

# Permits, Licenses, & Regulations for Urban Agriculture

Legal Basics of Urban Farming

May 18, 2017



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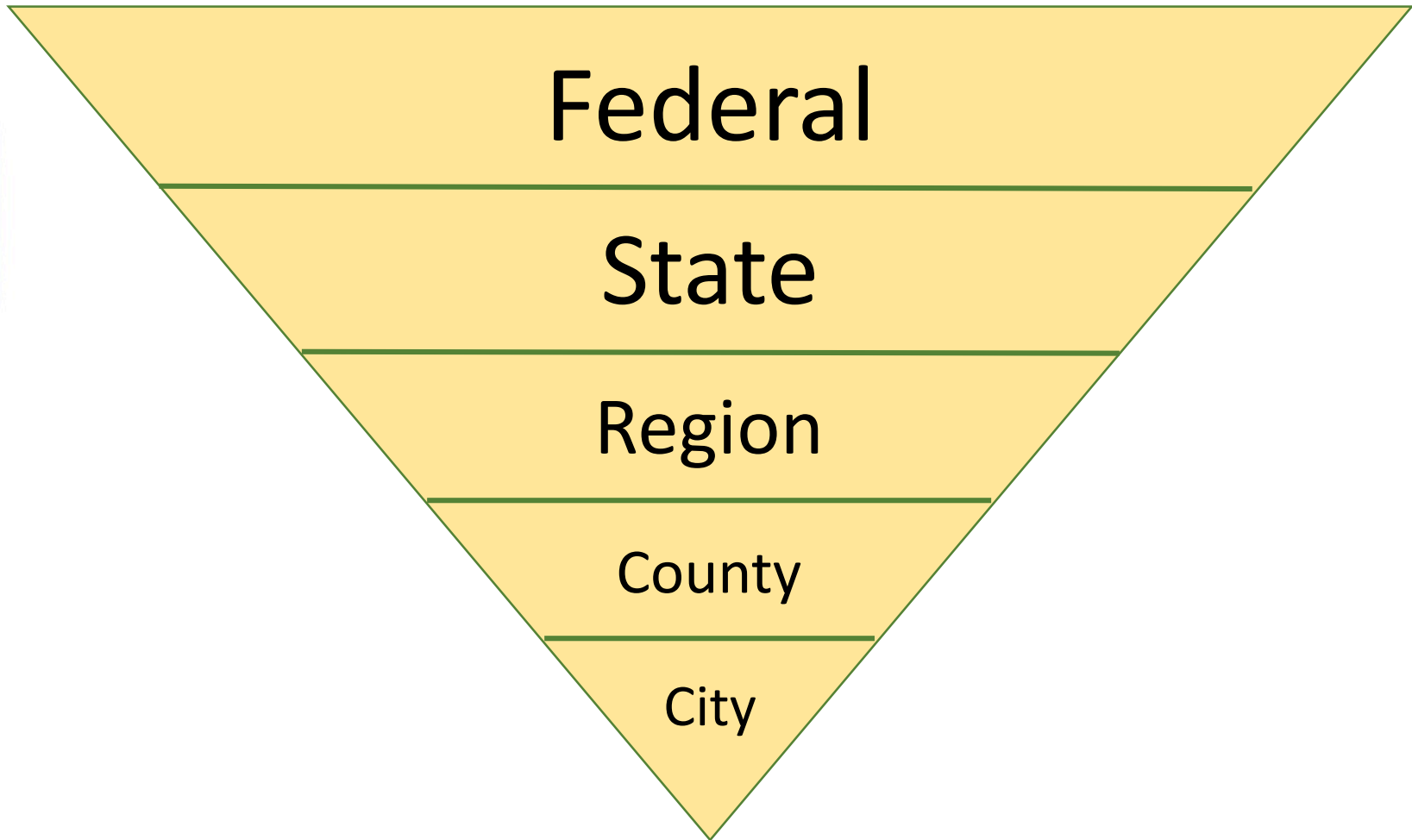
# Overview

1. Regulatory agencies
2. Zoning
3. Permits, Licenses & Regulations for:
  - Produce
  - Processing
  - Eggs
  - Meat
  - Dairy
  - On-farm Retail Sales

# Permits, Licenses & Regulations depend on...

- **Where you farm...**  
city, county, state
- **Which zone you're in...**  
agricultural vs. residential vs. industrial vs. coastal
- **How you want to farm...**  
organic or conventional
- **What you produce...**  
Fresh produce, processed produce, eggs, meat, fluid milk, processed dairy products
- **Where you want to sell...**  
Direct or indirect

# Regulators



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# Federal Agencies



Tax ID Number (TIN) for the business; Employer Identification Number (EIN): required if you have employees and the business doesn't have a TIN.



Animal harvest & meat processing and labeling of meat and poultry products



Companies that manufacture, process, pack, or store food, beverages, or dietary supplements must register with FDA.



Making and selling alcoholic products. (<7%abv regulated by FDA; >0.5%abv requires Government Warning Statement)

# State Agencies



Milk processing permits; raw shell egg permits and labels; state licensed meat facilities; organic registration; CSA registration



Enforces health and safety code. Permits and inspects wholesale food processing facilities – Processed Food Registration and Cannery operations; public water systems



Franchise Tax Board: personal and business income tax.



Sellers permits and sales/use tax.

# State Agencies



Employee State-Tax Registration – required if you have employees



Occupational health and safety – employers must have a health and safety plan.



Liquor licenses to make and/or sell alcohol



Secretary of State: forming a corporation or limited liability company.

# Regional Agencies



Burn permits, air quality permits. See map to determine if you're in the [Bay Area Air Quality Management District](#).



Above ground waste management (i.e. pond, irrigation) – approves plans and issues permits (and waivers). See map to determine if you're in the [San Francisco Bay Area Regional Water Quality Control Board](#).



# County Agencies

<b>Agriculture</b> (Ag Commissioner/Sealer, Weights & Measures)	Organic registration; weighing and measuring devices; certified producer certificates; proper labeling.
<b>Environmental Health</b>	Health codes for food safety, public water supply, septic systems, waste disposal; Retail Food Facility and Cottage Food permits.
<b>Recorder</b>	Fictitious Business Name Statement-required if surname or owner name is not part of the business name
<b>Tax Collector</b>	Collects taxes for different taxing agencies within county.
<b>Economic Development Board</b>	Dedicated to helping your business success. They provide a variety of resources for businesses.
<b>Planning &amp; Building</b>	Land use permits, Building, Water Resources. Check with city if operation is within city limits.

# Know Your Zone!

- **Every parcel is assigned a zone**
  - e.g. agricultural, industrial, residential zone
- **All zones *allow* and *restrict* particular activities**
  - e.g. you generally cannot raise livestock in a high density residential zone and you cannot build high rise condos in ag zone
- **Find your zone at your county planning department**
  - Alameda: Community Development Agency [Zoning Ordinance, Land Use Forms and Guides, Maps](#)
  - Contra Costa: Conservation & Development Department [Property Research](#)
  - Santa Clara: Department of Planning & Development [Zoning Ordinance](#)



## Marco, the Urban Produce Grower



Marco has an unexpected bumper crop. He is wondering what to do with the excess produce and decides he wants to sell it. But first, he wants to make sure he follows food safety protocol.

**What permits, licenses, or regulations apply?**

# Selling Fresh Fruits & Vegetables

- To ensure produce sold to the public is safe to eat, the [California Retail Food Code](#) (“Cal Code”) requires retail food facilities to obtain food from “**approved sources.**”
- Approved source rules apply to farm produce grown in any zone.
- There are a number of ways to become an approved source.
- New laws, AB 1990 and AB 234 regarding Community Food Producers make it easier.

# How to become an Approved Source

- Community Food Producer
- Certified Producer's Certificate (CPC)
- Operator Identification Number (Spray Permit)
- Registered/Certified Organic
- Community Supported Agriculture (CSA)

## FSMA Side Bar...

Food Safety Modernization Act (FSMA), Produce Safety Rule  
aka “Produce Rule”

- Covered Farm: Sales of >\$25,000/year (3 year average)
- Covered Activity: growing, harvesting, packing or holding covered produce
- Covered Produce: produce that is normally consumed raw

### Resources:

- [NSAC blog](#) (great summaries of FSMA rules)
- CDFA’s [GAP guidelines](#)

## Marco, the Urban Produce Grower



After familiarizing himself with food safety requirements, Marco decides he has enough produce to sell at a farm stand on his property.

**What permits, licenses, or regulations apply?**



# Selling Produce at the Farm

Farm Stand Sales depends on county and zone

For example:

Type	Health Permit
<b>Farmstand</b> (produce only)	None
<b>Farmstand with <math>\leq 50'</math></b> of non-potentially hazardous foods <i>and/or</i> sampling	Retail Food Facility

## Marco, the Urban Produce Grower



Some of Marco's customers asked if he can provide CSA boxes, too.

**What permits, licenses, or regulations apply?**

# Community Supported Agriculture (CSA)

- Required to register with CDFA (\$75 annually)
- Label on the box with farm name and address
- Keep boxes contaminant free
- List contents and where they are from (if multi-farm)
- Document what is sold
- Comply with labeling and ID requirements for eggs, meats and processed foods

## Marco, the Urban Produce Grower



Now Marco wants to scale up to sell at Certified Farmers Markets.

**What permits, licenses, or regulations apply?**

# Certified Producer Certificate (CPC)

- Required to sell at Certified Farmers Markets
- Issued by CDFA
- Report all the produce you grow – additions are allowed throughout the year
- Annual renewal
- Online application: [CDFA Certified Producer Certificate](#)
- Subject to annual inspection by County Ag Commissioner office as well as check ups at farmers market
  - Load lists submitted & inspected for each market

# County Environmental Health (EHS)

Jurisdiction over setup and food safety practices at market

- Sampling protocol
- Registration of non-certifiable products
- Temperature of cold items
- Overall cleanliness of produce and booth

# Selling by the Pound

Scales used for commercial use:

- Must be type approved for commercial use.
- Registered with your county Weights and Measures office (Department of Ag)
- Tested and certified annually
- Annual renewal



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## Marco, the Urban Produce Grower



Marco finds that pests are quite a nuisance! For the first time, he decides he wants to spray pesticides.

**What permits, licenses, or regulations apply?**



# Operator Identification Number

- Required for anyone using pesticides on farm crops
- Organic and Conventional operations
- Register with County Agriculture Department
- File pesticide use reports (online or paper)
- Training
- Annual fees
- Note: Different from Commercial Applicator License

## Marco, the Urban Produce Grower



Marco finds that his farmers market customers prefer buying Organic strawberries and he decides to transition to Organic.

**What permits, licenses, or regulations apply?**

# Organic Transition and Record Keeping

- Transition period: 36 months  
Must use and document organic practices
- Record keeping required of ALL organic farms  
Keep a farm diary with all activities done including:
  - Dates of ALL activities – planting, weeding, thinning, purchasing, etc
  - Include when, where, why, who, what
  - Invoices and receipts

# Organic Registration and Certification

Online application at [CDFA Organic Program](#)

- *Registered Organic:*
  - Up to \$5000 in annual sales of organic produce
  - Self reporting; subject to annual inspection
  - All organic farms are registered
- *Certified Organic:*
  - Sales over \$5000 annually
  - Third party certified  
e.g. California Certified Organic Farmers (CCOF),

## Marco, the Urban Produce Grower



Marco found all that paperwork to be a breeze, so he decides he would like to get laying hens so he can sell farm fresh eggs along side his produce.

**What permits, licenses, or regulations apply?**

# Egg Handler Registration

Allows sales of eggs within the state of California.

- Register with CDFA
- Registration Fee: \$75; annual renewal: \$50
- Grading, labeling and handling requirements



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## Nancy, the Apple Grower



Nancy has an apple orchard and decides to start making and selling dried apples.

**What permits, licenses, or regulations apply?**

# Cottage Food Operation

Allows certain non-potentially hazards (shelf-stable) food products to be made in home kitchen.

- Review list of approved cottage foods
- Class A (direct) or Class B (direct and indirect)
- Obtain CFO permit from County Environmental Health
- Complete Food Handler training
- Maximum annual gross sales \$50,000



# California Food Handler Card

Food handlers must take and pass a California Food Handler Card class – available online.

- Valid for 3 years from the date of issuance
- Retake the course and test before expired
- American National Standards Institute ([ANSI](#)) accredited  
Google: CA Food Handler Card train and test
- Online fee ~\$15



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## Nancy, the Apple Grower



Her died apple business is doing well, but Nancy would really like to make apple sauce. Apple sauce is not an allowable cottage food.

**What permits, licenses, or regulations apply?**

## FSMA Side Bar...

### Food Safety Modernization Act, Preventive Controls Rule aka “Facility Rule”

*Food safety standards for facilities that manufacture, process, pack or hold food for human consumption.*

- Exempt Facility:
  - Sales of <\$1m/year (3 year average)
    - Required record keeping
  - “Low Risk” processing (includes dehydrating)

#### RESOURCE:

- [NSAC blog](#) (great summaries of FSMA rules)

# Licensed Commercial Kitchen

Allows the option to make more food products; plus no maximum income limit and no restrictions on where the product can be sold. (No low-acid foods)

- Community centers, churches, granges, restaurant kitchens
- Commissary Agreement
- Food Safety Manager on-site
- Food Handlers Card required for anyone working with food
- ***Obtain a Processed Food Registration from CDPH***



# Processed Food Registration

A license issued to firms that allows them to legally manufacture, package, label, or warehouse food in CA

- Submit application >60 days before you plan to start making/warehousing product
- Valid for one year
- Inspection generally within 45 days of application
- Registration Fee: \$348 (Operations with no facilities)
- Food Safety Fee: \$100 (waived if gross annual <\$20k)
- Juice HACCP fee: \$250



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# Processed Food Registration

The inspection verifies that appropriate operations are employed to ensure that food products and packaging materials are safe and suitable for human consumption.

Areas reviewed:

- Business and Product Information
- Production and Process Controls
- Sanitation Control Procedures
- Product Labeling and Advertising
- Re-inspection \$100/hour  
(~5 hours + prep & travel time)



# Low Acid Foods

Low Acid = Higher risk of food borne illness

*Any foods, other than alcoholic beverages, with a finished equilibrium **pH greater than 4.6** and a water activity greater than 0.85. (i.e. canned beans and peas)*

How do you know? Lab testing is required:

- Submit to UC Lab for Research in Food Preservation
- Third party services available
- [pH of Food](#)
- **Low Acid products must be made in a licensed Cannery**



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## Nancy, the Apple Grower



Nancy's value-add line is doing great and she decides to use a co-packer.

**What permits, licenses, or regulations apply?**



# Co-Packer

The co-packer makes, bottles and labels the product for you.

- Licensed by California Department of Public Health
- May be a licensed cannery – allowing for low acid foods (i.e. low acid juices, mustards and canned fruits)

Where do you find a co-packer?

- [PRESERVE Farm Kitchens](#)
- [SpecialtyFoodResource.com](#)  
lists their co-packer members by state



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# The Sun Will Come Out





Contact the appropriate agency directly.  
They are there to help!

*Or if you live in...*

**Marin County**

Vince Trotter

Agriculture Ombudsman

UCCE Marin County

[marinagombudsman@gmail.com](mailto:marinagombudsman@gmail.com)

**San Mateo County**

Adria Arko

Agriculture Ombudsman

[Adria@sanmateorcd.org](mailto:Adria@sanmateorcd.org)

[goo.gl/jCBMmm](http://goo.gl/jCBMmm)

**Sonoma County**

Karen Giovannini

Agriculture Ombudsman

UCCE Sonoma County

[Klgiov@ucanr.edu](mailto:Klgiov@ucanr.edu)

[ucanr.edu/agombuds](http://ucanr.edu/agombuds)

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Extras!

## Poultry and Livestock Farmer



Customers are asking Emily and David for pasture raised chickens for their dinner table.

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# Poultry Processing

	Federal	State	On-farm
Inspection level	USDA Inspected Plant	CDFA Licensed Plant Poultry Meat Inspector	Exempt from Inspection Requirements of the Poultry Products Inspection Act
Obstacles	Closest processors are in Sacramento and Stockton	Cost to build. Must obtain Use Permit from PRMD	Must obtain a Use Permit from PRMD
Cost	~200 per trip to make it cost effective (from Sonoma County)	Sonoma: Permit and fees \$15,000+	Sonoma: Permit and fees \$15,000+
Marketing	Can sell the meat anywhere	Can sell to consumers, hotels, restaurants & institutions with limitations	Can only sell the meat direct to customers – no markets, institutions or restaurants
Limits	No limit to number of birds processed per year	Maximum limit of 20,000 chickens processed per year	Maximum limit of 20,000 chickens processed per year

## Poultry and Livestock Farmer



Now their customers are also asking for pasture raised beef for their dinner table.

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# Meat Processing

Livestock must be harvested and cut & wrapped at a USDA facility:

- On-farm harvest for sale to customers is not legal
- When processed USDA, no restrictions on sale of meat
- On-farm storage requires USDA Meat & Poultry Handler Registration:
  - Free
  - Complete online application
  - Subject to inspection
- Sonoma: [Selling Meat](#) Marin: [Meat Fact Sheet](#)

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## Dairy Operation



The Sheldons just purchased some farmland and can now pursue their lifelong dream of having a dairy.

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# Starting a Dairy

- Contact the County Dairy Inspector to learn the requirements to become a graded dairy:
  - Sonoma & Marin: Kathleen Haase 707-565-6536
- Decide on a Grade:
  - A – fluid, yogurt, butter and so on – all uses
  - B – cheese and ice cream only
- Additional permits:
  - Planning: building, grading, ponds, electrical, plumbing
  - Water Board: pond, manure compost
- Sonoma & Marin: [Dairy](#)

## Dairy Operation



The Sheldons learn that their ancestors made cheese!  
They visit the homeland to learn how to make cheese so that  
they can start making and selling this delicious cheese.  
The Sheldons decide a small building on the farm will be perfect.

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**What permits, licenses, or regulations apply?**

# Ag Processing - Zoning & Use Permits

Depends on your County – check with the planning department

Sonoma: [Small-scale on-farm agriculture processing](#) is allowed on all ag zoned lands with a Zoning Permit

- Small-scale:
  - 2 to <5 acres up to 3,000 sq ft; 5+ acres up to 5,000 sq ft
  - Larger requires Use Permit
- One time fee of around \$600
- Water supply must be adequate
- Waste plan must be approved by Water Board if using above ground waste disposal (ponds)

Marin: [Small-scale On-farm Food Processing](#)

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# Ag Processing - Building Permits

Building permits required:

- Plumbing and electrical work
- Roofing
- Structural changes to existing buildings
- Construction of new buildings
- Operations that will include non-family members
- Sprinklers will be required on most buildings >680 sq ft

Sonoma: Small-scale, family run operations do not need to bring a building to 'code' when using an existing building on a farm where the residence is located.

# Ag Processing - License to Make Cheese

Milk must come from a Grade A or Grade B dairy

- The milk processing facility must be inspected and approved by California Department of Food & Agriculture, Milk & Dairy Food Safety
- Milk Products Plant License
- Plans must be approved by CDFA Dairy Inspector prior to construction
- Annual renewal: \$100 + \$1 per 10k lbs over 100k lbs
- Contact: CDFA Milk & Dairy Food Safety Branch, Alameda  
[CDFA Dairy Marketing](#)

## Dairy Operation



The Sheldon's customers want to visit the operation and purchase cheese on the farm. They decides to open a cheese tasting room.

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**What permits, licenses, or regulations apply?**

# On Farm Retail Sales - Land Use Permits

Check with your county planning department or ag ombudsman to determine the land use permitting requirements.

Sonoma: Small Scale on-farm retail sales are allowed with a zoning permit:

- Small-scale = 500 sq feet maximum (larger requires Use Permit)
- One time fee of around \$600
- 90% of floor space for products made/grown on-site or property controlled by owner
- Hours of operation: 10am to 6pm
- Sale of processed meat or dairy products is allowed

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# On Farm Retail Sales - Health Permits

Check with your county environmental health and building departments or ag ombudsman to determine the permitting requirements.

- Retail Food Facility permit required
- Environmental health will need to approve plans
- Building permits will be required
- Accessibility standards will be required for parking, entrance, countertops and restroom facilities
- Sonoma: [On-Farm Retail Sales](#)