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# STARTING A GARDEN OR URBAN FARM IN SAN FRANCISCO

A GUIDE BY THE SAN FRANCISCO URBAN AGRICULTURE ALLIANCE

NOVEMBER 2011



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### AN SFUAA PUBLICATION

The San Francisco Urban Agriculture Alliance (SFUAA) promotes the growing of food within San Francisco and the associated goals of our member organizations, through advocacy, education, and grassroots action.

We pursue our mission by leveraging the strengths of our members, from backyard farmers to social justice organizations, both within the alliance and in collaboration with outside organizations and governmental agencies.

To join, learn more, or find more resources, go to: [www.sfuaa.org](http://www.sfuaa.org)

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# FINDING LAND

In a city as dense as San Francisco, finding land where you can start a garden is one of the most difficult challenges. But fear not – with a little pluck and luck, you’ll find a place to cultivate! Below are a few of the different types of land you might be able to access and tips on how to start gardening in each.

## BACKYARDS AND SIDEYARDS

If you live in a house or an apartment building that has a yard, you’re lucky! If you are renting on the property, you should review your lease and talk with your landlord before starting. The worst would be to pour time, money, and energy into your yard only to have your landlord tell you months later that you have to dig it all up. So, spend some time up front by having a conversation and addressing any concerns the landlord might have. Tips for addressing issues that might come up are included below in the section “Negotiating with a Landlord.” Also keep in mind your neighbors and any concerns they might have about smells, water flowing into their yard, pesticides, etc. Good fences + good conversations make good neighbors!

If you’re growing in a yard for your own personal consumption – the main rule that applies is the golden rule.

If you’re growing in a yard and plan on selling your produce to others, your garden would be considered an “accessory use” under the planning code. You do not need to apply for a permit from the Planning Department, but your garden is still covered by the regulations for “Neighborhood Agriculture” in the Planning Code. See the section on the zoning rules for more details.

## EXISTING COMMUNITY GARDENS

The San Francisco Recreation and Parks Department supports and manages a program of 35 community gardens on City-owned property, where members can grow produce and ornamental plants for personal use. Gardens range in size from a few hundred square feet to thousands of square feet; some offer individual plots while others have shared plots. Some gardens also offer demonstration gardening or other instructional programming.

Each Recreation and Parks Department (RPD) garden is operated by a group of committed volunteers, and membership fees are often self-imposed to cover common expenses. Many have long waiting lists for new members.

TO FIND AN RPD GARDEN NEAR YOU, VISIT [HTTP://SFRECPARK.ORG/COMMUNITYGARDENSMAP.ASPX#!/?i=2](http://sfrecpark.org/communitygardensmap.aspx#!/?i=2)

There are also a number of community gardens in San Francisco that are managed by public agencies other than RPD or on privately-owned land. The most comprehensive list is provided by SFGRO: <http://sfgro.org/sfgardens.php>

If no plot is available for the garden of your choice, you may ask to be placed on a waiting list. You may also contact other gardens to check on vacancies. While you’re only allowed to have one community garden plot at a time, you may request to be placed on several waiting lists until a plot becomes available to you.

## PRIVATE LAND THAT'S NOT YOUR YARD

If you've identified a vacant lot in the city that you think would be great for a garden, the first thing to do is figure out who owns it. If there are no signs with contact information on the lot itself, the first thing you'll need to do to identify the owner is to figure out the block and lot number of the parcel. You can find this information easily through the city's Planning Department. The [San Francisco Property Information Map](http://propertymap.sfplanning.org/) on the SF Planning website (<http://propertymap.sfplanning.org/>) allows for searches based on address or by clicking on a map. The numbers listed under the first header called "Parcels" are the block and lot number. The first four digits before the slash are the block. The three digits after the slash are the lot.

Using the block and lot number you can find contact information for the site's owner through the San Francisco Office of the Assessor-Recorder. You can get a mailing address for the owner [through the office's website](#). Or, you can get more comprehensive ownership information by calling 415-554-5596 or by going to their office, Monday through Friday, between the hours of 8:00 a.m. – 5:00 p.m. They are located at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 190, San Francisco, CA 94102.

Once you know how to make contact with the landlord, you can begin a negotiation over accessing the site to start a garden.

### NEGOTIATING WITH A LANDLORD

You've identified land, and the private owner is someone with whom you are not familiar. This presents a unique situation. Below are some things you may want to consider before you begin negotiating with the owner of the land you hope to garden:

1. Expressing interest
2. Setting intentions; laying out the goals and timeline, distribution, exit strategy
3. Decisions; which party will supply the tool, plants, and/or money?
4. Neighbor or community buy-in (especially if you plan to have bees)
5. Shared agreement in writing

### INTEREST

Be prepared to answer the question, 'why is a garden important to you?'

### INTENTION

Think about what you would ideally like to create, and what it might include in terms of space and energy. Gardens can be planted directly into soil, and they can also be planted in raised beds. Will you need water access? Will you be creating paths? Are you planning to add stone, rock or gravel to the landscape? Do you plan to install drip irrigation? Do you plan to have a compost pile? Are you thinking about starting your own worm bin? Will you be planting edibles, ornamentals, or trees? Will you pay all the costs of materials? Are you willing to pay a portion of the water bill and how will you determine your water usage?

## DISTRIBUTION

Will your harvest be shared or sold? If you plan to sell the food you are growing, will a portion of sales go to the landlord? Be prepared for the landowner to ask for a percentage. If you accept, make sure to present a portion of net sales (subtract the cost of growing the food) and not the sale price.

Sharing some freshly harvested plants from the garden can be one of the best negotiation tools of all. If you are already growing some edibles or flowers, bring them “to the table” when you are negotiating. Delicious food speaks to almost everyone.

## TIMELINE & EXIT STRATEGY

How long will it take for you to get up and going? What will happen to the plants and garden beds if you move or you transition to another location? These can be two of the most difficult questions. There is always excitement and possibility at the prospect of a new garden space, but it's the exit strategy which may be the landowner's biggest concern. The landowner doesn't want to be the one left holding all kinds of materials that make more work for them.

## DECISION

Sketch out what you want to do, it doesn't have to be professional or precise. Include a budget to show you've done your homework. Landowners are often very practical and attentive to costs as well as savings. Show them you have the same interests as them; saving money on food costs, and providing added value to the land by making the property more attractive.

There might be a situation in which the landlord owner already has a gardener or landscaper and you may be able to lower their annual maintenance costs. Another useful strategy may be to include some plants in your plan that will alleviate the need for weeding or lawn-mowing.

If the landlord is already warm to the idea of green spaces, perhaps you might want to jump in and ask him to pay for some of the plants or raised beds, that may be a tax deduction for them as a business expense. A one-time expense may evolve into X hours of free labor in the form of time investment, on your part.

## LANDLORD COMMON CONCERNS

- Pest attraction: raccoons, rats and other pests
- Aesthetics: plants will become neglected
- Nuisances: you will plant invasives that later take over the yard
- Inviting theft: tools left out will attract burglars
- Liability: if someone gets injured on site or someone claims they were made sick by eating what was grown on site, the landlord fears being responsible
- Damage: to rooftops from water seepage or heavy loads

## COMMUNITY SUPPORT

Neighbors can be your best asset. Be willing to share your intentions with others who live nearby, and don't be afraid to ask for their support. Neighbors can be great guardians of the land, vocal advocates and perhaps over time, your customers!

## SHARED AGREEMENT IN WRITING

A contract does not have to be drafted by a lawyer to be binding. Sometimes if both parties are willing to sign a document stating intentions, including a sketch and budget, and signing and dating the document, it is enough to satisfy the concerns of the land owner, and helps protect you as well.

For a good and comprehensive template with which to get started see the Sustainable Economies Law Center's "[Sample Agreement to Use Land for Urban Agriculture](#)"

## PUBLIC LAND

Another category of land you may come across is publicly-owned land. This includes parcels owned by various city, state, or federal government agencies. Gardens can be started on public land. It will almost certainly take longer to start such a garden than it would on private land – but the reward may be that you are creating a community resource that may last for years and years.

If you identify a piece of land that would be just perfect for a garden and find that it's publicly owned – there are a couple of routes to take. If the land is owned by:

*The San Francisco Recreation and Park Department*, review [their general guidelines](#) and contact Marvin Yee, Community Gardens Program Manager.

*The Department of Public Works (DPW)*, contact [DPW](#) or the [San Francisco Parks Alliance](#) about their Street Parks Program.

*The San Francisco Unified School District*, contact the [San Francisco Green Schoolyard Alliance](#) and/or [Urban Sprouts](#) for advice.

*Another governmental agency*: Consider contacting any of the following for initial advice and guidance:

- The San Francisco Urban Agriculture Alliance
- Mei Ling Hui, Urban Forest and Urban Agriculture Coordinator, San Francisco Department of the Environment
- The member of the Board of Supervisors whose district includes the site

CONTACT INFORMATION FOR ALL OF THESE AGENCIES AND ORGANIZATIONS IS INCLUDED IN APPENDIX A.

# YOU'VE FOUND LAND -- NOW WHAT?

Once you have access to land, the next question is – what are you going to do with it? Below is an overview of the different regulations governing gardening in the city based on a) where the garden is located and b) what type of gardening activity you pursue.

## CATEGORIES OF GARDENS UNDER THE PLANNING CODE

### HOME GARDENS

A home garden is a garden located on the same property as the dwelling of the gardener(s) whose harvest is only for the personal use of the gardener(s). For example: a home garden is your backyard kitchen garden or your rooftop container herb garden. This type of garden is considered an “accessory use” to the dwelling and, because the harvest is only for personal consumption, is essentially only regulated by nuisance laws. Which is to say – if you are starting a home garden – be a good neighbor and/or a good tenant and you’re pretty much good to go.

### GARDENS AND URBAN FARMS ON PRIVATELY-OWNED LAND

Gardens on private land that are not home gardens – meaning they are not adjacent to your dwelling and/or the harvest is not solely for personal use – are governed by the recently passed [urban agriculture zoning ordinance](#). Examples of these kinds of gardens include: a community garden; a market garden or urban farm; a rooftop garden at a restaurant; and a backyard garden whose harvest will be donated or sold to others.

The new rules for urban agriculture are based on the size and location of the garden. The two categories of gardens in the city are called “neighborhood agriculture” and “large-scale urban agriculture”.

### NEIGHBORHOOD AGRICULTURE INCLUDES GARDENS LESS THAN 1 ACRE IN SIZE

These types of gardens are permitted in all zoning districts of the city

### LARGE-SCALE URBAN AGRICULTURE INCLUDES GARDENS 1 ACRE OR GREATER IN SIZE

These types of gardens and farms are permitted, by right, in Commercial; Industrial; and Production, Distribution, and Repair (PDR) districts. In all other zoning districts of the city, gardens and farms of this size are only permitted with Conditional Use Authorization from the Planning Commission – which involves a lengthier permit process, a public hearing, and higher fees. To determine the zoning district for your site, use either the [San Francisco Property Information Map](#) or the [official zoning map](#).



All gardens – regardless of their location or size – are required to follow the following operational standards:

1. Compost areas must be setback at least 3 feet from dwelling units and decks;
2. If the farmed area is enclosed by fencing, the fencing must be: (A) wood fencing, (B) ornamental fencing as defined by [Planning Code Section 102.32](#), or (C) chain-link or woven wire fencing if over half of the fence area that borders a public right-of-way will be covered by plant material or other vegetative screening within three (3) years of the fence installation;
3. Use of mechanized farm equipment is generally prohibited in residential districts; provided, however, that during the initial preparation of the land heavy equipment may be used to prepare the land for agriculture use. Landscaping equipment designed for household use shall be permitted;
4. Farm equipment shall be enclosed or otherwise screened from sight;
5. Sale of food and/or horticultural products from the use may occur between the hours of 6 a.m. and 8 p.m.;
6. In all districts, sales, pick-ups, and donations of fresh food and horticultural products grown on-site are permitted. In every district except “Residential Districts,” value-added products, where the primary ingredients are grown and produced on-site, are permitted.

Additionally, the Public Utilities Commission requires new gardens greater than 1,000 square feet to comply with existing water-efficiency regulations and submit information to the PUC regarding intended water use. See below for more details.

If you are planning a garden that would not meet the standards above, your garden may still apply for a “Conditional Use Authorization” from the Planning Department that is tailored to your specific operation.

## PERMITS FOR GARDENS: PLANNING DEPARTMENT, DEPARTMENT OF BUILDING INSPECTION, AND PUBLIC UTILITIES COMMISSION

In addition to following the rules stated above, some new gardens must also obtain a “change of use” permit from the Planning Department.

### EXISTING GARDENS

Existing gardens that already have permits do not need to apply for new permits unless they want to begin selling what they grow. To begin selling, a garden may need to get a “change of use” permit to be designated as an urban agriculture use under the new ordinance. Whether that permit is necessary for an existing garden will depend on the zoning district in which the garden is located. The Planning Department will be able to make that determination.

## FOR NEW GARDENS OR GARDENS SEEKING AN UPDATED PERMIT

Gardens that are “accessory uses” on a site (meaning generally that they are not the main use of a site, such as a backyard garden or a rooftop garden) do not require permits from the Planning Department. The physical and operational standards discussed above must be followed, but no new permit is required.

Gardens that are “principal uses” on a site (meaning generally that they are the main use of a site, such as a community garden, market garden, or urban farm) require a change-of-use permit from the Planning Department. This includes an application and fee of approximately \$350 and can be obtained from the Planning Department’s Planning Information Center.

## HOW TO GET A CHANGE OF USE PERMIT

Obtaining a change of use permit involves a few steps. [The Planning Department provides a useful overview of the general process.](#) The specific steps for obtaining an urban agriculture change of use permit are:

- Create a schematic drawing of your proposed garden that includes the boundaries of the site; indicates where you intend to place any fencing, entrances and exits, toolsheds (or other structures), compost, and planned points of sale (if any). Draw this map as close to scale as possible, and indicate all neighboring properties, streets, and sidewalks. If you have any friends with architecture experience, they can be a great help with creating a detailed, accurate drawing that will smooth the process of getting a permit.
- Download and fill out the [Public Utilities Commission’s Urban Agriculture Project Information Sheet](#). This form ensures that your project will comply with San Francisco’s Water Efficient Irrigation Ordinance. Go to the Department of Building Inspection & Planning Information Center at 1660 Mission Street, 1st floor.
- Speak with the intake receptionist about starting the change of use permit process for urban agriculture. The application will begin with Building Form 3/8.
- Pick up “Building Form 3/8”.
  - In section 18 of the form, in the description of work, include the following: “Change of use to urban agriculture (Note: specify whether your project fits under “Neighborhood Agriculture or Large-Scale Urban Agriculture”). Per SF Building Code 106A.1.12 change of use requirement.”
  - For filling in the rest of the required information, consult with someone at the Department of Building Inspection (DBI) or Planning Department– both of which have desks at the Planning Information Center on the 1st floor.
- Bring Building Form 3/8 to the intake receptionist and ask which desks you should visit next and in what order. You will definitely have to visit the Planning Department, the Department of Building Inspection, and the Public Utilities Commission desks.

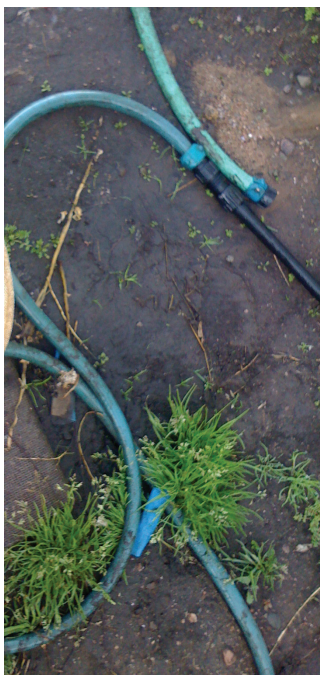
- After your project has received approval from the Department of Building Inspection, the Planning Department, and the Public Utilities Commission, take your paperwork to the Central Permit Bureau (still in the same building) to pay the change of use permit fee (approximately \$350) and obtain the permit itself.
- Once you have your change of use permit – you can start building your garden!

## GARDENS AND URBAN FARMS ON PUBLICLY OWNED LAND

If your garden is on public land, you may have additional restrictions regarding what you're able to do with your garden. Just like private landowners, each city agency sets its own rules for what is and is not allowed on the public property they oversee. Selling what you grow on land administered by the Recreation and Parks Department, for example, is generally prohibited. If you have questions about your specific site, contact the agency responsible for your site.

## GETTING A NEW WATER HOOKUP FOR YOUR SITE

All gardens need water, but sometimes finding a good source for your garden can be difficult. The Public Utilities Commission recently approved a program that will provide certain projects with a free or reduced costs water hookup – technically called a “dedicated irrigation water service”. A standard installation of a water hookup usually costs at least \$8,000. This program covers up to \$10,000 of that cost and could save your project lots of money. To learn more, go to: <http://sfwater.org/index.aspx?page=469>



D. SINGER

# ROOFTOP GARDENS

In a city as dense as San Francisco, rooftops often provide the nearest open space and access to sunlight. Rooftop gardens have lots of potential, but they take an extra amount of consideration to install. Don't let that stop you, just read on to know what you're getting into!

## HOW TO GET A ROOFTOP GARDEN PERMITTED:

1. Hire a Licensed Design Professional (LDP) (an engineer, a structural engineer, or an architect for example).
2. Have the LDP investigate the structural integrity of the roof and estimate the existing loading capacity.
3. Based on the existing loading capacity and budgetary allotments for reinforcement, decide what type of garden (extensive vs. intensive, soil vs. hydroponics, etc) makes sense. See below for more information.
4. The LDP will draw up plans, specifications, and a total valuation (budget) for the proposal, as well as fill out Building Permit Application Form 3/8.
5. Take the proposal and plans (2 copies) to the Department of Building Inspection at 1660 Mission to begin the permitting process. This is probably best done with the LDP.
6. Plans are checked and approved by all relevant departments which may include:
  - a. Department of Building Inspection
  - b. Planning Department
  - c. Bureau of Fire Prevention & Investigation
7. If there are no needed plan adjustments and no neighborhood notification requirements (details below) then you may proceed to the cashier, where you will receive the permits after paying all relevant plan review and permit fees.

## REGULATIONS AND CODES

For the purposes of most of the regulations you will encounter, the type of rooftop garden you are considering will fall into one of two categories:

### EXTENSIVE GREEN ROOF

Plants are grown directly on the roof in 4"-6" of substrate and cover a majority, if not all, of the surface. The main goals of extensive green roofs include water retention and insulation. Since these typically involve minimal traffic and maintenance, they are considered "unoccupied" and will mostly be treated as *Alternative Roofing Surfaces* for the purposes of most regulations.

## INTENSIVE GREEN ROOF

Larger plants are grown as ornamentals or edibles. Because these gardens require more substantial planting depths, as well as regular maintenance, the rooftops on which they are sited are considered “occupied” and will be subject to more stringent regulations than extensive green roofs. Since there is little precedent and no specific mention of roof gardens in the planning and building codes, these setups will mostly be treated as *Roof Decks*.

## DEPARTMENT OF CITY PLANNING

In general the Planning Department is mostly concerned with maintaining the character of buildings and neighborhoods in San Francisco. Therefore any changes in the outward appearance of buildings may be strongly scrutinized. Most of the time, all you need to do is set the roof garden far enough back from the front edge of the building so that it is not visible from the street. A set back of at least 6 or 7 feet is usually sufficient for most three-story residential buildings. Other aspects of planning regulations that will affect rooftop gardens include height limitations and infringement on open space requirements.

### HEIGHT LIMITATIONS

The building, including all structures on top, are subject to the height limitations of the zone in which the building is located. Residential zones typically have height limits of 40 feet, which is normally just enough space for four floors. However there are exemptions for certain rooftop structures and equipment<sup>1</sup>, such as tables, benches, and planters. Any proposed structures that are taller than 4 feet, such as wind screens, will require Neighborhood Notification<sup>2</sup>. Anything less than 4 feet in height is considered furniture and is not subject to any specific rules beyond the total building height limits. Regardless of size, the LDP needs to ensure that all furniture is secured or heavy enough to withstand strong winds.

### OPEN SPACE REQUIREMENTS

Under the planning code, most group housing structures must be provided with a certain amount of private or common usable open space. In the instance of buildings with no rear yard, often this requirement is fulfilled by either balconies or rooftop access. If you are planning a rooftop garden and the roof is already being utilized as open space, you may run up against restrictions as to how much of that can be turned into a garden. Required common open space may range from as little as 48 square feet up to 300 square feet per dwelling unit depending on the zoning.<sup>3</sup>

Since there is not much precedent for rooftop gardens there are many elements of the planning code that will be left to interpretation by the planning department. If you have any questions call or stop by the Planning Information Center. They are located at 1660 Mission Street on the first floor to your immediate right as you walk in the building. Their hours are 8:00 am to 5:00 pm Monday through Friday and their phone number is (415) 558-6377.

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1 Height Limit Exemptions: [Article 2.5 Section 260\(B\)\(2\) Of The San Francisco Planning Code](#)

2 Neighborhood Notification: [Http://www.Sfpplanning.Org/Index.aspx?Page=2754#Notiapp](http://www.sfpplanning.org/index.aspx?page=2754#Notiapp)

3 Open Space Requirements: [Article 1.2 Section 135 Of The San Francisco Planning Code](#)

## BUREAU OF FIRE PREVENTION & INVESTIGATION

The Fire Department is tasked with promoting fire prevention practices and enforcing the fire code to ensure that buildings are equipped with appropriate fire fighting infrastructure. In regard to rooftop gardens, this department will verify accessibility for fire fighting, limit the combustibility of any structures or furniture, and check for the existence of a sufficient number of stand pipes. Although they usually only get involved in the permitting process for buildings with 3 or more units, the following aspects should still be considered in your plan.

### FIRE FIGHTING ACCESSIBILITY

The Fire Department will want to make sure that the rooftop garden will not hinder their fire fighting capabilities. This includes permitting easy access and maintaining uncluttered pathways to allow for easy movement. If the garden is set back as recommended by the planning department and there are no insurmountable fences then access should not be a problem. Pathways should be at least three feet wide to allow for mobility.

### COMBUSTIBLE MATERIALS

The Fire Department will also be concerned about the types of materials used for things such as planter beds, benches, and even the floor. For example, if you were building a wooden deck, it cannot exceed 500 square feet in area and it must be made of redwood or fire-retardant treated wood.<sup>4</sup> Depending on the setup of the garden, the Fire Department may limit the amount of combustible furniture (which includes planter beds) or require you to use only fire-retardant materials.

### ADDITIONAL STANDPIPE

The Fire Department may indicate that an additional standpipe (water access point for firemen) is required to accommodate the added fire hazard of the rooftop garden. This is dependent on many factors including building height, nearest existing water access point, and amount of combustible material on the roof.<sup>5</sup>

While there are some specific requirements laid out in the fire code, most restrictions and demands will be up to the discretion of the reviewing officer. If you have any questions you can visit the Fire Department Plan Check desks on the 5<sup>th</sup> floor of 1660 Mission Street. Make a left after exiting the elevator and they are located on your right as you enter the large cubicle filled room. Their hours are 8:00 am to 5:00 pm Monday through Friday and their phone number is (415) 558-6177.

## DEPARTMENT OF BUILDING INSPECTION

Primarily concerned with structural details, the Department of Building Inspection will probably be the most involved in your rooftop garden project. They will ensure that the roof's loading capacity can handle the garden infrastructure, the existence of code-compliant guard rails, the appropriate number of exits from the roof (a.k.a means of egress), and code compliant accessibility. If there is plumbing or electrical work in the design then they will also review and permit that.

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4 Roof deck regulations: [Chapter 15 Section 1509 of the San Francisco Building Code](#)

5 Standpipe regulations: [Chapter 9 Section 905 of the California Fire Code](#)

## LOADING CAPACITY

The majority of the work here will have to be calculated by the LDP. After the LDP has estimated the current loading capacity and made suggestions for how the loading capacity can be increased you can start to plan out the form and design of the rooftop garden. *Tapping the Potential of Urban Rooftops*<sup>6</sup> is an excellent report that outlines several different garden prototypes and includes the required loading capacities for each one.

## MEANS OF EGRESS

For extensive green roofs the standard stairway, fire escape, ladder or ceiling hatch is sufficient because the roof is considered unoccupied. However, for intensive green roofs an actual stairway is needed since the roof is considered to be an occupied space. Additional exits may also be required depending on a number of factors. The building department is responsible for approving a proposed occupant load (essentially the maximum number of people allowed) for the roof which is based on any fixed seating, the size of the space, and its intended use. Currently a minimum of two exits is required unless the building is sprinklered and the occupant load is less than 20 people<sup>7</sup>.

## GUARDRAILS AND FENCES

If you are installing an intensive roof (meaning it's an occupied space) then you are required to have railings that are at least 42" tall around the perimeter of the rooftop garden. In addition, the slats and/or decorations of the railing must be close enough so as not to allow a 4" diameter sphere to pass through anywhere<sup>8</sup>. Keep in mind that there are also regulations in place for bird safety should you decide to have the fence made out of glass or another transparent or reflective material. Any fences or guardrails are also subject to the planning code height limitations mentioned earlier, meaning that if they are taller than 4 feet they will require neighborhood notification.

## DISABLED ACCESS

In order to provide access for disabled persons in residential occupancies, the installation of an elevator may be needed. This requirement may be waived as an unreasonable financial hardship if the total project cost is below \$132,536.28 and the cost of the elevator is more than 20% of the budget without including the elevator<sup>9</sup>. For smaller gardens on residential buildings the financial hardship exemption will almost always kick in.

There are many other minor building regulations and codes that must be met, but these will be considered and factored in by the LDP. If you have any questions, you may contact the Technical Services Division at (415) 558-6205. You may also visit them at 1660 Mission Street between 8:00 am to 5:00 pm Monday through Friday. They are located on the first floor, on the right hand side, all the way at the back of the building.

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6 [Page 27 or 3-1 of \*Tapping the Potential of Urban Rooftops\*](#)

7 Means of Egress: [Chapter 10 Section 1021 of the California Building Code](#)

8 Guardrails and fences: [Chapter 10 Section 1013 of the California Building Code](#)

9 Disabled access and exemptions: [Chapter 11b Section 1134B.2.1 of the California Building Code](#)

## ADDITIONAL ROOFTOP GARDEN RESOURCES

Bay Localize assembled a fantastic article called [Use Your Roof](#)<sup>10</sup>, which boiled down a lot of the useful information from a more technical assessment of Oakland's rooftops. The breakdown of different rooftop gardens along with their structural design and loading requirements is especially helpful. San Francisco Beautiful also put together a wonderful booklet, *Rooftop Gardens: From Conception to Construction*<sup>11</sup>, that includes design recommendations as well as comprehensive instructions to help plan your entire project. Even though the booklet is over a decade old, most of the information outlined is still very much relevant today.

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10 [Use Your Roof by Bay Localize](#)

11 [Rooftop Gardens: From Conception to Construction by San Francisco Beautiful](#)



## SELLING WHAT YOU GROW

San Francisco allows gardeners to sell what they grow in their gardens – either on-site or off-site. Gardeners and urban farmers, however, cannot pool together produce from multiple gardens and sell them on-site. Rather, on-site sales are restricted to only what was grown on-site.

Sales models can include: setting up a small produce stand in your yard, selling produce to your local corner store, developing a CSA (Community Supported Agriculture) subscription model, selling produce directly to a restaurant, or starting a booth at a farmers' market. Selling your harvest involves a little more paperwork and additional regulation. Specifically, the additional rules and permits depend on where, what, and how you are selling.

### RUNNING A BUSINESS IN SAN FRANCISCO

Anyone who sells what they grow will be treated as a business by the government. Before you begin selling, be sure to read through the San Francisco Small Business Assistance Center's guide: "[How to Start a Business in San Francisco.](#)" You may also want to consult a business advisor regarding a variety of matters including general liability insurance and/or product liability insurance. Contact the city's [Small Business Assistance Center](#) to learn about non-profits and government agencies that help with business advice.



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## SELLING YOUR PRODUCE THROUGH DIRECT MARKETING

Once you've got your business paperwork squared away, the next question is: where and to whom are you selling? Below are summaries of the regulations regarding the most common forms of direct marketing for produce.

### ON-SITE SALES: PRODUCE STANDS AND FARM STAND

On-site sales of produce are governed by both San Francisco local land-use laws and the State of California's Retail Food Code. Sales, pick-ups, and donations of fresh food and horticultural products grown on-site are permitted at gardens anywhere in the city.

### Hours of Operation:

San Francisco's Planning Code allows on-site sale of "food and/or horticultural products between the hours of 6 a.m. and 8 p.m."

Under California State Law<sup>12</sup>, farmers (and gardeners) can sell their own produce on-site in two ways:

#### *PRODUCE STAND / FIELD RETAIL STAND*

A produce stand (also known as a field retail stand) is essentially the most basic form of on-site sales. It is a gardener or farmer selling what they grow and nothing more. It requires the least amount of paperwork.

A produce stand is “operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.” (California Food Retail Code, Section 113789(C)(6))

Sampling of cut produce and the sale of anything other than raw produce (including honey) or shell eggs is prohibited at produce stands.

The San Francisco Department of Public Health (DPH), which enforces retail food regulations, does not require any permits to operate a produce stand.

#### *FARM STAND AND VALUE-ADDED GOODS*

If you want to sell, on your site, value-added products primarily made from ingredients from your garden or farm, it’s more complicated. It’s harder to sell pickles than cucumbers, jam than fruit, salsa than tomatoes, and cabbage than kimchi. Selling these processed foods does two things: 1) requires you to process the food in a certified commercial kitchen and 2) puts the on-site sales into the category of a “Farm Stand”.

Processed foods intended for distribution and/or sale to the public must follow the Department of Public Health’s regulations for this type of product. This includes producing the food in a certified commercial kitchen and following certain labeling guidelines. For more information on these regulations, contact the San Francisco Department of Public Health’s Food Safety Division.

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12 California’s laws regarding produce and farm stands are in three places:  
[California Food and Agriculture Code](#), especially sections 47002, 47030, 47050  
[California Code of Regulations](#), especially Title 3, Section 1392  
[California Uniform Retail Food Code](#) (citations are for 2011 edition), especially: Sec. 113789 (c)(6), 113778.2, and 114375.

For an in-depth look at the rules around farmers’ markets and farms stands, see [California Certified Farmers’ Markets and Farm Stands: A Closer Look at State Law](#) by Public Health Law and Policy.

In San Francisco, farmers and gardeners can only have on-site sales of value-added products outside of residential zones. So, if your garden is in a residential zone, you can't have a farm stand. Instead, you are restricted to operating nothing more complex than a produce stand within a residential zone.

If your garden is outside a residential zone, you can operate a Farm Stand.

Food sales at a farm stand in San Francisco are limited to the following:

- (a) Whole produce (including samples) and shell eggs.
- (b) Value added farm products from where the primary ingredients are grown and produced on-site

Unlike produce stands, farm stand operators are required to get a permit to operate from DPH and follow specific food handling guidelines. To obtain this permit, contact the Food Safety division of the San Francisco Department of Public Health (see Appendix A for contact information). The first permit includes both an initial application fee of \$308 and an annual, recurring farm stand permit fee of \$300. The farm stand permit fee must be paid each year the farm stand operates.

The specific health and safety regulations for farm stands are listed in section 114375 [California Uniform Retail Food Code](#).

If you are unable to sell value-added goods on your site or don't want to go through the process of getting a farm stand permit, you have another option. Sales of value-added goods off-site at an existing retail food facility, such as a grocery store or restaurant, do not require a farm stand permit. Instead, those types of facilities already have the permits necessary to sell value-added goods that were produced according to the regulations for processed food.

## SELLING TO RESTAURANTS

Gardeners and urban farmers can sell their produce to restaurants. The San Francisco Department of Public Health requires gardens and farms to be certified as an "approved source" before selling to restaurants. At the time of publishing, the Environmental Health section of the Department of Public Health was developing a protocol to certify gardens and farms as an "approved source" in conjunction with the agricultural commissioner. Contact the Environmental Health Section of SFPDH for more information.

## SAN FRANCISCO COUNTY AGRICULTURAL COMMISSIONER

All counties in California have a county agricultural commissioner and San Francisco is no different. The Commissioner oversees a number of regulations related to commercial urban agriculture. See Appendix A for contact information for San Francisco's Agricultural Commissioner. The regulations include:

### *SELLING BY WEIGHT OR BY UNIT*

If you are selling your produce by weight (e.g. squash for \$2 per pound) in the presence of a customer, then you must have a scale that has been "sealed" by the Agricultural Commissioner. The current fee for this is \$100 general permit fee plus \$20 for a small weighing device. For the up-to-date schedule of fees and contact information, see: <http://www.sfdph.org/dph/EH/Fees.asp#Ag>.

If you are selling your produce by unit (e.g. \$1 per squash), or selling by weight not in the presence of the customer (e.g. delivering a set number of pounds to a restaurant), you do not need to have a scale sealed by the agricultural commissioner.

### *ENSURING ACCURATE IDENTITY, RESPONSIBILITY, AND QUANTITY IN SALES*

State regulation requires that anyone selling produce wholesale (e.g. to a restaurant, grocery store, or other distribution channel) must provide their customers with an invoice or receipt with the following information:

*IDENTITY:* The item(s) being sold

*Responsibility:* The name and contact information for the person or business selling the produce

*Quantity:* An accounting of the quantity of produce sold

### *USE OF PESTICIDES IN COMMERCIAL AGRICULTURE*

Any gardener or farmer engaged in a commercial operation that wants to apply pesticides as part of their business must obtain a Pesticide Operator ID Number from the County Agricultural Commissioner.

### *FARMERS' MARKET CERTIFICATION*

Most farmers' markets in San Francisco are "certified farmers' markets", meaning that all the vendors have been certified by an agricultural commissioner that they grow certain crops that they then sell at the market. To sell at a certified farmers' market, you must be a "certified producer." The agricultural commissioner certifies producers in the County of San Francisco at no cost. Contact the agricultural commissioner for more information. Also, you may also want to contact the manager of the farmers' market at which you are considering selling for more details about any other rules of that specific market.

### *BEE HIVE REGISTRATION*

Bee hives in San Francisco do not require any registration or inspection.

# ANIMAL HUSBANDRY

Many San Franciscans raise animals for eggs, meat, and some even for dairy. The Department of Public Health regulates the keeping of small animals (e.g. chickens, ducks, and rabbits) and hoofed animals (e.g. goats). Permits may or may not be required depending on the number of animals you keep and whether the animals you are raising are for personal or commercial use.

## ANIMALS FOR PERSONAL USE

### *CHICKENS AND OTHER SMALL ANIMALS*

San Francisco residents may raise up to a four chickens or other small animals in residential districts without a permit. The four animal limit is the total number combined. That is, three chickens and one duck is within the regulations. Four chickens, two ducks, and two rabbits is not.

Specifically, the San Francisco Health Code ([Article 1, Section 37](#)), says that it is unlawful to have: “more than a total of four of the following in any combination: dogs of age six months or older unless part of a dog kennel, hares, rabbits, guinea pigs, rats, mice, gerbils, chickens, turkeys, geese, ducks, doves, pigeons, game birds of any species, or cats.”

The code also requires animal owners to have appropriate coops and enclosures for the animals, the coops and enclosures must be 20 feet from any door or window of a building where people live or work.

### *GOATS*

San Francisco residents can keep up to two female goats for “exclusive use of the owner’s family” without a permit according to the health code ([Article 1, Section 27](#))

If you would like to keep more than two female goats or any number of male goats, or any other hoofed animal (e.g. horse, mare, gelding, mule, sheep, cow, etc), you’ll need to obtain a stable permit from the Department of Public Health ([Article 1, Section 27](#))



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## ANIMALS FOR COMMERCIAL USE

Small and large animals may not be kept in residential districts for commercial purposes.

For regulations regarding the keeping of animals for commercial purposes outside of residential districts, see various provisions of the [Health Code, Article 1](#).

### *BEEKEEPING*

Bee pollination plays an important role in agriculture, contributing to productive crop yields and diverse ecosystems. San Francisco is one of the most welcoming cities to beekeepers in the United States, legally allowing beekeeping without any permit requirements.

Bees are specifically mentioned in two parts of the health code:

- They are not classified as a noxious insect automatically considered a nuisance ([Article 11, Section 581\(8\)](#))
- They are not considered a wild or potentially dangerous animal ([Article 1, Section 51](#))

Beekeeping is only generally subject to the law of nuisance, so beekeepers are encouraged to manage activity in a manner sensitive to surrounding areas so as not to be a public nuisance.

If you're interested in learning more about beekeeping in the city, the San Francisco Beekeeper's Association ([www.sfbee.org](http://www.sfbee.org)) is a great resource.



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## SOIL TESTING

Gardening is beneficial to public health, both by creating greater access to fresh food and through promoting outdoor physical activity. However, urban gardening may result in lead hazard exposure to individuals by either direct contact with lead in soil, lead hazards on adjacent painted surfaces, or by the consumption of food grown in lead-contaminated soil.

Children participating in gardening activities are at greatest risk from these hazards. The San Francisco Department of Public Health created a guidance document with the purpose of reducing the human health risks from exposure to lead from urban gardening in San Francisco. The guidance includes protocols for conducting Lead Hazard Risk Assessment (LHRA) for urban gardens or farms and for managing and mitigating identified hazards: <http://www.sfdph.org/dph/files/EHSdocs/ehsCEHPdocs/LeadHazardUrbanGardening.pdf>

Beyond lead, the US Environmental Protection Agency's Brownfield Program has begun studying the question of soil toxicity in relation to urban agriculture. Their 2011 *Interim Guidelines for Safe Gardening Practices* has quite a bit of useful information: [http://www.epa.gov/brownfields/urbanag/pdf/bf\\_urban\\_ag.pdf](http://www.epa.gov/brownfields/urbanag/pdf/bf_urban_ag.pdf)

## PESTICIDES

Many common pest control products contain seriously hazardous chemicals. Pesticides are designed to kill living things, so it isn't surprising that most of them can be toxic to humans, pets, birds, and insects—including beneficial ones like ladybugs that feed on the troublesome insects we'd rather get rid of. That's why it's important to shop for the least toxic products, and find techniques that prevent insects and disease so hazardous products aren't necessary in the first place.

Integrated Pest Management (IPM) is an approach to pest control that uses regular monitoring to determine if and when treatments are needed and employs various tactics to keep pest number low enough to prevent intolerable damage or annoyance. Least-toxic chemical controls are used as a last resort.

On city-owned land, Integrated Pest Management (IPM) techniques are required through the [Integrated Pest Management Ordinance](#), which was established in 1996.

On privately owned land, gardeners and farmers are subject to the laws governing pesticide use established by the US Environmental Protection Agency and the California Department of Pesticide Regulation.

If you are planning a commercial operation and plan on using pesticides, contact the Agricultural Commissioner for details on required permits.

To learn more about integrated pest management and alternatives to pesticide use, see the [Department of the Environment's Pest Management website](#).

## APPENDIX A: CONTACT INFORMATION

### **DEPARTMENT OF THE ENVIRONMENT**

Mei Ling Hui  
Urban Forest and Urban Agriculture Coordinator  
meiling.hui@sfgov.org  
415-355-3731

### **RECREATION AND PARKS DEPARTMENT**

Marvin Yee  
Community Gardens Program Manager  
(415) 581-2541  
[marvin.yee@sfgov.org](mailto:marvin.yee@sfgov.org)

### **DEPARTMENT OF PUBLIC WORKS**

Sandra Zuniga  
Community Liaison  
Sandra.Zuniga@sfdpw.org  
415-695-2114

### **SAN FRANCISCO PUBLIC UTILITIES COMMISSION**

Water Conservation Section  
[Urban Agriculture and Community Garden Resources](#)  
[landscape@sfwater.org](mailto:landscape@sfwater.org)  
(415) 554-3155

### **SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH**

Environmental Health Division  
Food Safety Program  
415-252-3804  
1390 Market St., Suite 210  
San Francisco, CA 94102

### **COUNTY AGRICULTURAL COMMISSIONER**

Miguel Monroy  
Miguel.Monroy@sfdph.org  
415-252-3939

### **SAN FRANCISCO PLANNING DEPARTMENT**

[Planning Information Center](#)  
(415) 558-6377  
[pic@sfgov.org](mailto:pic@sfgov.org)  
1660 Mission Street, First Floor  
San Francisco, CA 94103-2479



**DEPARTMENT OF BUILDING INSPECTIONS**

Technical Services Department  
(415) 558-6205  
1660 Mission Street, First Floor  
San Francisco, CA 94103

**FIRE DEPARTMENT**

Plan Check  
1660 Mission Street, 5<sup>th</sup> floor  
San Francisco, CA 94103  
(415) 558-6177

**BOARD OF SUPERVISORS**

City Hall, 2nd Floor  
[www.sfbos.org](http://www.sfbos.org)

**SAN FRANCISCO URBAN AGRICULTURE ALLIANCE**

[www.sfuua.org](http://www.sfuua.org)  
[info@sfuua.org](mailto:info@sfuua.org)

**SAN FRANCISCO PARKS ALLIANCE | STREET PARKS PROGRAM**

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**SAN FRANCISCO GREEN SCHOOLYARD ALLIANCE**

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