NAVIGATING LAWS AND ORDINANCES IN URBAN AGRICULTURE

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NAVIGATING LAWS AND ORDINANCES

- Agriculture as a land use
- How site plans can inform potential conflicts
- Resources for investigating ordinances
- Zoning and land use
- Food safety
AGRICULTURE AS A LAND USE
AGRICULTURE AS A LAND USE

- Compost
- Livestock including bees
- Crop production
- Weeds
- Water
- Rain barrels
- Buildings and accessory structures
- Fencing
- Farm stands and onsite sales
- Parking
- Greenhouses and hoop houses
- Signs
WHERE TO BEGIN?

- Develop a site and implementation plan
- Understand the elements and land uses
- Define any structures
INVESTIGATE THE ORDINANCES

- Land use and zoning
  - City
    - Zoning, Planning, Building and Housing Departments
  - Township
  - State
  - Compost – Ohio EPA

- Food safety
  - State regulations
    - Ohio Department of Agriculture - [http://www.agri.ohio.gov](http://www.agri.ohio.gov)
    - Ohio Department of Health - [http://www.odh.ohio.gov](http://www.odh.ohio.gov)
  - Local enforcement
    - City and County Public Health Departments
    - Cuyahoga County Board of Health
      - [http://www.ccbh.net](http://www.ccbh.net)
    - Cleveland Department of Public Health
      - [http://www.clevelandhealth.org](http://www.clevelandhealth.org)
    - Shaker Heights Health Department
      - [http://www.shakeronline.com/departments/health](http://www.shakeronline.com/departments/health)
ZONING AND LAND USE

- Search terms – What to look for?
- City and municipality websites
- Case Law/Find Law
  - http://www.findlaw.com/casecode
- American Legal Publishing
- Walter H. Drane Codified Ordinances
  - http://www.conwaygreene.com
South Euclid, OH

917.09 Compost

- (b) Compost Pile Defined. As used in this section, "compost pile" means any outdoor pile of organic waste matter permitted to decompose for use on the property where the compost pile is maintained.

- (c) Ingredients. A compost pile may consist of combinations of leaves, grass clippings, garden plant and vegetable trimmings, fruit and vegetable matter, nitrogenous based chemicals or fertilizers, lime and water. A compost pile shall not have within it any carnivorous animal manure, vegetable substances other than those specifically permitted herein, grease, meat, bones, fats or other food scraps or dead animals.

- (d) Formation. A compost pile shall be started at ground level and shall be layered in alternate layers of six to twelve inches separated by nitrogen based chemicals and/or fertilizers and/or lime, and no such pile shall exceed five feet in height above ground level. Compost piles may also contain layers of soil and herbivore manure. Composting may also be done within a wholly confined composter.

- (e) Location. A compost pile shall be located only in the rear yard of the owner or other person lawfully in charge of the property or premises, and no closer than fifteen feet from any principal adjoining residential structure on or off the lot.

- (f) Noxious Odors. Compost pile shall be maintained in a manner so as not to cause any offensive or noxious odors.
A FEW EXAMPLES...

- **Shaker Heights, OH**
  - Compost - ‘A permit for making a compost pile is required and costs $5.00.’ (375.01)

- **University Heights, OH**
  - Livestock – ‘No person shall keep horse, mule, cattle, sheep, goat, swine, rabbit, chicken, goose, or other fowl, or animals except dog and cats within 500 feet of an inhabited dwelling.’ (618.20)

- **Bedford Heights, OH**
  - Rain Barrels – ‘All roofs of every structure shall be maintained weathertight and shall be equipped with gutter and downspouts connected to a public storm sewer.’ (1393.04)
CLEVELAND HEIGHTS, OH

- A Conditional Use Permit issued by the Planning Commission is required to keep egg-laying hens.
- A maximum number of four (4) chickens may be kept on the property.
- No commercial activity will result from the keeping of chickens on the property.
- **ROOSTERS ARE NOT PERMITTED.** However, if the gender of a chick cannot be determined at hatching, a chick of either gender may be kept on the property for no more than six (6) months.

Chicken coops and runs must meet the following standards:

- Chicken coops and runs are allowed in the rear yard only. Adequate safeguards are required to protect the chickens from animals and to prevent unauthorized access to the chickens by general members of the public, such as rear yard fencing and gating.
- Chicken coops and runs must be located a minimum of ten (10) feet away from any principal building and ten (10) feet from an adjacent lot.
- The facility must be kept in good repair, maintained in a clean and in a sanitary condition, and free of any vermin, obnoxious smells and substances. The facility will not create a nuisance or disturb neighboring residents due to noise, odor, damage or threats to public health.
- The chicken coop and run must be designed to ensure the health and well-being of the animal is not endangered by the manner of keeping or confinement.
- The chicken coop and run must be adequately lighted and ventilated.

- No storage of chicken manure is permitted within twenty (20) feet of the property line.
- Chickens must be kept in coops from dusk to dawn.
- Slaughtering of the chickens is prohibited.
Cleveland, OH

- Urban Garden District Zoning
- Regulations for Farm Animals and Bees
- Gardening for Greenbacks
- Water Access for Urban Agriculture
- One-Family Residential Districts
CLEVELAND, OH

- Urban Garden District Zoning (2007)
  - Urban Garden District Zoning est. 2007
  - Using zoning as a preservation tool
  - Allows for use for local food production, sale of products, and limited structures

- Farm Animals and Bees (2009)
  - Allows keeping of honeybees and small livestock in residential districts
  - Larger livestock allowed at certain densities on larger parcels
CLEVELAND, OH

- Gardening for Greenbacks
  - Start-up capital for urban growers
  - [http://www.rethinkcleveland.org/Strategic-Advantages/Our-Programs/Gardening-for-Greenbacks.aspx](http://www.rethinkcleveland.org/Strategic-Advantages/Our-Programs/Gardening-for-Greenbacks.aspx)
  - Water Access Policy
  - Hydrants
  - Size of parcel

- One-Family Residential Districts
  - Fencing
  - Farm stands
  - Principle use

- Urban Agriculture Overlay District
FOOD SAFETY REGULATIONS

- Ohio Uniform Food Safety Code
  - [http://www.agri.ohio.gov/divs/FoodSafety/foodsafety.aspx](http://www.agri.ohio.gov/divs/FoodSafety/foodsafety.aspx)

- Type of product
  - Fruits and vegetables
  - Honey
  - Eggs
  - Meat

- Processing involved?
- Where are you selling it?
FOOD SAFETY REGULATIONS

• Ohio Uniform Food Safety Code
  • Cottage Foods
  • Labelling Information
  • Egg Sales
  • Farm market registration
    ¦ http://www.agri.ohio.gov/public_docs/forms/foodsafety/Food_3800-02.pdf
  • Farmers’ market registration
    ¦ http://www.agri.ohio.gov/public_docs/forms/foodsafety/Food_3800-03.pdf
  • Apiary registration

• Local Health Departments
  • Mobile Food License
  • Retail Food License
  • Temporary Food License
  • Farmers’ Market Inspection
Programs and Information

Letters of Opinion

Health Commission

Letters of Opinion
- Refrigeration and Disinfection of Equipment After Cleaning and Sanitizing - Letter of Opinion
- Cold Holding at Farmer's Market - Letter of Opinion
- Time as a Public Health Control for Cut Tomatoes - Letter of Opinion
- Frozen Storage - Letter of Opinion
- Cut Tomatoes - Letter of Opinion
- Date Marking - Letter of Opinion
- Date Marking #006-06 - Letter of Opinion
- Hair Restraint - Letter of Opinion
- Ware Washing Machines, Sanitizer: Level Indicator - Letter of Opinion

Letters
- Cheese Data Marking Information - Letter
- Cheese Listing for Date Marking - May 15, 2006
- Dietary Supplements - Letter
- Farm Product Auctions - Letter
- Home Bakery - Letter
- Over-the-Counter Drugs - Letter
- Saturday/Sunday Penalties - Letter
Chapter 901:3-6 Farm Markets and Auctions

1. What is a farm market?
2. Are all farm markets exempt from a Retail Food Establishment (RFE) license?
3. What types of foods may the farm market offer for sale and still be exempt from the RFE license?
4. Is a farm market prohibited from offering other foods for sale such as milk and cheese?
5. Is a farm market that is listed in the Ohio Farmers' Market Directory exempt from the RFE license?
6. If a farm market is NOT exempt, how is it regulated?
7. Who regulates exempt farm markets?
8. How does a farm market register with the Ohio Department of Agriculture's Division of Food Safety?

What is a farm market?

A farm market is a producer operated facility where fresh fruits and vegetables and other food items are offered for sale.

Are all farm markets exempt from a Retail Food Establishment (RFE) license?

No, the exemption to an RFE license is based upon the types of foods being offered for sale at the farm market and registration with the Ohio Department of Agriculture's Division of Food Safety.

What types of foods may the farm market offer for sale and still be exempt from the RFE license?

A farm market that only offers for sale the following types of food items is exempt from the RFE license:

- fresh unprocessed fruits or vegetables;
- maple syrup, sorghum, or honey (properly labeled);
- properly labeled products of a cottage food production operation;
- cider and other juices manufactured on site at the farm market (properly labeled);
- eggs on the condition that the farm market operator is selling eggs from his own flock of five hundred or fewer birds;
- poultry on the condition that the farm market operator offering to sell the poultry annually slaughters one thousand or fewer chickens of his own raising;
- non-amenable meats (rabbit, bison, etc.) on the condition that the non-amenable meats that farm market operator is offering to sell are raised by him, and;
- Commercially reprocessed food that is not potentially hazardous, on the condition that the food is
Processed or unprocessed?
Processed or unprocessed?
Processed or unprocessed?
Processed or Unprocessed?
Are free samples allowed at farmers markets?
Can you sell these Products under cottage foods regulations?

A

B
Can you sell these Products under cottage foods regulations?

A

B
Can you sell these Products under cottage foods regulations?
Processed or Unprocessed?
Processsed or unprocessed?
Selling Leafy Greens

- New changes to food safety laws in 2013
- Farmers are allowed to make one cut known as the harvest cut
- Keep bags open until sale
- If you make more than one cut or if you are selling greens in a closed container or bag, mixed greens must be kept at 41 degrees at farmers markets and will require a food permit to be sold
ANY QUESTIONS?