

PROVIDED BY:  
SAN LUIS OBISPO COUNTY PUBLIC HEALTH DEPARTMENT,  
ENVIRONMENTAL HEALTH SERVICES

Community Gardens/Herd Shares/Community Supported Agriculture in  
San Luis Obispo County  
May 23, 2013  
(For discussion purposes)

**Definitions:**

- Food Facility (as defined in the California Health and Safety Code) means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption at the retail level.
- Retail (as defined in the California Health and Safety Code) means the storing, preparing, serving, manufacturing, packaging, transporting, salvaging, or otherwise handling food for dispensing or sale directly to the consumer or indirectly through a delivery service.
- Food preparation (as defined in the California Health and Safety Code) means packaging, processing, assembling, portioning, or any operation that changes the form, flavor or consistency of food, but does not include trimming of produce.

**General Principles:**

- Community gardens, herd shares and community supported agriculture collectively referred to as the local food movement is a growing trend throughout the nation that present questions of food safety.
- There are those who want direct involvement in the growing of their food and have chosen to participate in herd shares and community gardens.
- Consumer confidence, safety, sustainability and security of the local food supply guide discussions regarding the local food movement.
- Food safety and the protection of public health is the first and highest priority regarding the processing, preparation, dispensing and sale of food and is regulated by local, state and federal government. However, there is a distinction between those farmers engaging in direct commerce with the public such as farmers markets and grocery stores and those individuals choosing to participate in a herd share or community garden.
- Consumer confidence in the safety of the food supply is critical to the viability of agriculture and is the responsibility of all those involved in the production, preparation, transport, dispensing, sale and regulation of the food supply.
- The processing, preparation and distribution of food directly to the public is regulated by State and federal law. It is the intent of the California legislature to occupy the whole field of health and sanitation standards for dispensing food directly to the public and preempt local standards. Further, the California legislature has determined that the public health interest requires that

there be uniform statewide health and sanitation standards for dispensing food directly to the public.

- Any food preparation, packaging, serving, vending or otherwise providing food directly to the public whether it is sold or given away for profit or not for profit is regulated by State law.
- Consumption of foods such as unpasteurized dairy products, processed chicken, and beef have inherent risks of contamination and disease. The risk of contamination and disease increases without regulatory oversight to assure health and sanitation standards are maintained.
- Community gardens and some herd share activities described below are outside the scope of State law for dispensing food directly to the public as it is currently written.

### **Community Gardens**

- Eating locally grown food supports sustainability, local farmers and healthy eating. This movement is evident through community gardens, local farmers' markets, farm and produce stands and locally produced foods. There is a movement throughout California and the nation to participate in shared community gardens where individuals share their produce with those who don't have space for gardens in exchange for labor and other services. This activity is outside the scope of current State law.

### **Herd Shares**

- Some individuals have chosen to participate in a herd share. Herd shares operate like a private club, where a limited group of individuals purchase a share in animals such as chickens, goats or cows. The members of the herd share then own a part of that animal or animals. The milk, eggs or meat are then distributed to the members of the herd share to consume as they wish. In this situation, the herd share members do not buy the milk, eggs or meat because they are part owner of the animals. This activity is outside the scope of current State law.
- There are those who desire fresh dairy, meat and poultry products, but don't live in a rural area where they can raise their own animals or otherwise are not capable of raising their own animals. In this situation, the members of the herd share enter into a contract with a farmer who feeds and boards the animals and the members pay a fee to the farmer to cover the cost of feed, vet bills and boarding the animal. This situation differs from the above in that a farmer is contracted to feed and care for the animal and results in dispensing food directly to the public and therefore is regulated by State law.

### **Community Supported Agriculture (CSA)**

- In a CSA program, a farmer grows food for a group of local residents (called "shareholders" or "subscribers") who commit at the beginning of each year to purchase part of that farm's crop. The shareholders thus directly support a local farm and receive a low-cost weekly or monthly supply of fresh produce. The farmers receive an initial cash investment to finance their operation and a higher percentage of each crop dollar because of direct delivery. Both parties

jointly share the benefits and risks. This activity results in dispensing food directly to the public and is regulated by State law.

### **Rights of Individuals**

- It is important to recognize the rights of individuals to grow and consume their own food.
- People have the right to raise food for themselves and their families.
- Subject to zoning and land use restrictions, people have the right to raise food on their own land for their own consumption.
- People have the right to contract with others to rent sufficient land for growing food, boarding poultry and livestock.
- People have the right to own and share ownership of agricultural products including fruits, vegetables, livestock and other food producing animals for their own use and consumption.
- There are many barriers to people raising their own food and livestock including enough land, time, knowledge and skills.
- When people contract with a farmer to raise their food for them, the activity goes beyond the concept of people raising their own food on their own land for their own consumption and becomes dispensing food directly to the public and is therefore regulated by State law.
- Individuals have the right to safe, secure and wholesome food. The people of the State of California have decided that food operations providing food directly to the public should be regulated to ensure a safe and secure food supply.