. Vendor application due dates with documentation and fees required**

Application type	Due Date	Vendor type <sup>1</sup>	DOCUMENTATION				FEES			
			Application form <sup>2,3</sup>	Product Plan(s) <sup>4</sup>	Permits <sup>5</sup>	Insurance <sup>6</sup>	Processing <sup>7</sup>	Member-ship <sup>8</sup>	Escrow <sup>9,10</sup>	Space <sup>10,11</sup>
Pre-app inspection	Sep 1	New	Pre-lim	Pre-lim	---	---	X	---	---	---
		Return	Pre-lim	Pre-lim	---	---	X	---	---	---
Provisional Approval	Oct 1	New	Not applicable							
		Return	Pre-lim	Pre-lim	---	---	X	---	---	---
Regular application	Mar 1 <sup>12</sup>	New	Final	Final	X	X	X	---	X	X
		Return	Final	Final	X	X	---	X	---	X

<sup>1</sup>New or Returning vendors

<sup>2</sup>Preliminary application forms and product plans must be submitted with requests for pre-application farm/product inspections

<sup>3</sup>Final application forms must be submitted by all new and returning vendors even if they previously submitted a preliminary application and product plan.

<sup>4</sup>A product plan must be submitted for each of the three markets in which a vendor wants to participate.

<sup>5</sup>Includes copies of all licenses, permits, and certifications required for sale of the planned products for each market.

<sup>6</sup>Proof of product liability insurance meeting the MFMGA requirements

<sup>7</sup>Processing fees are non-refundable but will be applied to vendor membership fees if the new or returning vendor is approved for the next market year.

<sup>8</sup>Returning vendors, who did not submit a processing fee as a part of a pre-application inspection or provisional approval request, must submit a membership fee with their final application package.

<sup>9</sup>An escrow fee is required of all new members with their final application package. Returning vendors are not required to submit an escrow fee as long as their MFMGA escrow account has not dropped below the minimum escrow amount required.

<sup>10</sup>Escrow and space fees are refunded to the vendor applicant if they are not approved for the new market year. Processing or membership fees are non-refundable.

<sup>11</sup>Space fees for the MFM-Summer are due in full with the spring final application. MFM-Winter market fees are due with the market commission fees monthly during the winter market season.

<sup>12</sup>No applications will be accepted after April 1. Vendor applications received after the March 1 due date and on or before **April 1** will be considered on a case-by-case basis at the Board of Directors' discretion pending space availability and other eligibility criteria.

## 7.8. Application Fees

Each application must be accompanied by all membership, space, and escrow fees as listed in the Vender Sales Reporting and Fee section below. All fees paid less a \$50 processing fee will be returned to rejected applicants within 60 days of the rejection determination. If an approved vendor requests to withdraw from the MFMGA Markets at least 30 days prior to start of the market year, the application fees will be refunded less a \$50 processing fee. Requests must be submitted in writing to the Market Manager.

If a vendor has an outstanding debt owed to MFMGA, the debt must be paid in full and any other outstanding issues resolved before submitting the application.

## 7.9. Application Review and Approval

Each vendor application will go through a series of review and approval steps. First, the

Market Manager will review the application packet for completeness. Second, the Treasurer will review all applications for submission of the correct fees and check for outstanding debts for returning vendors. If the application packet is incomplete or a returning vendor is not in good-standing, processing will stop until the application is complete or other issues are resolved.

Completed applications will proceed to review by the Board of Directors. The latter review includes assessing producer eligibility, product eligibility, space availability, existing supply of the proposed products, and other factors. As a part of this review all new vendors will have an onsite verification visit. Returning vendors may also have a mandatory onsite verification visit, at the discretion of the Board of Directors. At any point during the review process, a vendor may be requested to submit additional information or clarify issues identified in their application.

Upon completion of the review steps, the Board of Directors will vote to approve or reject the vendor application. Generally, applications are approved as requested. However, the Board of Directors may not approve all products or extra market spaces requested. In some instances provisional approval will be granted pending finalization of a verification visit or resolution of some other issue.

Application reviews will be conducted beginning March 1. Vendors will be notified as soon as an approval decision is made. Applications for new vendors are generally reviewed last. Late applicants may or may not be considered pending space availability and other market factors.

### **7.10. Selection Criteria: Vendors and Products**

MFMGA is committed to creating a diverse marketplace with the highest quality, locally produced products available. All vendors and products must meet the eligibility requirements described above. However, from time to time, a noncompliant vendor and/or product may be approved by the Board of Directors. Numerous factors considered in the review and selection process include, but are not limited to:

- Farmer eligibility: Priority is given to regional farmers and producers who bring products to market that are 100% grown and harvested on farms they own and/or operate.
- Product eligibility: Priority is given to products produced or made by the farmer (or a co-packer working for the farmer) from raw ingredients, a majority of which are grown and produced by the farmer.
- Full-time vs. part-time vendors: Vendors who will attend most of the markets are given priority.
- Nature of products to be sold (e.g., product demand, uniqueness, availability throughout the season)
- Process food and products ingredient sourcing: Potential sources in order of highest to lowest priority are: 1) grown by processor; 2) Sourced from an MFMGA producer-vendor; and 3) Sourced locally from a non-MFMGA farmer/producer.
- Availability of the product at the market (e.g., products not currently available,

number of vendors selling the same or similar products)

- Product balance for the market (goal is approximately 85% unprocessed farm products and 15% processed food and farm products)
- Ability of a vendor to provide sufficient product to stay stocked until the end of a market
- Returning vs. new vendors: Although returning vendors have priority, **no vendor will have guaranteed return rights to the Market from season to season.**

#### 7.10.1. Exclusivity

MFMGA does not offer exclusive rights to any vendor to sell any specific product. Market customers generally benefit from having a choice. However, if MFMGA believes the number of vendors offering the same or similar products is reasonably meeting consumer demand and after taking into account various market factors, it is believed that additional vendors of the specific product would not significantly benefit the market, the selling of duplicate products by a new or returning vendor may not be approved.

#### 7.10.2. Applicant exceptions

From time to time the MFMGA Board of Directors may make exceptions to the eligibility, application submission dates, and/or other vendor selection rules for the purposes of increasing the potential success of the MFMGA Markets, responding to other market needs, or grandfathering-in specific returning vendors who have significantly enhanced the success and growth of the markets. Furthermore, the MFMGA is not required to apply or prioritize specific selection criteria for every vendor application. **The MFMGA reserves unconditional discretion to accept or reject any MFMGA Market vendor application.**

#### 7.11. Application Disclaimer

No applicant has an a priori right or expectation of acceptance as a MFMGA Market vendor regardless of an applicant's apparent compliance with MFMGA eligibility rules. Potential acceptance or intent to accept vendors cannot be conveyed by the Market Manager(s), MFMGA employees/contractors, other MFMGA members, or other individuals affiliated with the MFMGA. Only the MFMGA Board of Directors has the authority to approve vendor applicants. The MFMGA strives to treat all vendor application materials in a confidential manner and restrict information access specifically to individuals involved in the review and approval process (i.e., the Board of Directors, Market Manager(s), and farm verification team members). However, vendor applicants are not guaranteed any privacy, confidentiality, or business/trade secret protections for the materials supplied in their application packet, learned from farm/business verification visits, or other communications in any form during or after the application process.

#### 7.12. Applicant Appeal

**New vendor applicants have absolutely no implied or inherent rights to appeal a vendor and/or product rejection.** All new vendor application or product decisions made by the MFMGA Board of Directors are deemed final. **Similarly, returning vendor applicants only**

**have appeal rights as defined by the MFMGA By-Laws.** Nevertheless, the Board of Directors will attempt in a timely fashion to answer questions or address clarifications submitted in writing by new or returning vendors regarding their specific application. However, the Board of Directors will not provide application review discussion particulars, vote counts, or other deliberation details.

## 8. MARKET OPERATIONS

### 8.1. Market Management

During market operations the MFMGA onsite Market Managers are responsible for administering and enforcing all MFMGA market rules and guidelines. In so doing, the market managers direct and oversee vendor space assignments, overall market setup, opening and closing of the market, market data collection and information distribution, EBT and SNAP token acquisitions, market sponsored educational and entertainment activities, public safety, market cleanup, and other duties required to successfully and safely operate the MFMGA markets. MFMGA Market Managers have final authority to fairly and expeditiously resolve issues arising at the markets including, but not limited to, refusing admission of vendors who arrive after market opening; requesting immediate removal of products not in compliance with market rules; and/or ejecting vendors not in regulatory compliance or not operating in a safe manner.

### 8.2. Opening and Closing Times

The MFM—Summer Market will open at 8:30 am and close at 12 pm (noon) on Saturdays from the first weekend of May through the first weekend of November. The MFM—Winter Market times will be announced in late summer pending final determination of market dates and location. Market times and dates are subject to change to address unforeseen marketplace, community, or vendor circumstances.

**The opening of the market will be announced by the ringing of a bell by the Market Manager.**

No sales are allowed before the opening time. Orders may be taken prior to market day, but shall not be filled until after the opening bell. For example, if a customer orders a bushel of tomatoes prior to market day, the vendor may set back or reserve the tomatoes, but the vendor may not take money until after the opening bell. Similarly, at a vendor's discretion, customers may select market items and bag them prior to the market opening, but items cannot be purchased until the opening bell.

At the market closing time vendors shall begin packing up their stands, but may continue to sell as they load.

Vendors are discouraged from leaving the market before closing time. If a vendor must leave before closing time, the vendor shall insure that the packing up of their stands, movement of

materials out of the market area, and movement of vehicles shall not cause a market disruption or create a safety hazard to customers, other vendors, other individuals at the market, or property.

### **8.3. Cancellation or Closure of a Market**

An individual market may be cancelled or closed unexpectedly to comply with city emergency directives, because of severe weather conditions, or other events preventing the safe operation of the MFMGA markets. Market Managers in consultation with the available MFMGA Board of Directors have the authority to delay opening of a market or close a market early to help ensure the safety of the market customers and vendors. If cancellation of a market is required for whatever reason, vendors and customers on the MFMGA communications email list will be notified as far in advance as possible.

## **8.4. Market Programs**

### **8.4.1. MFMGA market booth**

At each market, one space is reserved for the MFMGA Market Management. The booth is used for handling EBT/SNAP/Debit/Credit Card transactions; customer information services; sales of MFMGA promotional items and other relevant items; distribution of general MFMGA market information; and dissemination of healthy lifestyle flyers, event notifications, and other community activities. All flyers, notifications, and other promotional materials must be preapproved by the Market Manager.

### **8.4.2. EBT/SNAP/debit/credit cards**

MFMGA operates EBT/SNAP<sup>5</sup>/Debit/Credit Card machines at the Market Manager's table at each market. The Market Manager(s) or their designees swipe a customer's card in exchange for tokens that can be spent at market stands. Debit and Credit Card user pay a 10% surcharge to MFMGA for this service at the market. All vendors must agree to participate in the EBT/Debit/Credit program and accept tokens as a form of payment. MFMGA will reimburse vendors on a monthly basis for tokens accepted for payment at markets.

### **8.4.3. Supplemental nutrition programs**

MFMGA encourages vendors to accept supplement nutrition program coupons when they are authorized in Monongalia County. Two such programs are the USDA's Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and the Senior Farmers' Market Nutrition Program (SFMNP). Vendors usually require certification to accept program coupons. Contact the Market Manager or the County Extension Agent to determine if the programs are currently active in our county and to learn about certification requirements and training opportunities. MFMGA does not handle the coupons. Vendors must work directly with the responsible agency for reimbursement.

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<sup>5</sup> Electronic Benefits Transfer (EBT) is the electronic delivery of Supplemental Nutrition Assistance Program (SNAP, formerly known as Food Stamps) benefits

#### **8.4.4. Gleaning program**

MFMGA vendors are encouraged, but not required, to participate in the end of market gleaning program by donating fresh, usable produce or other foods and products to the nonprofit organizations that will pick up the products at the end of the market day.

#### **8.4.5. Educational and community activity booth**

At each market location the MFMGA reserves one space free of charge for educational activities relating to sustainable agriculture and non-profit community groups. The space is available by reservation only for approved groups. Reservation requests must be made at least two weeks in advance by contacting the Market Manager. Reservations are accepted on a first-come, first-served basis. No sales activities, fundraising, market disruptions, petitioning, or political/religious affiliated groups are permitted at the educational and community activity booth.

#### **8.4.6. Morgantown Market Place culinary program**

The culinary station at the MFM-Summer Market pavilion (Morgantown Market Place) is used for promoting healthy food choices and preparations with an emphasis on using market products. One Saturday per month, WVU Healthcare promotes healthy living. Also chef demonstrations and other related events will be held in this space on Saturdays. Activities at the culinary station are scheduled by the Market Manager.

#### **8.4.7. Power of Produce (POP)**

The Power of Produce (POP Club) is a nationally recognized program to teach children about where food comes from and to make healthy food choices. Pending availability of grant funding, children are given \$2 in market tokens to purchase fresh food at the market. If space is available, the market manager may assign one or more POP spaces free of charge in addition to the normal educational and community activity booth.

#### **8.4.8. Market entertainment and fitness activities**

From time to time, the Market Manager arranges entertainment at the market such as a musician or singer. One space may be allotted for this activity pending space availability. The entertainers are not paid by the market, charged for space, or permitted to sell merchandise. However, the entertainers may accept tips. The market manager may also use one or more spaces for healthy living or fitness oriented activities that will be operated under the same rules as for entertainers. Because of space limitations, entertainers and fitness activities will not occur at the same market time.

## 9. VENDOR MARKET REQUIREMENTS

### 9.1. Vendor Attendance

The MFMGA markets accept full- and part-time market vendors. A full-time vendor is expected to attend at least 80% of the available market dates for a specific MFMGA market. Part-time vendors attend less than 80% of the market days, but appear regularly such as every other market day or when a particular crop is in season (e.g., blue berries or corn). Irregular, intermittent market attendance by vendors is discouraged.

As a part of the vendor application each vendor will indicate the date that they first expect to attend a specific market and the frequency and time period of attendance. Full-time vendors are given preference when assigning market spaces.

Vendors must notify the Market Manager at least 48 hours in advance of their first market attendance for the season. Similarly, vendors who only attend markets sporadically must notify the Market Manager at least 48 hours in advance of each market to be attended. Submission of an emailed product list for the forthcoming market day newsletter is sufficient notification of planned attendance.

If a vendor will not be able to attend a specific market as planned, the vendor must notify the Market Manager at least 48 hours in advance of the market opening. Not submitting to the Market Manager the requisite emailed product list for the forthcoming market day is not notification of a planned absence. If at the last minute a vendor encounters unforeseen circumstances such as illness or vehicle difficulties that prohibit market attendance, the vendor should still notify the Market Manager by telephone as soon as practical. Vendors who do not provide adequate notice to the Market Managers compromise efficient market setup and may significantly disadvantage vendors who could have benefited from different market placement. Vendors who do not comply with the notification requirements may be penalized at future markets.

### 9.2. Individual Market Product List

At least 48 hours before each market, vendors are encouraged to submit to the Market Managers a list of the products that they will be bringing to the next market. The Market Managers will compile and edit as necessary the lists from all vendor submissions. Via email, the Market Managers will distribute the list of attending vendors and their expected products to the MFMGA customer list. The email provides a valuable reminder to customers of the upcoming market. Moreover, customers benefit significantly from the awareness of products available and other information contained in the email. In addition, the submission of the product list to the Market Manager confirms a vendor's attendance at the market.



### 9.3. Market Setup

Vendors may arrive up to 1½ hours prior to the opening of the market to setup. Upon arrival at the market site vendors must check in with the Market Manager to be directed to the vendor's assigned market space. All set up activities must be completed prior to the opening of the market. Pending the vagaries of market logistics and specific vendor space assignments, vendors may not be able to park vehicles near their sales stand during the market. Ample set up time should be allowed to move vehicles safely before opening of the market.

**To prevent disruptive or unsafe market behavior, vendors must be at their stands prepared to sell when the opening market bell rings.**

### 9.4. Late Arrival

**Vendors must arrive at least 30 minutes prior to the opening of a market and with sufficient time to set up before market opening.** Vendors who do not meet these arrival requirements are deemed to be "Late" and must see the onsite Market Manager immediately upon arrival at the market. At the Market Manager's discretion latecomers may be denied admission to the market. Late arriving vendors will be admitted only if space is available and their setup will result in little or no potential for market disruption and/or customer safety issues. Late arriving vendors will be subject to warnings and penalties.

### 9.5. Market Signage

#### 9.5.1. Required signage

- Vendors will display a sign identifying the name and location of their farm or business.
- Vendors must have signs, boards, tags, or labels listing prices of every item for sale.
- Vendors listing "organic" produce, or calling their produce "organic," must display a sign giving their organic grower's certification and their certifier's organization, unless exempt from certification. Proof of exemption from organic certification should be available for the Market Manager's inspection if so requested.
- Vendors should clearly separate and label organic and non-organic produce in the same display.
- **All signage must be posted before the market opens.**

#### 9.5.2. Other allowed signage and informational products

- Vendors may display signs, posters, photos, informational brochures, business cards, copies of newspaper articles, and other items intended to provide information of a general nature about the vendor such as a farm history, vendor biography, description of farming practices, awards received, and market-relevant events, not primarily sales driven, such as a vendor open house or customer appreciation day; the vendor's attendance at other MFMGA sponsored markets,

general MFMGA sponsored market materials (e.g., notice of upcoming MFMGA market dates).

- Vendors may provide order forms for advance reservation by customers of products approved by and sold through the MFMGA markets.

### **9.5.3. Disallowed signage and informational products**

The MFMGA promotes a market type, market environment, and product quality level that attracts customers to our markets and that helps ensure the success of MFMGA vendors. Significant MFMGA resources go into advertising and developing the markets. Promotion of non-MFMGA related products, events, and other revenue producing activities by individual vendors unfairly takes advantage of MFMGA markets and resources. Therefore, at MFMGA markets vendors shall not display or distribute sales or other promotional materials that:

- Advertise products for sale directly by the vendor that are not available and/or approved for sale through the market (e.g., a vegetable vendor advertising direct sale of non-approved fruit or u-pick vegetables; a meat vendor directly selling a side of beef ordered through the market without including the amount of the sale in their MFMGA market sales report);
- Advertise product availability, even if approved by the MFMGA, at a wholesale/retail store front or other type of sales venue (e.g., road-side stand);
- Advertise products for sale by the vendor or vendor attendance at non-MFMGA sponsored markets;
- Advertise events sponsored by the vendor, a vendor affiliate, or any other entity for which a significant component or goal of the event is the sale of agricultural related products (e.g., 4-H club lamb sale);
- Advertise activities or other events offered by other groups including non-profit organizations (e.g., West Virginia University Ag Days)

If a vendor has any questions about specific signage or informational products, they should consult with the Market Manager prior to posting or distributing the material. Selected items promoting public events unrelated to the MFMGA may be displayed at the Market Manager's booth at the MFMGA's discretion. Vendors are welcome to suggest or provide to the Market Manager informational products or event announcements that may be suitable for distribution at MFMGA sponsored markets. In general, only healthy lifestyle related materials and announcements are displayed.

## **9.6. Scales**

Scales must be registered as legal for trade and meet local and/or state regulations for commercial scales (i.e., scales must have the WV Division of Labor approval seal). Scales must be placed so that they are clearly visible and readable to customers at all times. Scales may be annually certified at a designated MFMGA Spring Member Meeting.

## 9.7. Maintenance and Appearance

Tables and other fixtures should be in good repair. All produce must be kept off the ground. Market products should be of a high quality. If vendors sell blemished, misshapen, or other lower quality items, the items should be marked as seconds and adjust the price accordingly. Moldy, rotting, and/or insect infested products are not allowed. Products that do not meet this quality criterion may be removed at the market management's discretion. Farmers/growers and producers who fail to comply with this requirement are subject to suspension or termination from the MFMGA Markets.

## 9.8. Sanitation and Market Clean Up

**Vendors must maintain their market stands and spaces in a clean and sanitary condition.** Vendors must clean up the area around their vehicles and sales area before leaving. Vendors must remove containers, waste and trimmings before leaving the market site and take any trash or garbage they have generated at the market back to the farm. The Market Manager will be responsible for ensuring that any trash from public traffic at the market sites is properly removed and disposed of at the close of each market day.

## 9.9. Market Food Samples

Food samples must be prepared in a safe and sanitary manner, according to the state and county health codes. The vendor must provide trash receptacles for the disposal of any sampling materials such as cups, utensils, napkins, or toothpicks.

## 9.10. Public safety

Vendors must set up their market stands to minimize public safety hazards from customers, vendors, and other individuals at the markets. Product placement and stand set up should not present falling or collapse hazards. Shade structures, canopies, and umbrellas must be safely and sufficiently secured from set up to take down to prevent damages to property or injury to customers or vendors from falling, collapsing, or being blown by the wind. Tripping hazards in and around stands must be eliminated.

## 9.11. Market Conduct

Vendors are independent entrepreneurs with a common stake in creating a vibrant marketplace. MFMGA expects market farmers/growers, producers, and their staff to conduct themselves in a manner that contributes to creating a positive shopping experience for our customers. Common courtesy and respect are essential to the success of MFMGA Markets. MFMGA expects market participants to be honest and to conduct themselves in a courteous and friendly manner with other vendors, market staff and other participants, and shoppers.

Activities that appear to violate these market rules; represent abnormal sales practices (e.g., dumping product at impractically low costs to influence competition or fixing prices between vendors); abuse customers or other vendors; or create hazardous conditions are not acceptable at MFMGA markets. The Market Manager will resolve issues immediately that they identify and/or that arise from complaints by customers or other vendors that represent

an immediate safety hazard or significant detriment to the running of the market. If the issue is a more endemic problem not amenable to an immediate resolution, the Market Manager will consult with the Board of Directors to determine a course of action. If needed, the Board of Directors will review formally the circumstances and make a final determination with which the vendor(s) must comply if a change in their behavior/practices is required. See Administration of Rules and Procedures.

“Unacceptable activities” include but are not limited to:

- Unsafe conditions or hazards at sales area
- A stand that impedes access to other vendors
- Condition of sales area, products, or vendor behavior that detracts from the market’s appearance, overall quality or reputation
- Smoking in the market area

MFMGA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status.

## **9.12. Licenses, Permits, Certification, and Insurance**

Vendors are responsible for compliance with all required city, county, state, and federal regulations, license, permit, and certifications to sell products at the MFMGA markets for each location attended. Copies of all licenses, permits, and certificates and proof of insurance shall be in the vendor’s possession at each market. If required by regulation or market rules, these items must be publicly displayed at the vendor’s market stand.

## **9.13. Market Tokens**

Vendors are required to participate in customer use of SNAP and MFMGA market tokens. SNAP tokens cannot be exchanged for cash nor can change be given in cash. MFMGA market tokens (gold and blue) can be used to purchase any items available at the market and change may be given to the customer in cash.

SNAP tokens (orange) can only be used to purchase eligible<sup>6</sup> food items:

- Foods for the household to eat, such as: breads and cereals; fruits and vegetables; meats, fish and poultry; and dairy products.
- Seeds and plants which produce food for the household to eat.

Households CANNOT use SNAP tokens to buy:

- Any nonfood items, such as: pet foods; soaps, paper products; and household supplies
- Hot foods

At the beginning of each market, the market manager will give each vendor an empty token bag and blank tally sheet. At the end of each market, vendors shall count their market tokens

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<sup>6</sup> <http://www.fns.usda.gov/snap/eligible-food-items>

collected, complete and sign the token tally sheet, and turn the tokens and completed tally sheet into the market manager.

## 10. VENDOR FEES AND SALES REPORTING

Market fees pay for market staff, market equipment, market signage and printed materials, EBT/SNAP fees, liability insurance, MFMGA website, weekly market e-mail newsletter, market educational programs, and promotion of the market. The MFMGA fee structure is designed to promote prosperous markets while maintaining a sound financial basis for sustainable market operations. The fee structure is summarized in Table 2. Each vendor is independently responsible for purchase of their own liability insurance, licenses, market signage, and market stand/display materials and collection and reporting of any applicable sales taxes.

**All fees must be submitted by check or money order payable to “Morgantown Farmers’ Market Growers Association” or “MFMGA.” Checks returned for insufficient funds will be charged a \$25 fee. A vendor’s cancelled check will serve as proof of MFMGA payment. No cash or token payments will be accepted.**

**For fee payment, round off cents to whole dollars. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$1.39 becomes \$1 and \$2.50 becomes \$3. If you have to add two or more amounts to figure the amount to due to MFMGA, include cents when adding the amounts and round off only the total.**

### 10.1. MFMGA Membership

All vendors are required to be MFMGA members-in-good-standing to participate. Vendor membership is effective for the MFMGA market year (May 1 of the current year through April 30 of the following year). **The annual membership fee of \$75 for returning vendors, \$100 for new vendor applications must be submitted with the vendor’s annual market application.**

### 10.2. Space Fees

Market spaces are approximately equal to one parking space (e.g., ~10’ x 15’) for outdoor markets and 10’ x 10’ for indoor markets. Through the general market application process one to three spaces may be reserved by a vendor pending space availability. Exact conditions vary by market location. The number of vendors granted multiple-space usage is limited by space availability and maintaining a balance of small-, moderate-, and large-sized vendors. Space fee amounts and payment due dates vary by market as shown in Table 2. Payment of space fees does not guarantee specific spaces or the same space(s) from market to market.

#### 10.2.1. MFM—Summer Market

Space fees are \$100 per space for the summer season, independent of the number of markets attended. Typically there are 27 to 28 Saturday markets per summer season (May through the first Saturday in November). Each additional space used by a vendor

costs the same as the first space (e.g., a multiple-space vendor using 3 spaces pays 3 times the single space fee).

#### 10.2.2. MFM—Winter Market

Space fees are \$10 per space per market for the approximately 6-10 winter markets expected to be held from mid-November through April.

### 10.3 Gross Sales Reporting and Commissions

#### 10.3.1 Gross sales reporting

Vendors must report to the Market Manager in writing or via email their gross weekly market sales. **Sales reports are due within 7 days after the market close (i.e., typically by the next weekly market).** Separate sales reports must be submitted for each MFMGA market (i.e., individual reports must be submitted for all markets operated by MFMGA.

Each vendor not submitting accurate and on-time weekly sales reports will be subject to processing fees and/or market suspension [see Section 11.2].

#### 10.3.2 Sales Commission

Vendors will be assessed a commission based on a percentage of their weekly gross market sales (excluding sales tax). **The market commission is 3% of gross sales for all MFMGA markets.** The Market Manager or MFMGA Treasurer will distribute monthly statements of the commission owed based on vendor sales reporting. **Payment of the aggregate monthly sales commission must be submitted to the Market Manager no later than 7 days after the statement date.** Vendors participating at more than one market location during the prior month may write a single check for the aggregate amount of all markets (e.g., the MFM—Summer Market; the MFM Winter Market). However, documentation must accompany each check that specifies the amount attributed to each market location.

Each vendor not paying the monthly aggregated sales commission in full and on-time will be subject to processing fees and/or market suspension [see Section 11.2].

#### 10.3.3 Sales tax

Vendors are solely responsible for collecting and reporting any applicable city and/or state sales tax to the appropriate regulatory authority.

### 10.4 Vendor Escrow Account

Each vendor must maintain an escrow account of at least \$50 with the MFMGA treasurer. For new vendors, the escrow amount is due to the MFMGA treasurer with their initial market application. Returning vendors do not need to submit additional escrow funds unless their escrow amount has dropped below the minimum required amount.

For vendors in good-standing, the treasurer will retain the escrow amount until the vendor notifies the treasurer in writing that they are withdrawing from further participation in the market or they fail to reapply to or be approved for the market for the next market year. Escrow funds will be returned in full to the vendor within 60 days of receipt of written withdrawal notification. If no written withdrawal notification is received by the MFMGA, the escrow funds will be returned to the vendor within 60 days after the end of the next market year's application deadline.

At the treasurer's discretion, a vendor's escrow funds may be used to pay for part or all of any outstanding sales commissions, processing fees, or other fees that are more than 30 days in arrears. If the vendor still has a balance due, processing fees and/or other fees will still accumulate until the balance is paid in full and the escrow account is restored to the minimum required amount. If a vendor withdraws or is expelled from the market with outstanding fees owed, the escrow funds will be used to help settle the outstanding debts. Should any escrow funds remain after the vendor debt settlement, the remaining funds will be forfeited by the vendor.

Vendors who are frequently in arrears (2 or more times per year) may be required to increase their escrow account to whichever is greater: \$100 or two times the largest unpaid bill rounded up to the nearest ten dollars to remain a vendor in good-standing.

**Table 2. Vendor Fees**

<b>FEE CATEGORY</b>	<b>FEE AMOUNT</b>			<b>FEE DUE DATES</b>	<b>COMMENT</b>
<b>MFPGA MEMBERSHIP</b>	\$75 (returning vendors) \$100 (new vendors)			With application	Processing and Membership fee are non-refundable
<b>SPACE FEES</b>					
<i><b>MFPGA—Summer Market</b></i>	Number of Spaces <sup>†</sup>				
	1	2	3		
Per season*	\$100	\$200	\$300	With application	
<i><b>MFPGA—Winter Market</b></i>	Number of Spaces <sup>†</sup>				
	1	2	3		
Per market attended	\$10	\$20	\$30	≤7 days after statement	Due with monthly gross sales commission
<b>SALES COMMISSION</b>	3% of gross sales			≤7 days after statement	Weekly reporting of sales: ≤7 days after market close
<b>ESCROW</b>	\$50			With application	New vendors only <sup>‡</sup>
<b>PROCESSING FEES AND OTHER PAYMENTS</b>	-----			As specified, but not >30 days	Unpaid fees may result in market suspension

\*Space fee is independent of the number of markets attended during the season

<sup>†</sup>Amount shown is the aggregate fee for the specified number of spaces

<sup>‡</sup>Also required for returning vendors whose escrow balance has dropped below the minimum required amount. Vendors who frequently have been in arrears may be required to have an escrow balance of \$100 or more.



## **11 ADMINISTRATION OF RULES AND PROCEDURES**

### **11.1 Market Rule Creation and Revision**

Per the MFMGA By-Laws it is Board of Directors' duty to make decisions regarding overall management and operation of a successful market. Furthermore, it is the Board of Directors' responsibility to recommend any market rule changes and bring them to the membership to be voted on.

Throughout the year the Board of Directors will take under advisement new market rules and revisions. Market rule changes that require action prior to the January 1 will be proposed to the membership forthwith. In special circumstances requiring immediate action, the Board of Directors will implement rule changes of limited scope to address a specific issue. Otherwise, all market rule changes will be addressed in an annual market rule and guidelines review process. In mid- to late-summer the vendors will be solicited for input on new or revised rules for the forthcoming market season. Vendor input may take various forms from simple email responses to committee meetings. By early fall the Board of Directors will present draft rule changes to the membership for discussion. In November, the Board of Directors shall present the final proposed rule changes at a regularly scheduled meeting of the organization. All active members will be given at least two weeks advance notice of the rule changes. A majority vote of the members in good-standing present at the meeting will be required for passage of the rule changes.

Approved rule changes will be published at the MFMGA website on or about January 1 and apply to the forthcoming market year beginning in May, unless otherwise indicated by the membership during passage of the rule changes.

### **11.2 Market Rule Enforcement**

The Market Manager ensures compliance with the market rules and has the authority to impose immediate disciplinary action at the market site when needed. The Market Manager also has the authority to grant exceptions to the market rules on an individual basis at a specific market for reasons of dire need.

It is the Market Managers responsibility to resolve issues in a timely manner between a customer and a particular vendor or some aspect of market operations. The Market Manager shall strive to resolve issues to the satisfaction of the customer and the vendor or the MFMGA.

The Market Manager shall notify the Board of Directors within 48 hours after each market of significant customer complaints and/or vendor market rules violations.

### 11.2.1 General violation process and penalties

Failure by a vendor to comply with the general market rules or comply with the Market Manager's resolution of a complaint of "unacceptable market behavior" may result in the temporary removal of the vendor from market participation. The procedure regarding general violations of the market rules or a complaint of "unacceptable market behavior" is as follows:

**First violation:** Vendor receives written notification of violation and must remediate or cease action cited in violation.

**Second violation:** If vendor is found committing the same violation or any other violation, then vendor can stay for that market day but will lose the right to sell the following 2 weeks;

**Third violation:** If vendor is found committing the same violation or any other violation, the vendor can stay for that market day but loses the right to sell for the rest of the market season. Failure to immediately comply as requested shall be cause for the revocation of right to sell and expulsion from the market. Upon revocation vendor shall promptly vacate premises. Upon failure to vacate, the Market Manager may remove the vendor's property from the premises at the vendor's expense. The market is relieved and discharged from any and all losses or damages caused by such removal. The MFMGA shall not be responsible for storage or safekeeping of property so removed.

General written penalty warnings are cumulative for a single market year. That is, if a vendor receives a "First" warning in one year, a warning in the next market year restarts as the "First" warning. However, if a vendor continues to be issued general written warnings for market rule violations across multiple years, particularly for the same rule, the Board of Directors, at its discretion, escalate the penalty to the second or third stage as warranted and/or may decline to renew a vendor's membership application in subsequent years.

### 11.2.2 Reselling violations

**If a vendor is found to be reselling product in direct violation of the MFMGA producer-only requirements, the Board of Directors, at its discretion, may provide one written warning with a second violation of the reselling prohibition resulting in expulsion from MFMGA markets and termination of the vendor's MFMGA membership. If the Board of Directors deems the reselling to be a flagrant disregard for the reselling prohibition or the vendor has received a written warning about reselling in a prior year, the vendor may be immediately expelled. Market expulsion will be permanent (i.e., the vendor may not reapply to the MFMGA in a subsequent year).**

### 11.2.3 Sales data reporting and payment of commissions and other fees

Processing fees are charged for checks returned for insufficient funds, late reporting of market sales data, and late payment of sales commissions or other fees. Processing fees are not charged for timely reporting and payment. **Vendors must report sales data after EVERY market, but sales commissions are due on a MONTHLY basis.**

**Table 3. Processing fees\***

Issue	Amount
Returned checks for insufficient funds or other reasons	\$25
Late reporting of weekly sales data (on-time reporting is ≤7 days after market close)	
Late or incomplete reporting for 2 or more individual markets within a month (data submitted with sales commission within 7 days after the end of the month)	\$25
Late or incomplete reporting >7 and ≤30 days after market month	\$50
Late or incomplete reporting >30 and ≤60 days after market month	\$100
Late or incomplete reporting >60 days after market month	\$100 + Market Suspension <sup>†</sup>
Late payment of sales commissions (on-time reporting is ≤7 days after statement date)	
Late payment >14 and ≤30 days after statement date	\$50
Late payment >30 and ≤60 days after statement date	\$100
Late payment >60 days after statement date	\$100 + Market Suspension <sup>†</sup>

\*Processing fees are additive and calculated on a monthly basis (e.g., if sales data and payment are 30 days late the total processing fee is \$100; if data and payments are late for 2 market months, the total processing fees are the sum of the fees for each month).

<sup>†</sup>Market suspension will be enforce until all data are reported and all commissions, other fees (including escrow fees), and processing fees have been paid in full, but shall not be less than 2 market weeks.

If a vendor continues to be assessed processing fees throughout a market year, the Board of Directors, at its discretion, may suspend a vendor for two or more weeks and/or may decline to renew a vendor's membership application in subsequent years.

### 11.3 Grievance Policy

The MFMGA Grievance Policy should be viewed as a positive force that facilitates the open discussion of issues between a vendor and the Market Manager and/or the Board of Directors. A vendor who has a grievance is encouraged to resolve the issue quickly and efficiently through informal discussion with the Board of Directors' President, Vice President, and/or the Market Manager.

If the grievance cannot be resolved informally, a vendor may initiate a formal grievance procedure by submitting a written and signed grievance to the President of the Board of Directors (the written grievance may be provided to the Vice President or Market Manager for transmittal to the President). The written statement shall clearly and succinctly describe the grievance. Upon receipt of the grievance the Board of Directors will respond to the vendor within one (1) week to establish a time for a formal meeting with the Board of Directors. The meeting shall be held within approximately two (2) weeks of receipt of the written grievance at the County Extension Offices. A quorum of the Board of Directors must be present. The Board of Directors shall conduct the meeting and facilitate open discussion with the vendor. The Board of Directors may, at its discretion, limit discussion to pertinent facts so that the grievance may be resolved effectively, efficiently, and fairly. The grievance meeting is open to MFMGA members who wish to observe. However, the Board of Directors is not required to announce the meeting to the MFMGA membership as a whole.

A majority vote by the Board of Directors shall determine the final resolution of the vendor's grievance.

### 11.4 Vendor Sabbaticals

A vendor in good-standing (all outstanding fees paid and reporting issues resolved) and a member for at least three years may request that the Board of Directors grant a sabbatical leave for up to one full market year. Membership fees and voting privileges are suspended during the sabbatical. Returning member selection preference remains for the market year after the sabbatical if the vendor reapplies to the MFMGA.

# A1. Map of Morgantown Farmers Market Growers Association “Local” Area (i.e., within a 50 air-mile radius of Morgantown)

