

## Summary of Webinar #3: The Rules: Navigating and Negotiating Permits and Regulations

### Speakers:

- Karen Giovannini, Agriculture Ombudsman, UCCE Sonoma  
<http://ucanr.edu/sites/CESonomaAgOmbuds/>
- Tom Parcel, El Dorado Planning Department  
<http://www.edcgov.us/home.aspx>

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### ***Navigating Permits & Regulations***

Speaker: Karen Giovannini, Agriculture Ombudsman, UCCE Sonoma

Archived webinar presentation: <http://uc-d.adobeconnect.com/p2n1m4ivgrx/>

Powerpoint presentation: <http://sfp.ucdavis.edu/files/242453.pdf>

Handout: <http://sfp.ucdavis.edu/files/242227.pdf>

### **Topics To Be Covered**

- Business plan
- Regulatory agencies
- Zoning
- Buildings
- Water & Septic
- Disabled Accessibility
- Food Safety
- Special Events
- Where to Start

### **Overall Takeaways**

- Do your business plan and understand where permits and regulation will affect you now and in the future.
- Even though regulations and permits are burdensome, they are simply part of doing business and, if you handle them right, they will reduce your risk of liability and cost.

### **Business Plan**

- “If you fail to plan, you plan to fail.” Your business plan should be your first priority. It will help you stay focused by having you create an outline of where you want to take your business.
- Contents should cover:
  - Activities and products: short-term, mid-term and long-term.
  - Anticipated visitors per month and months of operation.

- Existing water and sewer systems and any plans to set up adequate systems for your growth.
- Surrounding land uses: open space, ranchettes? Be aware of what's around you.
- Map(s) of activity areas, roads, paths, parking, etc.
- Status of Williamson Act contract, if applicable.

### **Regulatory Agencies**

- FEDERAL: USDA, FDA, EPA (and IRS).
- STATE: CDFA (under USDA), CA Department of Public Health (under EPA), additional agencies in CA regarding earthquake and fire. State agencies enforce federal regulations and can add their own.
- REGIONAL: Air Quality Control Boards, Water Districts. Regional agencies don't follow county lines. They enforce Federal and State regulations and can add their own.
- LOCAL: County and city agencies. Whom you'll usually deal with for your agritourism operation. Local agencies enforce Federal, State and Regional regulations and can add their own.

### **Zoning**

- You need to know the zoning of your parcel(s) to understand what's allowed with and without a use permit (or not at all).
- All counties have a General Plan about how development and land use will occur. There are always county zoning maps. Sometimes there is some "overlay" of zones (e.g., a farm may be in an area zoned as both agriculture and as a scenic corridor).
- The zoning and county rules about each type of zone dictate what is allowed. For example, a farm in an agriculture zone doesn't need a permit to farm. But, if the farm operators want to process agriculture products, they may need a processing use permit.
- To get permits, make sure to submit complete and thorough applications.

### **Buildings**

- If you plan to build or repurpose a building, make sure to understand your State Building Code. Your contact agency will be the County/Municipal building department.
- Activities that likely require a permit:
  - New or remodeled building.
  - Repurposed building (e.g., reusing a barn to have guests for farm-to-table dinners or educational classes). The building department may require you to make certain upgrades for public use of farm buildings.
  - Removal of a building.
  - Adding onto a building and other structural changes.

### **Disabled Accessibility – ADA Compliance**

- CA is one of the most ADA-compliant states in the country, so it's also one of the most litigious states on the topic as well. Violating the ADA codes is considered a civil rights

violation, which translates to a minimum of \$4000 in penalties, plus legal fees. There are the equivalent of “ambulance chasers” who seek out businesses that are not compliant. Sonoma County in particular has a “zero tolerance” policy, where you can be required to completely overhaul a structure if it’s even ½” off code.

- Federal regulation = Americans with Disabilities Act; CA building code = Enhanced CA accessibility provision.

### **Water & Septic**

- Plumbing and septic work requires permits.
- Having adequate systems from the start is a lot less costly than not planning ahead and having an overload issue.
- Have your water tested by a third-party; don’t guess.
- If serving well water, water must be tested. The number of people using the well water determines whether the state or county regulates it.

### **Taxes & Business Law**

- Get a tax ID number from the IRS.
- Get a state business license from the County Tax Collector. (If you are a sole proprietorship or general partnership, you don’t need one.)
- If your business name doesn’t contain your surname, get a Fictitious Business Name Statement from the County Recorder.
- If you have employees, be aware of labor laws: workers comp, withholding and US Department of Labor laws.

### **Other Agencies You May Interact With**

- You may interact with other agencies either directly or indirectly through your planning department:
  - Public Works, CALTRANS and/or Fire Agency: for traffic and road signs. Check with your county to see which agencies are applicable.
  - Ag Commissioner & Weights/Measures:
    - If selling anything by weight, you need a certified and calibrated scale, which is checked for accuracy each year.
    - If certified organic, you need to register with the Ag Commissioner or the state.
    - If you use pesticides on any food products, you need to register with the Ag Commissioner.
    - If you sell at a certified farmers market, you need a Certified Producer Certificate.

### **Food Safety**

- If you sell any non-whole produce, the CA Retail Food Code regulates what’s allowed and not, but it does not cover which permits are needed. County zoning dictates which

permits are needed. For example, farm stands that sell only whole produce don't need a permit according to the health department, but they may need a permit according to county zoning laws.

- If giving samples or tastes of products, you need a permit from the health department as well as hand-washing and washing stations.
- If selling products not grown onsite but grown by you, check with your county to see if any permits are needed.
- If selling products not grown by you, a permit is usually needed from the health department.
- If serving food, it's usually best/easiest to hire a licensed caterer, since food needs to be prepared in a licensed facility.
- If serving or selling alcohol, hiring a licensed caterer can suffice since they have a license already. Or, nonprofit organizations are allowed to serve and sell alcohol in certain situations.
- If selling non-farm products, foods from a cottage food operation or even bottled water, you need a permit from the health department. You are only allowed 50 square feet of shelf space for non-farm products (e.g., for artwork, wreaths, crafts, etc.).

### **Food Safety: Food Handling**

- For processed and prepared food, you need to use a licensed kitchen and have a processed-food registration from the CA Department of Public Health. (Or, you can hire a licensed caterer.)
- At least one principal staff person needs to have a Food Safety Certification, and food handlers need to be certified as well.
- Be aware of extensive food labeling requirements.
- Do your research. Don't risk an inspector pulling or condemning your products from stores/sales.

### **Special Events**

- Regulations are extra stringent in Sonoma County. Check with your planning department and county zoning to see what's allowed.
- You may need permits for serving food or drinks, or any other event that brings a non-farming revenue stream or disrupts traffic and parking or your neighbors.
- It's best to apply for the use permits you may need ahead of time, so when you actually need them, they are already set up.

### **Where To Start**

- Write your business plan.
- Know your zoning.

- If you're on a new parcel:
  - Meet with your neighbors.
  - Meet with the planning department.
  - Meet with the health department.

### Recommended Resources

- UC Small Farm Program Agritourism website: <http://sfp.ucdavis.edu/agritourism/>
- FarmsReach Agritourism toolkit: <http://www.farmsreach.com/welcome/marketing-sales/#928>
- UCCE Sonoma County Ombudsman Fact Sheets: <http://ucanr.edu/sites/CESonomaAgOmbuds/Agritourism/>
- UCANR resources:
  - Where to Start: <https://anrcatalog.ucanr.edu/pdf/8334.pdf>
  - Understanding Regulations: <https://anrcatalog.ucanr.edu/pdf/8333.pdf>

### ***El Dorado County Agricultural Ordinances: Influencing the Future of Agritourism***

Speaker: Tom Parcel, El Dorado Planning Department

Archived webinar presentation: <http://uc-d.adobeconnect.com/p3qqu7dn6yi/>

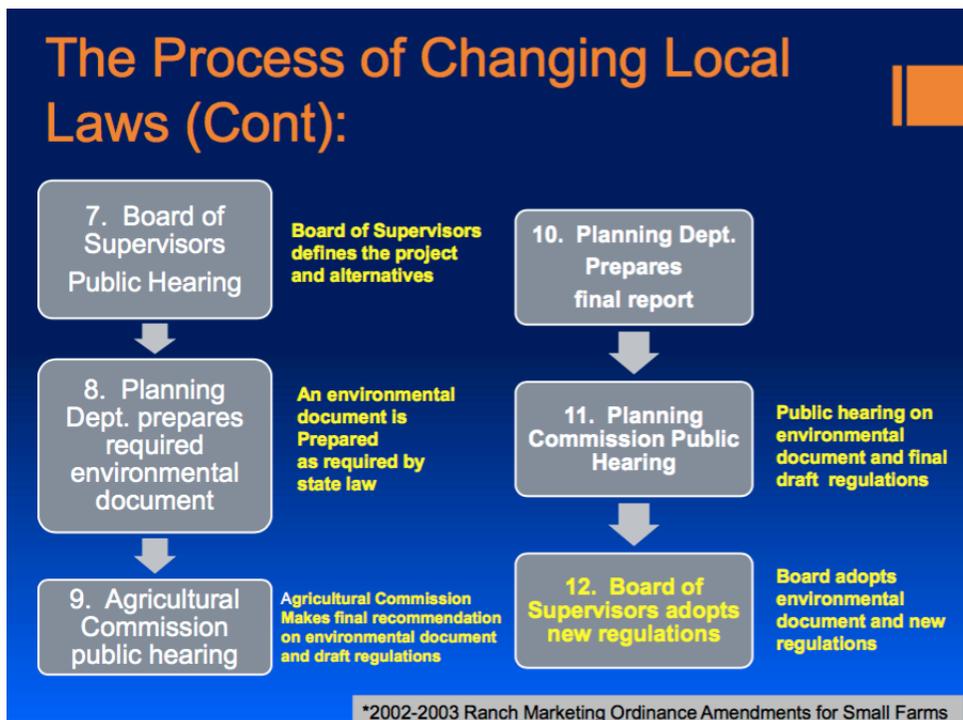
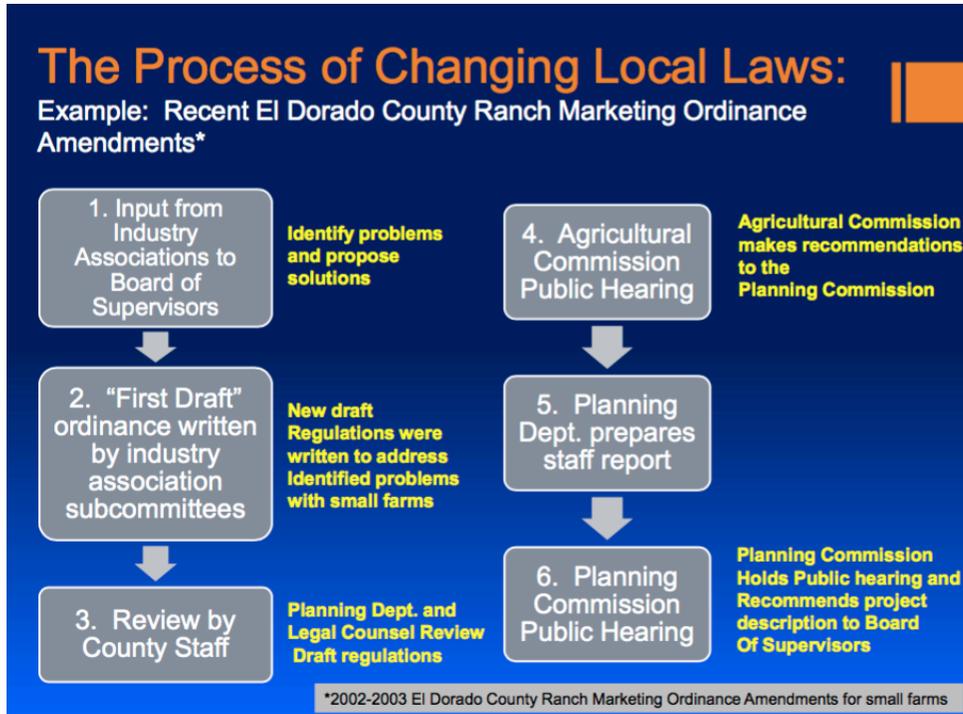
Powerpoint presentation: <http://sfp.ucdavis.edu/files/242454.pdf>

### Background

- El Dorado County is a state leader in regulations that serve the needs of the agriculture community. We hope to provide examples for other regions to change your regulations as we have.
- El Dorado County has approximately 200 winery and agritourism operations (and growing).
- A brief history of El Dorado County agritourism:
  - 1960s: In response to a decline in apple wholesales, four growers sought to develop a sustainable income stream by coordinating ranch marketing activities.
  - 1981: First ranch marketing ordinance created to address farmer needs, based on many farmers' input.
  - 1988: Ranch marketing ordinance updated.
  - 1998-2001: Formation of a Ranch Marketing Committee, and major updates to the ranch marketing ordinance. Input from *many* diverse stakeholders.
  - 2002-2003: Ranch marketing ordinance amended for small farms, and industry subcommittees formed to work on new winery ordinance.
  - 2009: Adoption of new stand-alone winery ordinance.
  - 2010-2015: Industry-based associations and subcommittees helped update General Plan and Zoning Ordinance.
  - 2015: New General Plan and Zoning Ordinance adopted.

## 12-Step Process for Changing Local Laws

- It is 12 steps, which is a lot, but you can think of it as 12 *opportunities* to engage local farmers and ranchers to make sure the rules meet the needs of the community.



- An example of when we used the process above: In 2002, the county updated the ranch marketing laws for small farms, especially those that were in residential-zone parcels.

### How Stakeholders Can Influence Rules

- Definition of “stakeholder”: A person, group or organization that has an interest or concern in an issue or organization. A person who has an interest or investment in something and who is impacted by and cares about how it turns out.
- There are *always* opportunities for stakeholders to give input on code drafts. The community can give input until the final gavel in Board of Supervisor meetings.



### Some Examples of Stakeholder Input Shaping Regulations

- 2015: Complex animal-raising and animal-keeping regulations made it confusing what the process and rules even were for different zones, size of property, and size of animals. Now, with the 2015 Zoning Ordinance Update, all information required to make a decision is in a single reference chart with code references to specific development standards.
  - A Yes or No answer can be determined immediately.
  - Easy references in the chart re: zone, section of code, and details of specific topic.
- 2009: Stand-alone Ranch Marketing and Winery Ordinances now allow farms and wineries to operate diverse marketing operations *by right* (assumes operation meets minimum planted crop size and zone).

- For ranch marketing, example uses/activities allowed now by right:
  - Agricultural homestays
  - Guest ranches
  - Bake shops, food stands, food prep
  - Art/merchandise and handicraft sales
  - Marketing and promotional events
  - Petting zoos
  - Agricultural museums
- For wineries, example uses/activities allowed now by right:
  - Wineries
  - Tasting facilities
  - Marketing/promotional events
  - Wholesale/retail sales
  - Picnic areas
  - Other special events
  - Art/merchandise sales
- 2015: Targeted General Plan Amendment and Update to Zoning Ordinance simplified many complex regulations and expanded uses on agricultural-zone lands:
  - Expansion of agricultural districts
  - Expanded agricultural homestays
  - Agricultural and timber resources lodging
  - Guest ranches on grazing land
  - Additional updates to Ranch Marketing and Winery Ordinances
- 2015: Updated Sign Ordinance allows agricultural businesses to post a 12' directional sign anywhere offsite by right, and allows industry associations to create customized sign programs (e.g., the apple hill growers set up their own set of signs to be approved in one shot).

### More Resources

- El Dorado County Department of Agriculture, Weights and Measures: <http://www.edcgov.us/Ag/>
- El Dorado County Zoning Ordinance - Article 2 (Zones, Allowed Uses and Zoning Standards): <http://www.edcgov.us/Government/LongRangePlanning/LandUse/SupportingDocuments/ZOUDec2015/Title-130-Article-2-Dec-2015.aspx>
- El Dorado County Farm Bureau: <http://www.edcfb.com/>

### Question & Answer Section

Archived Q&A section (skip to 21:16): <http://uc-d.adobeconnect.com/p3qqu7dn6yi/>

Questions for Karen Giovannini

#### ***Can a kitchen in a barn be used to make meals for guests?***

No, any food served must be prepared in a licensed kitchen or by a licensed caterer, or by

someone holding a food safety certification. All other food preparers must have food handling cards. There is one exception, which may only apply in Sonoma, Yolo and a few other counties, and that is if you're only doing a one-day event (e.g., a farm stand BBQ in summer months), you wouldn't need a permit, but you're still responsible for good food safety practices.

***If an activity is not listed for my parcel's zone, does that mean I can't do it?***

Maybe. It depends on whether it's "permissible," meaning it could be allowed with a permit. Long story short, it's complicated, and you should check with your local planning department.

Questions for Tom Parcel

***What are some of your current challenges?***

Trying to make complicated code simple for diverse audiences. For example, when the Board of Supervisors asked us to look at the oak tree protection codes, my challenge was to write codes so that people on the street could understand it while also providing enough information for the county decision-makers to make a decision. Sometimes it can be daunting. It can be tough to not use complex, "government-y" language so that everyone who will need to follow the code can understand it too.

***How do you find out what zone your property is listed in?***

Check with your county or municipality planning department.

*For more questions and answers by the webinar series panelists, see the FarmsReach CA Agritourism Group online: <http://www.farmsreach.com/welcome/groups-view-single/?group=california-agritourism>*