

Permits, Licenses, & Regulations for Urban Agriculture

Legal Basics of Urban Farming

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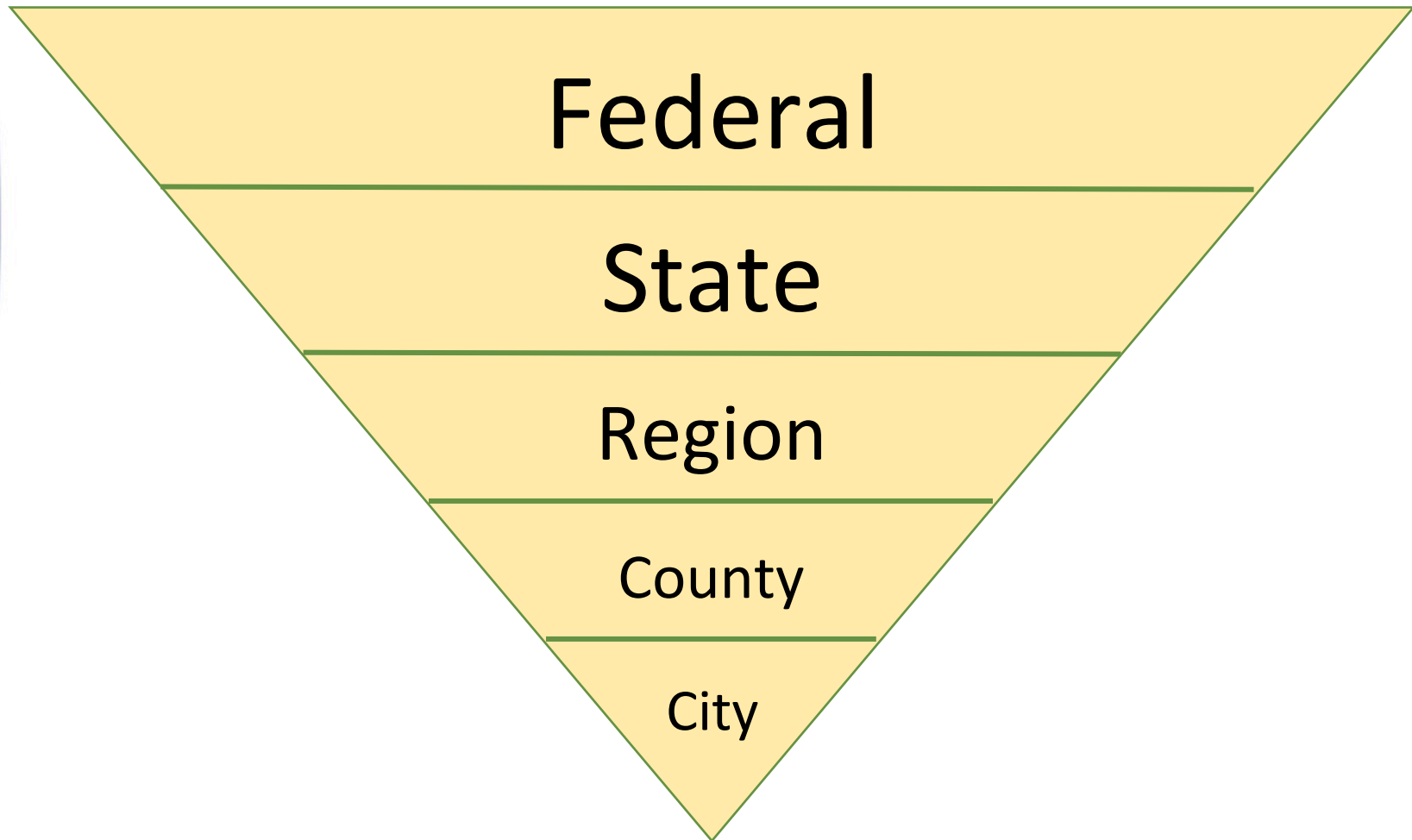
Overview

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



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

 The logo for the California Department of Food & Agriculture (CDFA) features a stylized sun with rays on the left, followed by the lowercase letters "cdfa" in a bold, sans-serif font. To the right of "cdfa", the words "CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE" are written in a smaller, uppercase, sans-serif font. <p>CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE</p>	<p>Milk processing permits; raw shell egg permits and labels; state licensed meat facilities; organic registration; CSA registration</p>
 The logo for the California Department of Public Health (CDPH) features the words "California Department of Public Health" in a blue, sans-serif font. To the right of the text is a stylized graphic of two human figures in blue and orange, with the letters "CDPH" in a blue, sans-serif font. <p>California Department of Public Health CDPH</p>	<p>Enforces health and safety code. Permits and inspects wholesale food processing facilities – Processed Food Registration and Cannery operations; public water systems</p>
 The logo for the Franchise Tax Board (FTB) is a circular emblem. It features a stylized map of California in the center, with the letters "FTB" in a bold, blue, sans-serif font. Below the map, the text "EST 1923" is written in a smaller, blue, sans-serif font. <p>FTB EST 1923</p>	<p>Franchise Tax Board: personal and business income tax.</p>
 The logo for the California State Board of Equalization features a stylized blue wave graphic on the left. To the right of the wave, the words "California State Board of Equalization" are written in a blue, sans-serif font. <p>California State Board of Equalization</p>	<p>Sellers permits and sales/use tax.</p>

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



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 Diego Regional Water Quality Control Board](#).

County Agencies

Agriculture (Agriculture, Weights and Measures)	Organic registration; weighing and measuring devices; certified producer certificates; proper labeling.
Environmental Health	Health codes for food safety, public water supply, septic systems, waste disposal; Retail Food Facility and Cottage Food permits.
Recorder	Fictitious Business Name Statement-required if surname or owner name is not part of the business name
Tax Collector	Collects taxes for different taxing agencies within county.
Planning & Development Services	Land use permits, Building, Water Resources. Check with city if operation is within city limits.

Where to Start?



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 or city planning department**
 - San Diego County: [Planning and Development Services](#)
 - City of San Diego: [Development Services](#)

It All Depends on Where You Live...

- Carlsbad
- Chula Vista
- Coronado
- Del Mar
- El Cajon
- Encinitas
- Escondido
- Imperial Beach
- La Mesa
- Lemon Grove
- National City
- Oceanside
- Poway
- San Diego
- San Marcos
- Santee
- Solana Beach
- Vista



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Even for an Allowable Use, There are Lots of Rules about How, When and Where.

§44.0408 Beekeeping — Locational Requirements

- (a) An apiary consisting of three or more beehives shall be located no closer than 600 feet from a building used as a residence, other than the residence located on the same premises as the beehives, and a minimum of 100 feet from the public right-of-way.
- (b) An apiary consisting of two or fewer beehives may be maintained in accordance with the following:
 - (1) The apiary shall be located outside of all required setbacks as established by Chapter 13, Article 1 of this Code, or fifteen feet from the property line and 20 feet from all public rights-of-way, whichever is greater;
 - (2) A minimum 6-foot tall barrier shall surround the beehive leaving sufficient space to properly maintain the beehive except that the barrier shall not be required when the beehive is elevated at least eight feet above grade;
 - (3) The beehive is not visible from the public right-of-way;

Be a Good Neighbor!

- Share the bounty!
- Check in.
- Address any concerns about noise, smells, parking, etc.



Unprocessed Versus Processed Foods



Marco, the Urban Produce Grower



Marco has an unexpected bumper crop from his large backyard garden. He is wondering what to do with the excess produce and decides he wants to sell it.

Can he legally sell his produce?

Selling Fresh Fruits & Vegetables

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

As an “Approved Source”...

- You can sell
 - Directly to the public
 - To restaurants
 - To markets
- You can donate to
 - Food bank
 - Food kitchens



How to Become an Approved Source

- **Community Food Producer**
- Certified Producer's Certificate (CPC)—*this is required to sell at Certified Farmer's Markets*
- Community Supported Agriculture (CSA)

What's a Community Food Producer?

- "Community food producer" means a producer of agricultural products on land that is not zoned for agricultural use but is otherwise in compliance with applicable local land use and zoning restrictions.
 - Your yard
 - A community garden
 - A school garden
 - A culinary garden
 - An urban farm
- Now an approved source, thanks to AB 1990 & AB234!

Key Requirement for Approved Source Growers

- Follow CA Dept. of Food & Agriculture (CDFA) Small Farm Food Safety Guidelines.



CA Small Farm Food Safety Guidelines...

Best Management Practices

- Record keeping
- Keeping animals out of the field
- Proper use of manure
- Cleaning and sanitizing equipment
- Use disinfectants to wash produce



Food Safety Modernization Act (FSMA)

- Establishes minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption.
- Major implications for farmers.
- Exemption for farmers who have an average annual value of produce sold less than \$25,000.
- Modified requirements for farms with more than \$25K and less than \$500K.

Marco, the Urban Produce Grower



Some of Marco's customers ask 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 on-farm inspection by County Dept. of Agriculture, Weights and Measures as well as checks at farmers market

Selling by the Pound

Scales used for commercial use:

- Must be type approved for commercial use.
- Registered with your county Agriculture, Weights and Measures office
- Tested and certified annually
- Annual renewal



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 crops for public consumption (selling or donating)
- Organic and Conventional operations
- Register with County Dept. of Agriculture, Weights and Measures File pesticide use reports (online or paper)
- Training
- Annual fees

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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Allowable Cottage Food Products

- Jams and jellies
- Bread
- Dried herbs & blends
- Dried fruit
- Nut butters
- Dried vegetables
- Granola



Nancy, the Apple Grower



Her dried 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?

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***



Feeling overwhelmed? We've got you covered.



- Two panels
- Opportunities to ask experts detailed questions.
- Resource packet
- Materials and presentations will be made available online.



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

San Diego County Dept. of Agriculture, Weights and Measures

<https://www.sandiegocounty.gov/awm/>

San Diego County Department of Environmental Health

<https://www.sandiegocounty.gov/deh/>

San Diego County Department of Planning and Development Services

<https://www.sandiegocounty.gov/content/sdc/pds.html>

City of San Diego Development Services Department

<https://www.sandiego.gov/development-services>

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