

Robinson+Cole

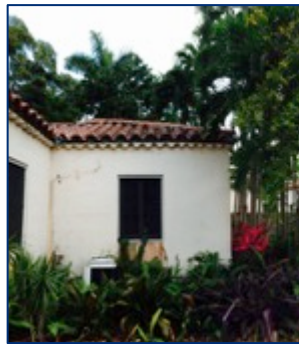
Regulating Urban Ag

30TH ANNUAL ENVIRONMENTAL
PERMITTING SUMMER SCHOOL
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Regulating Urban Agriculture

- Land Use Regulations
- Permitting Processes
- Other Regulatory Considerations
- Right to Farm Laws



Land Use Regulations



- Types of Zones
 - Urban ag zones
 - Industrial zones for food processing
 - Greenbelt zones
 - Overlay zones

Land Use Regulations



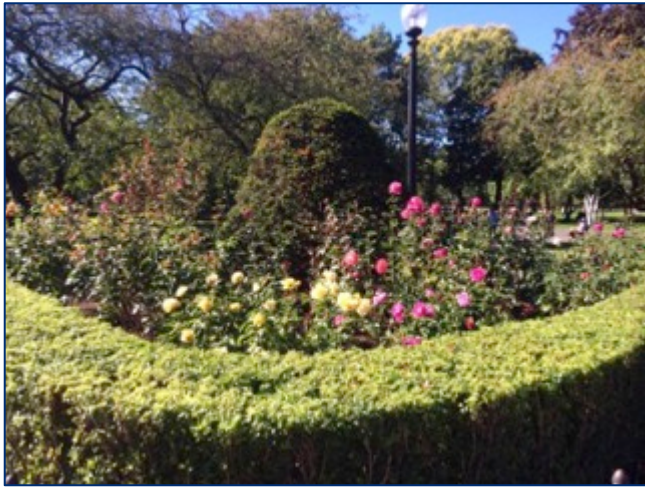
- Urban Ag Uses
 - Non-profit/commercial
 - Growing
 - Livestock/poultry
 - Bees
 - Marketing, distributing, selling

Land Use Regulations



- Urban Ag Uses, Cont'd
 - Infrastructure
 - Hoop houses
 - Chicken coops
 - Greenhouses
 - Raised beds
 - Terracing
 - Composting

Overarching Considerations



- Community's goals
- Piecemeal approach v. comprehensive regulation
- Bans?
- Use Considerations
 - Define urban ag activities allowed
 - Scale and intensity of use
 - Types and purpose of urban ag activities (and location)
 - Ancillary uses and structures including infrastructure

Sacramento's Urban Ag Uses

ZONE CATEGORY	ALLOW BY RIGHT	ZA CONDITIONAL USE PERMIT	ACCESSORY USES
RESIDENTIAL ZONES <i>(RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, R-4A, R-5, RMX, AND RO)</i>	<u>MARKET GARDEN AND COMMUNITY GARDEN, PRIVATE UP TO 1 ACRE</u> <u>AQUACULTURE</u>	<u>MARKET GARDEN AND COMMUNITY GARDEN,</u> <u>PRIVATE EXCEEDING 1 ACRE</u>	<u>PRIVATE GARDEN, URBAN BEEKEEPING, AQUACULTURE</u>
COMMERCIAL ZONES <i>(C-1, C-2, C-3, C-4, OB, OB-2, OB-3, SC)</i>	<u>MARKET GARDEN AND COMMUNITY GARDEN, PRIVATE UP TO 3 ACRES;</u> <u>AQUACULTURE</u>	<u>MARKET GARDEN AND COMMUNITY GARDEN,</u> <u>PRIVATE EXCEEDING 3 ACRES</u>	<u>PRIVATE GARDEN AND URBAN BEEKEEPING</u>
INDUSTRIAL/MANUFACTURING <i>(M-1, M-1(S), MIP, MRD, H, SPX, HC)</i>	<u>MARKET GARDEN AND COMMUNITY GARDEN, PRIVATE HAVE NO UPPER SIZE LIMIT.</u>	NA	<u>PRIVATE GARDEN AND URBAN BEEKEEPING</u>

Restrictions on Use/Requirements for Use*

- Hours of operation
- Parking requirements
- Noise, lighting restrictions
- Fencing
- Setbacks
- Types of equipment and infrastructure allowed
- Maintenance requirements

* *But remember FL's Right to Farm Act*

Sacramento's Urban Ag Stands

Zone Category	Allow by right	Limitations	ZA Conditional Use Permit
Residential Zones (<i>RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, R-4A, R-5, RMX, and RO</i>)	On-site urban agriculture stands* up to 120 sq. ft.	<ul style="list-style-type: none"> - Hours of operation: 8:00 am-7:00 pm (must be dismantled and removed during non-operating hours) -Days: Limited to Tuesdays & Saturdays, except on vacant lots -Prohibited on lots where a private garden is in front yard 	On-site urban agriculture stands greater than 120 sq. ft.
Commercial & Industrial Zones (<i>C-1, C-2, C-3, C-4, OB, OB-2, OB-3, SC, M-1, M-1(s), MIP,MRD, H, SPX, HC</i>)	On-site urban agricultural stands* up to 120 sq. ft.	<ul style="list-style-type: none"> - Hours: 8:00 am-7:00 pm 	On-site urban agricultural stands greater than 120 sq. ft.

Hartford's Urban Ag Ordinance (2015)

- Home gardens as of right.
- Community gardens as a conditional use.
- “Community gardens must be maintained using organic agricultural practices.”
- Farmers’ markets are a conditional use.
- Bees and hens are welcome, roosters are not, and no on-site slaughtering of chickens.



Boston's Article 89 (2013)

- **Addresses:**
 - Urban farms
 - Aquaculture, hydroponics, and aquaponics
 - The backyard keeping of hens and bees (conditional)
 - Farmers' markets and farm stands
- **Commercial farming on rooftops**
- **Neighborhoods can amend applicable use regs.**
- **Dimensional and managements regs for bees**



Permitting Processes

- Types of Permits
 - As-of-right
 - Conditional use
 - Permits/licenses to sell
 - Permits/licenses for livestock or bees



Permitting Processes

- Processes
 - Inspections
 - Fees
 - Exemptions
 - Expedited/simplified permitting processes
 - Density bonuses
 - TDRs
 - Notification requirements

Ft. Lauderdale's Urban Ag Ordinance (2012)

- Purposes:
 - Restore local ag businesses; and
 - Bring fresh produce to underserved areas.
- Permitting for community gardens & urban farms:
 - Site plan application
 - Maintenance plan
 - Hours of operation
 - Water management plan
 - Annual review for gardens
 - Notice to neighbors



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**Urban Agriculture
Site Plan Review Application**

Other Regulatory Considerations

- **Removal of Common Barriers in Zoning Regs**
 - Front yard or side yard gardening
 - Height restrictions on lawn vegetation
 - Prohibition on commercial urban ag
- **Use of Non-Zoning Regs that Affect Private Land**
 - Animal control ordinances
 - Residential composting ordinances
 - Nuisance ordinances

Florida's Right to Farm Act (Fla. Stat. § 823.14)



- Local governments cannot limit farming activities that follow state BMPs.
- Does not apply to permitting procedures and zoning regs that do not limit farming activities. *Wilson v. Palm Beach County*, 62 So. 3d 1247 (Fla. Dist. Ct. App. 2011).

Thank You

