

## **GROWING AND SELLING FOOD IN PHILADELPHIA: SOME BASICS ON ZONING, LICENSING AND PERMITTING**

### **ZONING UPDATE**

Cities and regions have widely variable zoning, code, and permit requirements for community gardens and urban farms. While some places seem to lack any kind of restrictions, other areas are infamous for outlawing composting, or other completely natural processes. Whatever the requirements, it helps to be well versed in the expectations specific to your locale, especially as you begin to invest your garden or farm.

Beginning in 2007, Philadelphia embarked on four-year process to completely update and rewrite its zoning code for the first time in 50 years. The new Zoning Code was passed by City Council and becomes effective on August 22, 2012.

The new Zoning Code recognizes Urban Agriculture as a potential land use category in Philadelphia. This is important for two reasons.

- First, for the past fifty years, the zoning code didn't even recognize that people were using land for agriculture. So, it's great news that the zoning board has not only recognized, but, through this recognition, encouraged urban agriculture within Philadelphia.
- Second, and perhaps even more importantly, it makes dealing with the zoning restrictions in a given neighborhood much simpler when the zoning code understands what you are doing.

### **Philadelphia law recognizes four types of urban agriculture:**

- **Community Garden:** a garden managed and maintained by a group of individuals. One or more people can farm it. The main purpose of this type of plot is to grow food for the people who maintain it, not to sell food for profit. Incidental sales are permitted for a small amount of food or non-food crops if you have extra. This type of garden can be located on a roof or within a building.
- **Market or Community-Supported Farm:** a farm that is maintained by an individual or group with the purpose of growing food for sale. This can also be located on a roof or within a building.
- **Horticulture Nurseries or Greenhouses:** propagation and growth of plants in containers or in the ground for wholesale sales and distribution
- **Animal Husbandry:** Feeding, housing, and care of farm animals for private or commercial purposes, subject to applicable Philadelphia Code regulations on farm animals. This is subject to severe restrictions imposed by City Council in 2004, but many residents would like the law changed to allow chickens.
  - Currently, regulations will only allow farm animals on parcels of real property of 3 or more acres.

### ***Zoning Requirements for a Community Gardens***

- **Community Gardens are allowed in:**
  - Residential areas, mixed residential/ commercial areas, mixed residential/industrial areas, in institutional areas, entertainment areas, stadiums, and by airports.
- **NOT allowed in:**
  - A port industrial district (a wharf, dock, pier or other areas meant for marine-industrial use), or a district designated for recreational parks or open spaces by the city.

### ***Zoning Requirements for a Market Farms:***

- **Market or Community Supported Farms are allowed in:**
  - Most residential areas, most mixed residential/commercial areas, mixed residential/industrial areas, and near airports.
- **Not allowed in:**
  - Center City Commercial Districts (high density commercial and retail districts in the heart of center city), high density industrial districts (places where there is petroleum or chemical processing, storage, etc.), an industrial port (a wharf, dock, pier or other areas meant for marine-industrial use), any area designated for stadiums or entertainment (theatres, casinos, etc.), or districts designated for recreational parks or open spaces by the city.
- **Special exception permit is required for a Market or Community-Supported Farm in:**
  - Residential districts zoned for single-family detached homes.
  - Institutional districts (universities, research facilities, etc.)

### ***Other Requirements for Community Gardens or Market Farms:***

- You must make sure your water and fertilizer do not drain into adjacent lots
- Refuse and compost bins must be rodent resistant and located as far as possible from any residences.
- Refuse must be taken out at least once a week.
- Storage areas for tools and other equipment must be enclosed and located as far away as possible from any residences. A zoning and building permit will be required for accessory storage structures.
- No work involving power equipment or generators between sunset and sunrise.
- Any food sold must be sold on the lot where it was grown or at an approved food retail site.
- There are requirements governing when you may erect a fence and what type of fence may be erected in a Community Garden. A zoning permit will be required. Be sure to reference zoning requirements before building a fence.

## **PHILADELPHIA LAWS AND REGULATIONS FOR GROWING & SELLING FOOD**

### **Commercial Activity License:**

The city of Philadelphia requires any group or individual that is not a registered nonprofit to obtain a Commercial Activity License from the Licensing & Inspections Department before beginning sales. You can obtain a CAL for either a lifetime fee of \$300, or for one year for \$50. To get a BPL, you must fill out a license request form. You can do so on the Internet, or by calling 311 and speaking to a representative at the office of Licensing and Inspections.

- <https://business.phila.gov/Pages/BusinessPrivilegeLicense.aspx?>
- \$300 for a lifetime CAL; \$50 for a yearly CAL.

### **Vendor Licenses, Sidewalks, & Incidental Sales:**

Under the zoning code that will take effect in August 2012, community gardening and market farming are allowed in most parts of the city, but you still need to acquire a "use registration permit" from the City if your garden or farm is a new use or a change in the use of a parcel.

- This is a one-time permit, which costs \$125.
- You can find more information here <https://business.phila.gov/Pages/Zoning.aspx> or
- Ask for help from the Department of Licensing and Inspections  
Municipal Services Building  
1401 John F. Kennedy Boulevard ~ Concourse Level  
Call 311 or 215-686-8686

Gardeners are allowed to sell produce (uncut, whole) from their gardens without obtaining any more than a CAL. However, if you want to use the sidewalk or other right-of-way for your sales, you will need to obtain additional licenses from the L&I Department. Similarly, if you want to set up a permanent store for selling food, you will need to contact both L&I and the Health Department.

### **Farmers Markets:**

Currently, the City of Philadelphia maintains a "Farmers Market License" intended for situations where "on designated days and times, growers and producers of horticultural and agricultural products sell those products directly to the public." The City is in the process of revising the requirements of that license, and making determinations about whether or not new small-scale sellers will still be required to obtain said license. If you are interested in selling at a farmers market, there are two good resources in Philadelphia:

- Farm to City (<http://www.farmtocity.org/>) -- (215) 733-9599
- Food Trust (<http://www.thefoodtrust.org/>) -- (215) 575-0444

### **Department of Health/Office of Food Production**

The Office of Food Production is not involved with incidental sales of produce from a garden. However, if you want to prepare food (including slicing up produce to provide samples), or if you want to start selling other products, like eggs or products made from your produce, you will need to contact the Office of Food Protection to discuss what licensing or permitting might be required and get help creating a plan. You can call at 215-685-7495 or use walk-in hours at the Office of Food Protection's West Philadelphia location, 321 University Avenue, 2<sup>nd</sup> Floor, Monday – Thursday 9am to 4pm.

**A ROUGH CHECKLIST FOR GARDENERS  
SEEKING TO COMPLY WITH LOCAL LAWS**

- **Are you planning to start a community garden or market farm?**
  - I want to grow food primarily for sale, either as a nonprofit or for profit venture → market farm.
  - I want to create a garden or grow food for family or community use, with occasional sales → community garden.
- **Is your garden or farm in a zoning district that allows your type of urban agriculture?**
  - If no, you can seek a variance. Contact your City Councilperson and ask to speak with the person in charge of zoning issues.
  - If yes, the Planning Commission says that you will still need to get a **“use registration permit.”**
- **Are you planning to sell produce (or other products) at your garden or farm?**
  - If no, you don't need to read any further.
  - If yes, read on.
- **Is your venture for profit or nonprofit?**
  - If for profit, the City currently requires that you obtain a Commercial Activity License (CAL).
  - If you are recognized as nonprofit by the IRS, you do not need a CAL, but you need to provide the Department of Revenue with your letter from the IRS.
- **Will the farm stand be located in your garden or on the sidewalk?**
  - Are you growing on City-owned property using an Urban Garden Agreement?
    - Unless you receive special permission from the Vacant Property Review Committee, your UGA likely prohibits you from selling produce directly from your garden. Thus, you may need to sell from the sidewalk.
  - If you are selling on the sidewalk, you will need to check with the Department of Licensing and Inspections about prohibited streets and/or get a sidewalk sales permit.
- **Are you selling only raw, agricultural products that are grown on site?**
  - If yes, you have no need to get a license from the Philadelphia Department of Health's Office of Food Protection.
    - The Office of Food Protection can still inspect your farm stand.
    - To be safe, remember not to sell cut produce or offer samples of your produce and make sure your produce is displayed at least six inches above the ground.
  - If you are selling eggs, baked goods, or anything made with your vegetables or fruit, you should be in touch with the Office of Food Protection for more information.