Introduction

This document is a project of Napa County’s Local Food Advisory Council, and is intended to evolve over time. The first full version -- dated October 2011 -- was assembled by an ad hoc subcommittee of the Council, with assistance from a dedicated group of volunteers. Its preparation involved consultation with Napa County staff and other local agency representatives.

The objectives of this document are two-fold. First and most obviously, this document was intended as a resource to members of the community who might benefit from a compendium of local policies about growing/raising and using/selling local food products. The Council recognizes that even in a small agricultural community such as Napa County, there are multiple local agencies whose policies and regulations touch the food system. This can create confusion, and myths evolve about what can and can’t be done. The Local Food Advisory Council hopes that by providing residents and businesses with the kind of information included here, myths can be dispelled and members of the community can be empowered to go local.

The second objective of this document was to foster understanding and change. By gathering and assembling the questions and answers contained in the document, its authors were hoping to identify areas where local policies and regulations were in conflict, confusing, overly restrictive, or lacking. For example, the October 2011 version of this document deals extensively with the question of what is an “approved source.” Only food from an “approved source” can be sold in stores and restaurants and school cafeterias, and the County agencies charged with implementing this State law are still grappling with ways it can be implemented to promote food safety and minimize unnecessary paperwork and confusion. The September 2013 version updates the approved source discussion to include an online self certification process.

The Local Food Advisory Council is charged with advising Napa County’s Agricultural Commissioner about desired changes to local and State policies. It is our hope that readers will participate in this endeavor by suggesting changes and corrections to the information contained in this document. Please visit us on facebook at Napa Local Food Forum for upcoming information. Please visit our website at www.countyofnapa.org/AgCommissioner/NLF/ for more information, how to get involved, and email suggestions or comments. Also, stay tuned for changes to the information presented in this document. Newer, updated versions will be posted on the Agricultural Commissioner’s website at www.countyofnapa.org as they become available.

The Local Food Advisory Council welcomes your participation and encourages your involvement in other activities of the Council aimed at improving local food access, increasing agricultural diversity, and more.
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- **Napa County Fact Sheet for Culinary and Local Gardens**
SECTION ONE: GROWING & RAISING LOCAL FOOD

1. Can I have a personal garden?
   Please do! Any property in Napa County can have a non-commercial garden regardless of which local jurisdiction you’re located in. Refer to Questions number 3 for larger scale and commercial operations.

2. If I own a restaurant, can I have a garden and use the produce?
   Yes, but because State law requires all foods be from an “approved source,”1 the County’s Department of Planning, Building & Environmental Services must certify your “culinary garden”2. To start that process please visit www.countyofnapa.org/DEM/GardenApplication. In addition, Planning, Building & Environmental Services has prepared a factsheet and guidance document (see appendices) to help you better understand the Best Management Practices associated with culinary gardens.

3. Can I have a farm, plant an orchard, or plant a vineyard?
   - **Napa County:** Agriculture is a permitted use in all but a few residential areas of the County; however you will need to apply for an Erosion Control Plan if you are planting areas on greater than 5% slope. (See Napa County Code Section 18.108.)
   - **City of Napa:** Properties with greater than one-half acre of land for viticulture, horticulture, or similar intensive farming require approval of an Administrative Permit for Agricultural Cultivation and Animal Keeping.
   - **City of American Canyon:** Crop production includes the raising and harvesting of tree crops, row crops, vine crops, or field crops on an agricultural or commercial basis, including packing, processing and storage, but excluding canneries, and can be allowed in certain zoning districts. (See American Canyon Municipal Code Section 19.05.090 for more information.)
   - **City of Calistoga:** Light agriculture is allowed in the Rural Residential zoning district. (See City of Calistoga Code Section 17.14.)
   - **City of St. Helena:** There are no regulations stating what you can grow, however gardening on a large scale for profit is generally reserved for the A:20 Agriculture district (and sales/fruit stands are addressed in that zoning district, (City of St. Helena Code Section 17.20.050C), and the LR1A: 1 Acre Minimum Low Density Residential zone (City of St. Helena Code Section 17.36.030 E).
   - **Town of Yountville:** Refer to Question 1 for personal uses. Agricultural uses are permitted in the Town’s Agricultural (A) zoning district.

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1 *Approved Source* is a food that is acceptable for use in a restaurant based on a determination of conformity with applicable laws, or in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health (California (CA) Health & Safety Code, Section 113735).

2 *Culinary Garden* is an informal name for an onsite garden used by a permitted restaurant or school facility.
4. **What if I want to be a certified Organic Grower?**

The County Agricultural Commissioner registers growers who intend to represent their crop as organic (See CA Food & Ag. Code Section 46013.1.). To register, you must submit an application to the California Department of Food and Agriculture. If you anticipate sales of greater than $5,000 annually, you will need to first pursue certification with a third party certifier. Contact the Ag Commissioner’s Office for more information about the registration process and to learn about certification with a third party certifier.

5. **What if I want to use pesticides?**

If you are a commercial grower or intend to sell your produce, the County Agricultural Commissioner will issue to you an operator identification number to buy, possess, and use pesticides for the commercial production of agricultural commodities. (See Title 3 CA Code of Regulations (3 CCR) Section 6622(b).) The Ag Commissioner’s Office issues this number free of charge; call to set up an appointment.

6. **Can I raise chickens on my property?**

- **Napa County:** Yes, on agriculturally zoned property you can have unlimited number of chickens, however more than 25 roosters per acre or 100 roosters per parcel requires an administrative permit. On residentially zoned property, you may have a small number of hens as an “accessory use.” See Appendix D.

- **City of Napa:** The Zoning Ordinance allows for the raising of chickens. Section 17.06.030 of the City of Napa Municipal Code allows up to six small domestic animals over the age of four months of the type generally accepted as pets, including dogs, cats, rabbits, pigeons, hens, and the like; but not including roosters, quacking ducks, geese, pea fowl, goats, sheep, hogs, apiaries, venomous reptiles, kennels, or the presence of animals for commercial purposes. The raising of chickens for commercial purposes requires approval of an Administrative Permit for Agricultural Cultivation and Animal Keeping. (See City of Napa Municipal Code Section 17.52.050.)

- **City of American Canyon:** Yes. American Canyon Municipal Code 19.31.020(B) (1) defines permitted animals as follows: “Domestic creatures commonly sold in pet stores and kept as household pets may be kept upon any lot in any zone where the principal use upon such lot is residential, so long as animals do not constitute a nuisance and are adequately provided with food, care and sanitary facilities.”

- **City of Calistoga:** Yes, if your property is located within the Rural Residential Hillside zoning district (Calistoga Municipal Code Section 17.15); only with a Use Permit in the Rural Residential zoning district (Calistoga Municipal Code Section 17.14).

- **City of St. Helena:** Yes. Chickens are permitted in residential districts as follows:
  - A-20: Agricultural - non-commercial chickens are a permitted use (St. Helena Code Section (CS): 17.20.020 C). Commercial chicken farming is a conditionally permitted use and requires a Use Permit. (CS 17.030.E.)
  - LR: Low Density Residential (CS 17.32.050 E); MR: Medium Density Residential (CS 17.40.050 E); & HR: High Density Residential (CS 17.40.050 E) all permit chickens as follows: no more than twelve domestic animals total (add up all
dogs, cats, bunnies, hens, etc. for a total of 12). Chickens are permitted. No roosters. No pea fowl, geese, or ducks.

**Town of Yountville:** Hens, but not roosters, are permitted in the Town’s residential zoning districts. Any chicken coop is required to comply with the Town’s zoning standards for size, height, and setbacks, and may require a building permit.

### 7. Can I raise bees on my property?

- **Napa County:** Yes, apiaries are permitted as long as they consist of moveable frame hives in sound and useable condition; are screened from neighboring dwellings and public walkways; are operated and maintained in accordance with best management practices developed by the Napa County Beekeepers Association; and shall not be kept in a manner constituting a public nuisance as defined in subsection (B)(2) of Section 1.20.020. See Napa County Code Section 6.12.020 and Appendix B for beekeeping Best Management Practices (BMPs).
- **City of Napa:** Approval of an Administrative Permit for Agricultural Cultivation and Animal Keeping is required to maintain an apiary. Apiaries may be subject to standards established in subsection 17.52.050.C of the City of Napa Municipal Code. Bees may not be kept as household pets pursuant to Section 17.06.030 of the Municipal Code.
- **City of American Canyon:** Apiaries are allowed only as provided in Napa County Section 6.12.020 (see above).
- **City of Calistoga:** Apiaries are only allowed in one specific “PD” Planned Development Zoning District (Calistoga Municipal Code Section 17.24.130(A)(2)).
- **City of St. Helena:** Yes, apiaries are permitted, however they must be registered with the City and compliant with Section 17.090 of the St. Helena Municipal Code, which provides for beekeeping.
- **Town of Yountville:** No, bees are not permitted on residential parcels.

### 8. Can I raise farm animals (sheep, goats, cows)?

- **Napa County:** On agriculturally zoned property, you can raise farm animals. On residentially zoned property, you may have a small number of animals as an “accessory use.” See Appendix D.
- **City of Napa:** Approval of an Administrative Permit for Agricultural Cultivation and Animal Keeping is required to raise farm animals. Performance standards for the keeping of animals have been established in subsection 17.52.050.C of the City of Napa Municipal Code.
- **City of American Canyon:** Livestock Keeping is defined as an Accessory Use in Section 19.05.100 of the City’s Municipal Code. A minimum lot area of twenty thousand square feet is required for livestock keeping in a Residential zone, at least seventy-five percent of which must be accessible to and usable by the large animal(s).
- **City of Calistoga:** You may have one horse per half acre without a Use Permit in the Rural Residential (RR) zoning district Calistoga Municipal Code Section 17.14. Light Agriculture is allowed by right in the Rural Residential Hillside (RRH) zoning district as defined in CMC Section 17.14.(B)4: one large domestic animal per half-acre however prohibits commercial sale of them unless for a student project (such as 4-H). In all other districts, farm animals are not allowed.
- **City of St. Helena:** Yes, in the A-20: Agricultural District, which provides for large livestock. There is a limit of one large livestock animal (e.g., horse, cow, mule, etc.) per
½ acre of land (City of St. Helena Code Section 17.20.020). Commercial farming (CS 17.20.030 E) is conditionally permitted and requires a Use Permit.

*Town of Yountville:* No, farm animals are not permitted on residential parcels within the Town limits.

*All Jurisdictions:* The Department of Planning, Building & Environmental Services requires that food facilities that custom process animals for personal use have a special permit for doing so (such as a market that butchers an animal brought to it by a customer). Individuals can butcher their own animals for their own use, but it is not recommended.

**SECTION TWO: SELLING & DONATING LOCAL FOOD**

9. **Can I sell produce grown on my property?**

*Napa County:* It depends if you plan to sell onsite or offsite. Napa County Code defines “Agriculture” so that it includes “sale of agricultural products grown, raised, or produced on the premises” (Napa County Code Section 18.08.040). This means that a property owner or manager may sell produce on the same parcel upon which it was grown. Agricultural production (i.e., making of wine and other value-added products) generally requires a use permit from the County Planning Commission (see Section Four); however, such products may also be sold on the same parcel upon which they were made.

The Planning, Building & Environmental Services department does not regulate the offsite sale (or donation) of agricultural products to restaurants, stores, or other wholesale or retail outlets. Please consult the County’s Environmental Health Division for possible restrictions (refer to Section Three).

*City of Napa:* Home based businesses, including the sale of produce are subject to Section 17.54.240 of the City of Napa Municipal Code. Generally, home occupations may not generate customer traffic to the home, the business may not have employees other than family, the business cannot occupy more than 200 square feet of the residence, and the business may not list the residential address in any advertisement or printed material. One commercial vehicle may be kept on the premise and must be parked in the garage. Home occupations also require the filing of a Business License Tax Application through the City of Napa’s Finance Department.

*City of American Canyon:* Crop Production is defined as an Agricultural Use in Section 19.05.090 of the City’s Municipal Code and is permitted only in the RE zoning district (minimum lot size equals one acre). Also see Chapter 19.35 of the City’s Municipal Code regarding Outdoor Sales of Seasonal Outdoor Products.

A home-based business (“home occupation”) is an accessory use of a dwelling for employment and/or business purposes that is incidental to and subordinate to the use of the dwelling unit as a residence, and that is so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence (American Canyon Municipal Code Section 19.29.020). Home occupations are subject to the regulations found in Chapter 19.29 of the City’s Municipal Code.

*City of Calistoga:* In most zoning districts you are not permitted to sell items onsite, however in the Rural Residential district (Calistoga Municipal Code Section 17.14) it may
be possible to obtain a use permit for on-site sales through a formal zoning interpretation made by the City’s Planning.

City of St. Helena: You are permitted to garden in residential districts provided that you do not hold sales of your produce on-site. You may apply to have a Home Occupation (including a Business License) that permits sales of items grown in a garden, however sales are limited to off-site sales and office use with limited customer visits on-site. You may have up to one employee on-site; you may apply for permission to have more employees.

Town of Yountville: In the A zoning district, a Use Permit is required for “commercial facilities for the processing or retail sales of agriculture products that are grown on the premises.” In the residential zoning districts, gardens may be kept for personal use, but gardens may not be kept for commercial purposes and the sale of products grown on the premises is not permitted.

All Jurisdictions: Department of Planning, Building & Environmental Services does not have to inspect produce stands, but the Agricultural Commissioner will issue operator identification numbers/permits for growers who want to buy, possess, and use pesticides for commercial crop production. (See CA CCR Section 6622(b.).)

10. **Do I need a business license?**
   Within incorporated jurisdictions, you will need a business license. No business license is required in unincorporated Napa County.

11. **Do I need a sellers permit or tax permit from the California State Board of Equalization?**
The answer is generally yes if you intend to sell or lease tangible personal property that would ordinarily be subject to sales tax if sold at retail (this includes wholesalers, manufactures and retailers) or if you will make sales for a temporary period, normally lasting no longer than 90 days at one or more locations (for example, fireworks booth, Christmas tree lots, garage sale). You are also required to get a tax account if you receive at least $100,000 in gross receipts from business operations per calendar year or are not required to hold a seller’s permit or certificate of registration for use tax (under section 6226 of the Revenue and Taxation Code). Contact the State Toll-free: 800-400-7115 if you have any questions.

12. **Can I sell eggs from my chickens?**
Subject to the limitations included in questions 9-11 above, you may sell whole shell eggs on your property and no permit is required. If you wish to sell to a local store or restaurant, the County Agricultural Commissioner will perform an inspection to determine grade (see 3 CCR Section 1352(a)) and provide information regarding labeling (see 3 CCR Section 1354(a-e)).

13. **Can I donate food to the food bank, homeless shelter, or similar charity?**
Yes, and without permit because there’s an exemption in State code for “donations” from retail food facilities (CA Health & Safety Code Section 114432). The Good Samaritan Act (Public Law 104-210 Statute 3183 codified at 42 U.S.C. 12671-12673, 1990) exempts individual persons and gleaners from liability for such donations. If you have questions, please contact the Department of Planning, Building & Environmental Services.
14. Can I sell produce grown on my property to a local restaurant or store?
Yes, but State law requires restaurants purchase from an “approved source.” To become an approved source and obtain a certificate for such, please visit www.countyofnapa.org/DEM/GardenApplication and complete the self-certification process. You will be required to submit a site plan of your garden and agree to Best Management Practices. For additional information on Best Management Practices, please see the factsheet and guidance document prepared by the Department of Planning, Building & Environmental Services in the appendices of this document.

15. Can I sell produce grown on my property to a local school district?
The 2008 Farm Bill allows school districts to give your unprocessed or minimally processed products preference over other farms' products based on geographic proximity. However, you will probably have to participate in a bidding process. If the expected sale is "small" (under $100,000), a good strategy would be to ask the food service director to contact you with a "solicitation to identify the number, quality, and type of goods or services needed." If the expected sale is large, you will need to respond, with a bid proposal, to the school district’s public solicitation of procurement specifications. More specific information can be found on the USDA’s farm to school website, http://www.fns.usda.gov/cnd/F2S/faqs_procurement.htm also refer to Section Five and Appendix C for contact information. In either case if you wish to sell your local produce to the school district you must become an “approved source”. See question 22.

16. Can I sell produce grown on my property at a local farmers’ market?
Yes, but first the Agricultural Commissioner’s Office will need to inspect your garden and issue you a Certified Producer’s Certificate (CPC). (See 3 CCR Section 1392.4(a).) Your CPC must be posted in a conspicuous location at the farmers’ market (3 CCR Section 1392.4(d). A $60 per hour fee is associated with inspection and certification services. If you are selling food by weight, you will also need to use a “legal for trade” scale that has been certified by the Department of Weights and Measures (contact Weights and Measures for more information). The Department of Planning, Building & Environmental Services inspects operational practices at certified farmers’ markets to ensure cleanliness and safe food handling practices are maintained.

17. Can I sell directly to local schools?
Napa Valley has three main school districts and the requirements vary from district to district. Please refer to Appendix C for more information. Please also see question 15.

18. Can I start a Community Supported Agriculture (CSA) or other form of cooperative to sell produce?
If you want to grow and sell produce via a cooperative and have no permanent facilities for storing or handling produce, there is no permit or inspection needed from the Department of Planning, Building & Environmental Services. The County Agricultural Commissioner can advise you regarding minimum standards for certain commodities (3 CCR Sections 1400-1474) and the use of standardized containers. (See 3 CCR Section 1380.19.)
19. Can I sell honey from my bees?
Yes. The Agricultural Commissioner can provide information regarding honey standards (see USDA Standards for Grades of Extracted Honey, Title 7, Code of Federal Regulations Sections 52.1391-1405) and honey labeling requirements. (See 3 CCR Section 1495.) The Department of Weights and Measures can provide information on selling packaged goods by weight.

20. Can I sell meat or milk from my animals?
Conceptually, yes, but there are significant regulations regarding handling and processing that must be met and which are beyond the scope of these FAQs. Please consult the County’s Department of Planning, Building & Environmental Services.

SECTION THREE: PROCEDURES TO BECOMING AN ‘APPROVED SOURCE’

21. Why do I have to be an approved source?
State law only allows retail food facilities to utilize food from an “approved sources”. The concept is simple: food that will be used to serve the public must be protected from contamination at all stages of the process, and the approval process allows officials to “trace back” a food product to its source if a health related problem occurs.

22. How do I become an approved source?
Depending on the type of product, there are many methods for becoming an approved source. In the context of locally grown produce, since no program previously existed for many sources of produce, the Department of Planning, Building & Environmental Services and the Agriculture Commissioner developed a process for becoming an approved source. Please visit www.countyofnapa.org/DEM/GardenApplication and complete the online self certification process. Once you fill out the form, attach a site plan, and submit your application agreeing to the Program Criteria, it will be reviewed by County staff. If the application is complete, an approved produce grower certificate will be emailed to you. For more information on the Best Management Practices included with the Program Criteria please see the factsheet and guidance document in the appendices of this document.

In addition, you may Contact the Ag Commissioner’s Office to discuss your business intentions and they will issue you appropriate additional documents. For instance:

- If you intend to sell your produce at a certified farmers’ market, the Ag Commissioner will issue you a Certified Producer’s Certificate (see Section One).
- If you wish to become a certified organic grower, the Ag Commissioner will provide you with information about the certification process (a third-party certifier is required), and then register you once the certification process is complete (see Section One).
- If you intend to use pesticides, the Ag Commissioner will issue you an operator identification number to buy, possess, and use pesticides for the commercial production of agricultural commodities (see Section One).

It is important to note, these documents will not specifically state that you are now an “approved source.” You must complete the online process discussed above to become an “approved source” and obtain an approved produce grower certificate.
23. Is the application available online?
Yes. An “approved source” application can be found at www.countyofnapa.org/DEM/GardenApplication.

24. How much does it cost?
There is no cost associated with the online application and self-certification process to become an approved produce grower. Ag Commissioner fees vary. There is no fee to obtain an operator identification number, however there is a $60/hour fee for the inspection and issuance of Certified Producer’s Certificates (CPC). Contact the Ag Commissioner’s Office for details.

25. How much time does it take?
Each appointment time will vary. The process for becoming an approved source is intended to be an easy on-line process and the time for approval will vary based on many factors. When obtaining an operator Identification number, the Ag Commissioner allows as much time as necessary to review all applicable laws and regulations surrounding pesticide use. Generally, these appointments take less than an hour. When a site inspection is required, as is the case for CPCs, significantly more time may be required.

26. How do I inform my buyers that I am an approved source?
You can show potential buyers copies of the approved source certificate provided to you by the Department of Planning Building & Environmental Services.

Please keep in mind only the approved produce grower certificate issued by the Department of Planning, Building & Environmental Services allows you to sell to other buyers as an “approved source”. The certificates issued by the Agricultural Commissioner’s office (organic, certified farmers market, etc) are options in addition to, not instead of, the certificate issued by the Department of Planning, Building & Environmental Services.

SECTION FOUR: VALUE ADDED

27. Can I make jams and jellies and sell them?
Pursuant to AB 1616, the California Homemade Food Act allows preparation of specific low-risk food items in a residence, including jams/jellies. Please refer to attached Appendix “F” for details regarding production limits, sales, labels, and other State requirements.

- **Napa County**: Homemade/Cottage foods can be produced and sold subject to State and County regulations as outlined in Appendix F and accessed at http://www.countyofnapa.org/pbes/cottagefood/

- **City of Napa**: Homemade/Cottage foods can be produced and sold subject to State and City regulations outlined in Ordinance No. 02013-3, which can be accessed via: http://qcode.us/codes/napa/revisions/O2013-3.pdf

- **City of American Canyon**: Homemade/Cottage foods can be produced and sold subject to State regulations as outlined in Appendix F. The City has plans to adopt specific city regulations by Winter 2014. Any updates can be accessed at www.cityofamericanccanyon.org
City of Calistoga: Homemade/Cottage foods can be produced and sold subject to State regulations as outlined in Appendix F. The City requires operators to receive a home occupation permit pursuant to the Calistoga Municipal Code 17.21.

City of St. Helena: Homemade/Cottage foods can be produced and sold subject to State regulations as outlined in Appendix F. The City has plans to adopt specific city regulations by Fall 2013. Any updates can be accessed at www.ci.st-helena.ca.us

Town of Yountville: Homemade/Cottage foods can be produced and sold subject to State regulations as outlined in Appendix F.

28. Can I have an agricultural processing facility on my property (e.g., a facility for olive oil pressing and bottling, a winery, or a permitted food facility for jams/jellies)?

Napa County: Agriculture is a principally permitted use (i.e., it’s allowed!) in most areas of the County, however agricultural processing requires a use permit from the Planning Commission. Please contact the Department of Planning, Building & Environmental Services for assistance.

City of Napa: Agricultural uses are generally not permitted in most areas of the City. Certain agricultural and processing uses are conditionally permitted within the Parks and Open Space (POS) and Agricultural Resources (AR) zoning districts and require a Use Permit from the Planning Commission. Food manufacturing and processing uses are conditionally permitted uses within the Light Industrial (IL) zoning district and as a permitted use within the Industrial Park – Area C (IP-C) zoning districts.

City of American Canyon: Crop Production and Wineries are defined as Agricultural Uses in Section 19.05.090 of the City’s Municipal Code and are permitted only in the RE zoning district (minimum lot size equals one acre). A winery may be conditionally permitted in the Community Commercial (CC) and Light Industrial (LI) zones. Wineries are permitted in the General Industrial zone. For more information, please contact the Community Development Department.

City of Calistoga: A winery may be conditionally permitted in the Rural residential (RR), Community Commercial (CC), and Light Industrial (I) zoning districts. Wineries are also allowed as a conditionally permitted use in a Planned Development (PD) zoning district. Processing of agricultural products not associated with the production of wine is not identified as a permitted use in any of these districts. However, it may be possible to obtain a use permit for agricultural processing of products other than wine through a formal zoning interpretation made by the City’s Planning Commission.

City of St. Helena: Yes, in the A: 20: Agricultural; I: Industrial; & SC: Service Commercial Districts, subject to a use permit. Use permit requirements depend upon location, level of manufacturing proposed (light, medium, heavy), and other factors as defined for each zoning district.

Town of Yountville: Farms are allowed uses in the A zone, however an agricultural processing facility requires a use permit. Personal farms are allowed as accessory uses on residential parcels. A processing facility may be allowed as a home occupation with a use permit where the intensity of the use is compatible with the residential zoning district. Large-scale manufacturing or outdoor processing of agricultural products is not permitted in any residential zoning district.
SECTION FIVE: BUYING OR ACCEPTING DONATED LOCAL FOOD

29. If I own a restaurant, can I buy produce from a local gardener?
Yes, but State law requires restaurants to purchase from an “approved source.” If you wish to purchase from a local gardener you must be sure they have an approved produce grower certificate issued by the Department of Planning, Building & Environmental Services. This certificate is your way of knowing they are an “approved source”. Additionally you may visit www.countyofnapa.org/DEM/GardenProviders for a list of produce growers that have obtained a certificate. We recommend however, that you request a copy of the certificate to keep at your restaurant. This is the best way to ensure you are dealing with a legitimate approved source. Furthermore, having that certificate available will assist you when requested to provide documentation of your approved sources during an inspection of your food facility.

30. If I am a food bank, can I accept donations?
The Good Samaritan Act (Public Law 104-210 Statute 3183 codified at 42 U.S.C. 12671-12673, 1990) exempts liability for accepting such donations. If you have questions, please contact the Department of Planning, Building & Environmental Services.

31. If I am a school, can I purchase food locally?
The USDA allows schools to express geographic preferences in purchases of unprocessed or minimally processed agricultural products. The purchasing process must allow for a ‘minimum level of competition’. If a purchase is $100,000 or less, school food services must contact at least three potential suppliers with a "solicitation to identify the number, quality, and type of goods or services needed." In this "small" purchasing category, a school food service may choose the location of the suppliers to be contacted. For "large" purchases of more than $100,000, school food services must publicly give notice of procurement specifications, inviting either bids or negotiation. Geographic preference points may be part of the criteria for evaluating bids. More specific information can be found on the USDA's farm to school website, http://www.fns.usda.gov/cnd/F2S/faqs Procurement.htm

If you are able to purchase locally, the food must still be from an approved source. If you wish to purchase locally grown produce, request a copy of the approved produce grower certificate issued by the Department of Planning, Building & Environmental Services. Keep a copy of this certificate for your records.

32. Is there a list of approved local produce growers?
Those growers who have obtained an approved produce grower certificate can be found at www.countyofnapa.org/DEM/GardenProviders. If you do not see your local garden listed but you have obtained your approved produce grower certificate, or if you have a certificate from a grower and do not see their name listed, please contact the Department of Planning, Building & Environmental Services directly at (707) 253-4471.
SECTION SIX: OTHER POLICIES & QUESTIONS

33. How do I find out what my zoning is?
Napa County: http://gis.napa.ca.gov/gcmaps?Viewer=Public
City of Napa: http://etrakit.cityofnapa.org/etrakit2/
City of American Canyon: http://qcode.us/codes/americancanyon/  (See American Canyon Municipal Code Section 19.10.020)
City of Calistoga: http://www.ci.calistoga.ca.us/Index.aspx?page=631
City of St. Helena:
  Zoning descriptions: http://www.codepublishing.com/CA/sthelena/
Town of Yountville: Contact the Department of Planning, Building & Environmental Services at (707) 944-8851 or at Town Hall located at 6550 Yount Street, Yountville

34. Do I need a permit for a greenhouse? For a Chicken coop?
  Napa County: The Building Code exempts accessory storage structures under 120 sq. ft. in size. Structures that are not used for the storage of tools and equipment or that exceed 120 sq. ft. require a building permit. Whether or not a permit is required, structures must comply with required setbacks established for the zoning district.  (See Napa County Code Section 18.104.010 (Zoning District Regulations).)
  City of Napa: Generally, the Building Division does not regulate accessory structures such as greenhouses and chicken coops that are less than 120 sq. ft. in size. Please contact the Building Division to ensure that the proposed project does not require any other permit from it. Whether or not a permit is required from the Building Division, all structures must comply with Section 17.52.020 of the City of Napa Municipal Code, which regulates accessory structures.
  City of American Canyon: Generally, the Building Division does not regulate accessory structures such as greenhouses and chicken coops that are less than 120 sq. ft. in size. Please contact the Building Division to ensure that the proposed project does not require any other permit from it. Whether or not a permit is required from the Building Division, all structures must comply with Sections 19.10.050 and 19.10.060 of the City of American Canyon Municipal Code, which regulates setbacks and accessory structures.
  City of Calistoga: Regardless of size, any new structure requires a Zoning Clearance, and if the structure is proposed to be larger than 120 sq. ft., then a building permit is also required.
  City of St. Helena: Greenhouses and chicken coops are considered accessory buildings; neither a building permit nor design review is needed to erect an accessory building that is 120 sq. ft. or less in size. Each district has its own standards, but generally no greenhouse or coop should be higher at the roof than 15 feet (see various code sections for the residential zones). No plumbing is permitted without a proper permit. For setback and placement requirements, please refer to the individual zoning district regulations.
  Town of Yountville: Greenhouses and chicken coops are accessory structures that must comply with the zoning district requirements for size, height, and setbacks. Accessory
structures may not be constructed within the front yard. Accessory structures of 120 sq. ft. or less are exempt from building code permit requirements.

35. Are there any exceptions to zoning restrictions?

- **Napa County**: There are a limited number of properties with legally operating facilities that date from before current restrictions were put in place. To the extent their activities have been recognized as legal by the County, they may continue those specified activities without need for a use permit. These are called legal nonconforming uses. If you believe you have a legal nonconforming use or if you are curious about activities on another property, please contact the Department of Planning, Building & Environmental Services.

- **City of Napa**: There may be nonconforming agricultural cultivation and animal keeping uses within the City of Napa. A nonconforming use is a legally established use of land that is not permitted in the zoning district in which it is located, or a use that is allowed by a use permit but for which no use permit has been obtained, because the use was established prior to the application of the existing district due to annexation, or changes to zoning regulations. Such uses are regulated by section 17.52.320 of the City of Napa Municipal Code.

- **City of American Canyon**: A nonconforming use is a legally established use of land that is not currently permitted in the zoning district in which it is located, or a use that is allowed by a use permit but for which no use permit has been obtained, because the use was established prior to the application of the existing district due to annexation, or changes to zoning regulations. More information regarding non-conforming uses, structures, and lots may be found in Chapter 19.49 of the City’s Municipal Code.

- **City of Calistoga**: Some properties have existing use permits or legal non-conforming uses for farming that would not be permitted under today’s code; these properties can continue the use as long as there is not intensification or expansion of the use.

- **City of St. Helena**: There are some properties located where current zoning would generally not permit the use, however the use has been on-site prior to the creation of the codes, and has been “grandparented” (for that use only). All newly-applied-for conditional uses must meet current code requirements and be granted a use permit by the Planning Commission.

- **Town of Yountville**: No.
SECTION SEVEN: WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?

Napa County:  www.countyofnapa.org
Planning, Building & Environmental Services: (707) 253-4417
Public Works: (707) 253-4351
Napa County Agricultural Commissioner: (707) 253-4357
Sealer of Weights and Measures: (707) 253-4357

City of Napa:  http://www.cityofnapa.org
Community Development Department-
Planning Division: (707) 257-9530
Building Division: (707) 257-9540
Public Works Department: (707) 257-9520

City of American Canyon:  www.cityofamericancanyon.org
Community Development Department-
Planning Division: (707) 647-4336
Building Division: (707) 647-4581

City of Calistoga:  www.ci.calistoga.ca.us
Planning and Building Department: (707) 942-2827

City of St. Helena:  http://www.ci.st-helena.ca.us/
Department of Planning, Building & Environmental Services: (707) 968-2659
Local Farmer’s Market: (707) 486-2662

Town of Yountville:  www.townofyountville.com
(707) 944-8851

SECTION EIGHT: OTHER COMMONLY ASKED QUESTIONS

Do you have questions about your garden? Do you want to know what to do if one of your chickens turns out to be a rooster? Do you need to get rid of a swarm of bees? Do you have other questions that relate to local food that aren’t addressed in this policy FAQ? There are other resources available locally and on line. As a start, the Agricultural Commissioner’s office can put you in touch with master gardeners, the UC Cooperative Extension, local beekeepers and others. Please call the Agricultural Commissioner at (707) 253-4357 or email agcommissioner@countyofnapa.org.
SECTION NINE: APPENDIX

APPENDIX A: NAPA COUNTY FARMERS’ MARKETS

DOWNTOWN NAPA FARMERS’ MARKET
HTTP://WWW.NAPAFARMERSMARKET.COM/

ST. HELENA FARMERS’ MARKET
HTTP://WWW.STHELENAFARMERSMKT.ORG/

CALISTOGA FARMERS’ MARKET
HTTP://WWW.CALISTOGAFARMERSMARKET.ORG/

FARMERS’ MARKET AT LONG MEADOW RANCH
HTTP://WWW.LONGMEADOWRANCH.COM/GARDENS/RUTHERFORD-GARDENS
APPENDIX B: BEST MANAGEMENT PRACTICES FOR BEEKEEPING

Best Management Practices for Beekeeping in Napa County

Napa County Beekeepers’ Association

September 27, 2012

Purpose
The purpose of this document is to establish a reference and standard for honeybee management in Napa County.

AREAS OF BEEKEEPING MANAGEMENT OF PUBLIC CONCERN
- Hive Density, Quantities
- Siting, Screening, Barriers, Fencing and Flyways
- Colony Temperament and Behavior
- Considerate Hive Management
- Swarming
- Provision of water
- Disease Control
- Our Values

Hive Densities, Quantities
The following hive densities are established to minimize potential conflict between people, honeybees and their keepers.

<table>
<thead>
<tr>
<th>Lot /Acreage</th>
<th>Number of Colonies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1/4 acre</td>
<td>3 colonies</td>
</tr>
<tr>
<td>(1/4 acre = 10,890 sq. ft.)</td>
<td></td>
</tr>
<tr>
<td>More than 1/4 acre, less than 1/2 acre</td>
<td>5 colonies</td>
</tr>
<tr>
<td>(1/2 acre = 21,780 sq. ft.)</td>
<td></td>
</tr>
<tr>
<td>More than 1/2 acre, less than 1 acre</td>
<td>7 colonies</td>
</tr>
<tr>
<td>(1 acre = 43,560 sq. ft.)</td>
<td></td>
</tr>
<tr>
<td>1 acre or more</td>
<td>10 colonies per acre maximum</td>
</tr>
</tbody>
</table>

Some locales may not support the maximum hives allowed. Hive densities are ultimately limited by available forage and by interaction with neighbors and the public.

Siting
Hive placement is one of the most important decisions a beekeeper will make. The amount of sun and shade a hive will receive throughout the day, availability of water, availability of screening, and the proximity to neighbors and/or public areas are major factors to consider. Hives should be placed as far away from occupied, developed neighboring areas as practical to prevent nuisance.
Screenings, Barriers, Fencing and Flyways
Special attention must be exercised to redirect the bees’ flight path to avoid neighbors and the public. Locate screenings, foliage, shrubs, trees, fencing and barriers that will help to minimize human and animal contact. Screening should be of sufficient density and length to establish bee flyways above head height (6 feet) in all directions.

Colony Temperament and Behavior
- Bees that are consistently defensive should be relocated or re-queen.

Considerate Hive Management
Beekeepers should perform hive manipulations as quickly as possible with minimum disturbance to the bees following these guidelines:
- Work hives when forager activity is satisfactory, when calm, warm and foragers are out.
- Avoid working hives when neighbors are nearby or the bees are defensive.
- Robbing leads to defensive behavior, avoid working hives when robbing is a risk.

Swarming
Honeybee colonies should be managed to minimize swarming.
- Beekeepers who learn of a nearby swarm should take reasonable measures to see that swarms from their hives are retrieved to prevent it becoming a nuisance.

Provision of Water
- Beekeepers need to provide a suitable source of continuously available water for their bees.

Disease Control
It is incumbent on beekeepers to monitor and manage disease and pests to ensure colony health.
- Beekeepers should take remedial action to prevent spread of disease.

Our Values
The Napa County Beekeepers’ Association encourages sustainable beekeeping, benefiting bees, their keepers and the environment through methods in tune with nature. We recognize that through natural selection bees become better adapted to our local climate, forage and disease risks. We foster better genetic fitness in our locally adapting bees through propagation of the healthiest productive local stocks.

We advocate protection of the bees’ habitat and the planting of pollinator friendly flowers, trees, shrubs and cover crops to provide pollen and nectar for our bees and native pollinators.

We are mindful that use of many pesticides, chemicals, and treatments should be avoided as they are detrimental to bee health and long term species sustainability.

Our association inspires, provides camaraderie and helps to educate interested individuals on how to best steward this precious insect and resource that is in a precarious period of change.

Together we learn, nurture and maintain the adapted genetic diversity of our regional bee populations so crucial for pollination and the continuance of life as we know it.

For more information on the Napa County Beekeepers’ Association, join our yahoo group at:
http://pets.groups.yahoo.com/group/beekeepersofnapavalley/
APPENDIX C: LOCAL SCHOOLS CONTACT INFORMATION

**Napa Valley Unified School District**
Contact Cheryl Anderson, Staff Secretary, for Sodexo Director contact information, canderson@nvusd.k12.ca.us
Requirements: Vendor must carry $5 million liability insurance. Prices must match current market prices. 
Approximate Volume: 4,000 breakfast and 7,000 lunches served per day.

**St. Helena Unified School District**
Kirby Tubb, Director of Food Service, ktubb@sthelena.k12.ca.us
Requirements: Vendor must have a business license, if Organic must provide documentation; meat products must satisfy all requirements for retail sales. Prices must match current market prices, Member of Farm to School

**Calistoga Unified School District**
Holly Triglia, Director of Food Service, htriglia@calistoga.k12.ca.us (707) 942-4428
Requirements: Licensed, commercial distriburtors of retail foods; no food from private sources, prices must match current market prices and be board approved.
Approximate Volume: 320 breakfast and 600 lunches served per day.
Section 18.08.040 of the zoning ordinance defines “agriculture” as including “the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits and poultry and egg production” and has been interpreted in the past to prohibit all farm animals, including chickens, in zoning districts like the Residential Single (RS) district where “agriculture” is not a permitted use.

In practice, this interpretation has meant that code enforcement staff has had to intervene in neighbor disputes and allocate time to what I consider low-priority code enforcement efforts. In addition, this interpretation is at odds with the County’s growing efforts to support local food production, and creates confusion for County residents familiar with the City of Napa’s municipal code which allows a limited number of hens and other animals in residential areas by classifying them as “pets.”

To address these issues, I would like to alter our interpretation of the zoning ordinance and apply Section 18.104.040, which states that uses allowed with or without the granting of a use permit shall include any accessory use. Section 18.08.020, Accessory Uses, states that “where the zoning regulations applicable to a zoning district specifically identify the accessory uses which are permitted in conjunction with a primary use in that zoning district, no other accessory uses in conjunction with the primary use will be permitted in that zoning district.” The RS zoning district text does not specify any accessory uses, therefore a limited number of animals may be considered accessory to a main dwelling unit as long as the animals are not being raised as part of a commercial enterprise, and as long as they do not create a public nuisance. In small lot situations (i.e. <0.25 acre), I suggest we use the City of Napa’s ordinance as a guide and permit up to six (6) small domestic animals of the type generally accepted as household pets; including dogs, cats, chickens (hens), rabbits, pigeons and the like, but not including noise producing animals such as roosters, ducks, geese, pea fowl, guinea hens or other such animals. Larger lot situations may permit more flexibility about the number and size/type of animals if neighbors will not be impacted — please consult with CDPD.

And as always, please let me know if you have questions.
Napa County Fact Sheet for Culinary and Local Gardens

INTRODUCTION

Fresh fruits and vegetables are important for health and well being, and the American consumer enjoys one of the safest supplies of fresh produce in the world. However, over the last several years, the detection of outbreaks of foodborne illness associated with both domestic and imported fresh fruits and vegetables has increased.

The California Retail Food Code (CalCode) requires all foods used in a food facility to be from an approved source, which means foods are produced in accordance with the applicable health and safety regulations. Culinary gardens, which grow on the same site as a permitted food facility and provide produce only to that facility, are often too small to be regulated by the California Department of Food and Agriculture and often do not fall under the regulatory authority of the local Department of Agriculture. Culinary gardens grow on the same site as a permitted food facility and provide produce only to that facility. Based on their business practices, culinary gardens may not fall under the regulatory authority of the California Department of Food and Agriculture or the County Agricultural Commissioner. Recognizing the relatively low risk of these gardens and the importance of locally grown produce, the Department of Planning, Building & Environmental Services has created a program for gardens to ensure the produce from these gardens is as safe as possible for use in the food facility. Please visit www.countyofnapa.org/DEM/GardenApplication to review the Napa County Best Management Practices Agreement for a Garden to become an “Approved Source”. Fill out the application and attach a site plan. By checking the box and submitting you are acknowledging that you have read and understand the program criteria which includes implementing the Best Management Practices included therein, which are explained in further detail in this factsheet and guidance document.

This guidance document further discusses the best management practices (BMPs) that should be included in the operation of culinary and local gardens. This document focuses on issues concerning small culinary and local gardens but may not address all health and safety considerations of a specific operation. Additional resources are included at the end of this document that may assist the operator in addressing microbial food safety hazards not discussed here.
How can foods become contaminated?

**Typical Sources of Contamination:**

<table>
<thead>
<tr>
<th>Soil</th>
<th>Irrigation Water</th>
<th>Animal manure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inadequately composted</td>
<td>Wild and domestic animals</td>
<td>Inadequate field worker hygiene</td>
</tr>
<tr>
<td>Harvesting equipment</td>
<td>Transport containers</td>
<td>Wash and rinse water</td>
</tr>
<tr>
<td>Unsanitary handling</td>
<td>Equipment used</td>
<td>Cross contamination</td>
</tr>
<tr>
<td>Ice</td>
<td>Improper storage conditions</td>
<td>Run-off from adjacent areas</td>
</tr>
</tbody>
</table>

**BEFORE YOU GROW**

- Select a location that is not on or adjacent to a septic disposal field, animal housing, pastures or barnyards and where contaminated water from these sites cannot enter the field via runoff due to rainfall or drainage pathways.
- The location should be under control of the owner/operator at all times.

**DURING PRODUCTION**

- Water used in culinary gardens must be from a clean potable source, meaning the water is from a permitted water system, such as the City of Napa, or from wells that have been tested and have been shown to be free of pathogens. If a question arises regarding the quality of water to be used, it must be tested to ensure it is free of pathogens. Surface water is much more susceptible to contamination. Gray water is not an approved water source for culinary or local gardens.
  - Wells and pump areas should be protected from uncontrolled livestock and wildlife.
  - Maintain wells in good working condition.
  - If irrigation water is not from a permitted water system, we recommend the well water be tested by a local lab to ensure it is free from coliform. Coliform are organisms whose presence may indicate that sewage or other contamination is reaching the water and could contaminate the produce.
- **Use and handle manure and fertilizers to minimize contamination.**
  - Never use biosolids or incompletely composted manure on a culinary garden. Raw manure shall not be used. Composted manure shall only be used if purchased from a commercial outlet.
  - Maximize the time between application of manure and harvest of crop and minimize manure-to-produce contact.
  - Follow manufacturer recommendations when using any commercial fertilizer.
- **Report any pesticide use with the Napa County Agricultural Commissioner under an operator identification number issued by the Commissioner and identify any other**
uses of pesticides in the vicinity applied by other parties, such as pest control operators or gardeners.

- **Minimize contamination from animals.**
  - Keep animals away from garden site to avoid contamination to the maximum extent practical.
  - To the extent possible and as allowed by law, establish good agricultural practices to deter or redirect wildlife to other areas.
  - Minimize vegetation at the edges of small fruit and vegetable patches and remove decaying fruit and vegetables, which can provide nesting places and food for rodents and other vectors.

- **Emphasize worker hygiene and training**
  - All workers must be trained and have a good working knowledge of basic sanitation principles as they relate to the assigned tasks.
  - Workers must have access to handwashing stations equipped with a basin, warm water, liquid soap and paper towels that drain to an approved septic/public sewer system.
  - Managers of food facilities must be trained to identify the symptoms of infectious diseases, such as Hepatitis A virus, Norwalk, and *Shigella*. Any employees with these symptoms (whether a garden employee or a food facility employee) should not be allowed to have any contact with produce, utensils or other food contact surfaces of equipment.
  - Lesions must be effectively covered or workers with lesions should not be allowed to have any contact with produce, utensils or other food contact surfaces or equipment.
  - Provide convenient and supplied bathroom facilities.

- **Be aware of visitors so they are not exposed to fertilizers or pesticides and so the visitors do not become a source of contamination to the garden.**

**DURING HARVEST**

- **Maintain equipment in a sanitary manner.**
  - Harvest equipment should be stored in a sanitary location, protected from vectors such as rodents and insects that can spread disease. Clean and sanitize storage facilities and produce contact surfaces prior to harvest.
  - Clean harvesting equipment each day.

- **Emphasize worker hygiene and training.**

- **Keep animals out of fields and orchards.**
- Remove as much dirt and mud from the produce as possible before it leaves the field. If produce is washed in the field, ensure that it is not contaminated in the process.

**AFTER HARVEST**

- Again, employee hygiene and training is critical.
- All produce used in a food facility must be washed thoroughly in potable water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served or offered for human consumption in ready-to-eat form.
  - Any chemicals used to wash or peel produce shall meet the requirements specified in 21 Code of Federal Regulations 173.315.
  - Vigorous washing of produce not subject to bruising or injury increases the likelihood of pathogen removal. Brush washing is more effective than washing without brushes. Brushes used in brush washing must be cleaned and sanitized frequently.
- **Consider the wash water temperature for certain produce.**
  - Removing field heat is a primary consideration in maintaining the quality of many types of produce, and for some types of produce (apples, celery, tomatoes) the temperature of wash water should be greater than that of the produce or a pressure differential results that can cause water to be pulled into the plant material, causing pathogens to move into the produce, which may not be removed by washing. Denser products (such as carrots) do not appear to be affected by water temperature differences.

**CONCLUSION**

While locally grown fresh fruits and vegetables provide many benefits, good management practices must be maintained in culinary gardens to prevent illness in our food facilities. Many of the risks associated with mass production, storage and transportation are not of issue for on-site culinary gardens; however, worker hygiene and localized land practices are still sources of potential contamination that could result in foodborne illness.

This guidance document provides some basic principles for culinary and local gardens. Operators are encouraged to utilize this guide to evaluate their gardens and assess site-specific hazards so they can develop and implement reasonable and cost effective agricultural and management practices to minimize microbial food safety hazards.

Once good agricultural practices are in place, it is important that the operator ensure that the process is working correctly. Operators should follow-up with supervisors or the person in charge to be sure that regular monitoring takes place, equipment is working, and good agricultural and management practices are being followed.

**HELPFUL INFORMATION**

The CFR is also available at local branches of the U.S. Government Printing Office Bookstores. Information on location of regional branches is available on the WWW at the following address: http://www.cfsan.fda.gov/~lrd/ob-reg.html

Sections of the CFR that are referenced in the guide can be viewed and printed from the WWW at the following address: http://www.access.gpo.gov/nara/cfr/index.html.

1. How to obtain FDA regulations


Sections of Title 21, such as 21 CFR 110.10, that are referenced in the guide can be viewed and printed from the WWW at the following address: http://www.access.gpo.gov/nara/cfr/.

You may purchase 21 CFR 100-169 or 21 CFR 170-199 from the U.S. Government Printing Office or by telephone purchase at (202) 512-1800. FDA regulations may also be purchased at local branches of the U.S. Government Printing Office Bookstores.

2. How to obtain EPA regulations

EPA regulations may be obtained by contacting the U.S. EPA/NCEPI, P.O. Box 42419, Cincinnati, OH 45242-2419. Telephone: 1-800-490-9198; FAX (513) 489-8695. You must give the EPA catalog number for the publication.

Electronic versions of additional EPA documents, such as criteria and supporting documents, are available at http://www.epa.gov.

3. How to obtain California Retail Food Code Regulations

A copy of the CRFC can be found at http://www.cdph.ca.gov/services/Documents/fdbRFC.pdf or by contacting Napa County Department of Planning, Building & Environmental Services

Additional Helpful Information:

2. USDA. List of Proprietary Substances and Nonfood Compounds Authorized for Use Under USDA Inspection and Grading Programs.
5. USDA Agricultural Marketing Service program "Qualified Through Verification for Fresh Cut Produce" is available from: Branch Chief, Processed Products Branch, Fruit and Vegetable
APPENDIX F: AB 1616 CALIFORNIA HOMEMADE FOOD ACT

When does the new Cottage Food Law go into effect? The new law became effective January 1, 2013. The law requires the California Department of Public Health (CDPH) to carry out certain tasks associated with implementation, and imposes certain responsibilities on local planning and environmental health jurisdictions. Further information regarding the status of implementation can be obtained from your local environmental health agency.

1. What is a cottage food operation (CFO)? A CFO is an enterprise at a private home where specific low-risk food products that do not require refrigeration are prepared or packaged for sale to consumers.

2. What is meant by a private home? “Private home” means a dwelling, including an apartment or other rented space, where the CFO operator resides.

3. Are there limitations on the size of CFO sales? $35,000 or less in gross sales annually in 2013 $45,000 or less in gross sales annually in 2014 $50,000 or less in gross sales annually in 2015 and beyond

4. Can a CFO have employees? A CFO can have one full-time equivalent employee (not counting family members or household members).

5. What cottage foods are CFOs permitted to produce? Only specific foods that are defined as “non-potentially hazardous” are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick. CDPH will establish and maintain a list of approved cottage food categories on their website. The list included in the new law includes:

   Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas

   Candy, such as brittle and toffee

   Chocolate-covered nonperishable foods, such as nuts and dried fruit

   Dried fruit

   Dried pasta

   Dry baking mixes
Fruit pies, fruit empanadas, and fruit tamales

Granola, cereals, and trail mixes Herb blends and dried mole paste Honey and sweet sorghum syrup

Jams, jellies, preserves, and fruit butter that comply with the standard
described in Part 150 of Title 21 of the Code of Federal Regulations.

Nut mixes and nut butters

Popcorn

Vinegar and mustard

Roasted coffee and dried tea

Waffle cones and pizzelles

6. What are the two classifications of CFO’s?

“Class A” CFOs are only allowed to engage in “direct sale” of cottage food.

“Class B” CFO’s may engage in both “direct sale” and “indirect sale” of cottage food.

7. What is meant by “direct sale” of cottage food? “Direct sale” means a transaction between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation within the jurisdiction of the local environmental health agency in which the CFO is permitted or registered.

8. What is meant by “indirect sale” of cottage food? “Indirect sale” means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local environmental health agency in their jurisdiction. Indirect sales include, but are not limited to, sales made to retail food facilities including markets, restaurants, bakeries, and delis, where food may be immediately consumed on the premises.

9. What are limitations on Internet sales and delivery of cottage food products? A cottage food operator may advertise as well accept orders and payments via Internet or phone. However, a CFO must deliver (in person) to the customer. A CFO may not deliver any CFO products via US Mail, UPS, FedEx or using any other third-party delivery service. A cottage food operator may not introduce a CFO product into interstate commerce.
10. What are limitations on advertising of CFO products? It is unlawful for any person to disseminate any false advertising of any food. An advertisement is false if it is false or misleading in any particular. A cottage food product that is found to be falsely advertised would be subject to enforcement action.

11. Do I need any special training or certification to make cottage foods? A person who prepares or packages cottage food products must complete a food processor course instructed by the CDPH within three months of being registered or permitted.

12. Does a CFO need a permit to operate? Planning and zoning: All CFO’s need to obtain approval from their local city or county Department of Planning, Building & Environmental Services. The Homemade Food Act gives Department of Planning, Building & Environmental Services several options to consider, so Department of Planning, Building & Environmental Services requirements may vary between jurisdictions. Environmental Health: For “Class A” CFO’s (direct sale only), registration with the local enforcement agency and submission of a completed “self-certification checklist” approved by the local environmental health agency. For “Class B” CFO’s (either direct and indirect or indirect only), a permit from the local environmental health agency is required.

Other requirements: Check on other state or local requirements that may be applicable, such as Sellers Permits through the Board of Equalization, or Business Licenses through your city or county. Registrations and permits are nontransferable between:

1) Persons

2) Locations

3) Type of food sales [i.e., direct sales (“Class A”) vs. indirect sales (“Class B”)]

4) Type of distribution

13. How much will the permit or registration cost the CFO? Each local jurisdiction will establish fees that are not to exceed the cost of providing the service. Additional fees may be charged for inspection and/or enforcement activities if the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

14. Will my CFO registration/permit allow me to sell at other retail venues? There may be health permits required to sell at other locations, such as Certified Farmers’ Markets, Swap Meets or community events. Please check with your local environmental health department for additional permit requirements.

15. How often will a CFO be inspected?

“Class A” CFO kitchens and food storage areas (referenced in the law as the “registered or permitted area”) are not subject to initial or routine inspections.

“Class B” CFO kitchens and food storage areas are inspected initially prior to permit issuance.
“Class A or B” (complaint inspections) - The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated California food safety laws.

16. What are CFO operational requirements? All CFOs must comply with the following:

No domestic activity in kitchen during cottage food preparation

No infants, small children, or pets in kitchen during cottage food preparation

Kitchen equipment and utensils kept clean and in good repair

All food contact surfaces and utensils washed, rinsed, and sanitized before each use

All food preparation and storage areas free of rodents and insects

No smoking in kitchen area during preparation or processing of cottage food A person with a contagious illness shall refrain from preparing or packaging cottage food products

Proper hand-washing shall be completed prior to any food preparation or packaging

Water used in the preparation of cottage food products must be potable

Cottage food preparation activities include:

- Washing, rinsing, and sanitizing of any equipment used in food preparation
- Washing and sanitizing hands and arms
- Water used as an ingredient of cottage food

17. What has to be on my cottage food label?

All cottage food products must be properly labeled in compliance with the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). The label must include:

- The words “Made in a Home Kitchen” in 12-point type.
- The name commonly used to describe the food product.
- The name city, state and zip code of the cottage food operation which produced the cottage food product. If the CFO is not listed in a current
telephone directory then a street address must also be declared. (A contact phone number or email address is optional but may be helpful for consumers to contact your business.

- The registration or permit number of the CFO which produced the cottage food product and, in the case of “Class B” CFOs, the name of the county where the permit was issued.

- The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients.

- The net quantity (count, weight, or volume) of the food product, it must be stated in both English (pound) units and metric units (grams).

- A declaration on the label in plain language if the food contains any of the eight major food allergens such as milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, and soybeans. There are two approved methods prescribed by federal law for declaring the food sources of allergens in packaged foods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.

- The use of the following eleven terms are considered nutrient content claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. Specific requirements have been established for the use of these terms. Please refer to the Cottage Food Labeling Guideline for more details.

- A health claim is a statement or message on the label that describes the relationship between a food component and a disease or health-related condition (e.g., sodium and hypertension, calcium and osteoporosis). Please refer to the Cottage Food Labeling Guideline for more details.

- If the label makes approved nutrient content claims or health claims, the label must contain a “Nutrition Facts” statement on the information panel.

- Labels must be legible and in English (accurately translated information in another language may also be included on the label). Labels, wrappers, inks, adhesives, paper, and packaging materials that come into contact with the cottage food product by touching the product or penetrating the packaging must be food-grade (safe for food contact) and not contaminate the food.

In a permitted retail food facility (such as a restaurant, market, or deli), cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or in another easily accessible location that would reasonably inform the consumer that the food or an ingredient in the food has been made in a private home.

18. What is my legal responsibility as a cottage food operator in ensuring that my food product is safe? Cottage food operators and/or their employees shall not commit any act that may cause contamination or adulteration of food.

This would include making foods that are not on the approved food list and or making foods under unsanitary conditions or with spoiled or rancid ingredients.
A cottage food operation that is not in compliance with the requirements of AB 1616 would be subject to enforcement action taken by the local environmental health agency and/or the California Department of Public Health.

19. What if I find out an ingredient I used has been recalled because it can make people sick or has been identified as the cause of food borne illness? You should notify your local environmental health agency or CDPH immediately and do not distribute anymore product. You may need to notify your customers and request that they return or dispose of the products. For specific food recall information, you can contact CDPH at: (916) 650-6500 or email: FDBinfo@cdph.ca.gov.

20. What is my liability as a cottage food business operating out of my home? You should check with your homeowner insurance company or your landlord if you are operating out of a rental property. Many homeowner insurance policies will not extend liability coverage to liabilities arising out of home-based businesses.

21. What other educational resources and guidelines are available to assist me in ensuring I am making a safe food product? Please see the CDPH website or contact your local environmental health agency for guidance and resource documents or web links.

22. What can I do to ensure I am still meeting legal requirements if my cottage food operation grows to exceed the gross annual sales limit and/or I decide want to make another type of food product that is not on the approved food list? Please contact CDPH for registration and facility requirements for food processors.

23. Where can I file a complaint about a cottage food operation or cottage food product? You can file a complaint at the CDPH toll-free complaint line – 1-800-495-3232.