

Salem Board of Health Regulation #30: Urban Agriculture Regulations

Purpose:

To allow residents of the City of Salem to perform Urban Agriculture activities in accordance with recent changes to the City of Salem Zoning Ordinance. To support and encourage local growing, increase access to fresh, healthy foods, improve the local economy and environment, increase the resiliency of our community, and benefit public health by allowing residents to conduct activities including but not limited to growing crops for sale, keeping domestic fowl for the sale of fresh eggs and keeping bees for the sale of fresh honey.

Definitions

“Agriculture, Urban (Urban Agriculture): An umbrella term that describes a range of accessory food and plant growing practices, either for personal use or for sale as an accessory use, that may include composting, the keeping of domestic fowl and honeybees, but does not include other livestock.

Composting: A process of accelerated biodegradation and stabilization of organic material under controlled conditions yielding a product which can safely be used as fertilizer.

Coop: An enclosed shelter that houses domestic fowl.

Domestic fowl: A breed of bird specialized for meat production and/or egg laying and specifically excluding roosters.

Roof Farm: Urban agriculture, on a roof of a principal or accessory structure with the intent to make personal use of or to sell whole, unprocessed produce, honey and/or eggs as an accessory use or, in the case of a commercial use, to be used in products sold on-site. All sales are subject to compliance with local, state and federal regulations.

Yard Farm: Urban agriculture on a residential Lot with intent to make personal use of or to sell whole, unprocessed produce, honey and/or eggs as an accessory use. All sales are subject to compliance with local, state and federal regulations including Board of Health soil testing requirements.

Farmstand (Accessory): A Temporary Structure such as a table, stall or tent, operated by a sole vendor for the purpose of selling clean, whole, eggs, or honey, unprocessed produce and plants, all of which must be grown or produced on site.

Garden, home/yard: An accessory use on a residential lot to grow plants and produce for beautification, recreation, and personal consumption. The garden may be outdoors, in an accessory structure or on the roof of a structure. Sales are prohibited.

Greenhouse: A Structure primarily constructed of a frame and transparent plastic material, in which temperature and humidity can be controlled for the cultivation or protection of plants or other agricultural products. All greenhouse structures are subject to setback and building code requirements.

Honeybee: A common domestic bee, *Apis mellifera* species.

Raised Bed: method of cultivation in which soil is placed over a geotextile barrier, raised and ordinarily formed into three (3) to four (4) foot wide mounds. The soil may be enclosed by a frame generally made of untreated wood. Raised beds are not considered a Structure.

Board of Health Regulations

All Urban Agriculture activities shall be subject to the following:

1. It is the responsibility of the property owner to address any rodent issues by hiring a pest control service.
2. All farms/gardens must remain free of tall weeds, grasses, and rotting fruits and vegetables at all times.
3. Composting must be done in a rodent-proof composter. The setback for an enclosed composter is 5 feet from the rear property line, 10 feet from a side property line.
4. Mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the site, heavy equipment may be used to prepare the land/soil between 8:00 a.m. and 5:00 p.m. Monday – Saturday.
5. Any equipment or supplies needed for garden operations shall be enclosed or otherwise screened from the street and any adjacent residential uses.

Accessory Farmstands shall be allowed subject to the following:

6. Only fresh, un-cut, and unprocessed produce grown on the premises may be sold on-site. Massachusetts Department of Public Health Food Protection Program states that the sale of unprocessed produce, farm fresh eggs and unprocessed honey may be sold without permits.
7. Proof of soil safety is required for any resident who wishes to sell fresh produce and must be clearly posted on-site at the time of sale. <https://ag.umass.edu/soil-plant-nutrient-testing-laboratory/fact-sheets/soil-lead-fact-sheet>.
 - a. A one-time Total Sorbed Metals Test is required for any resident growing directly in-ground. Results must be submitted to the Salem Health Department for evaluation. Proof of soil testing must also be clearly posted at the point of sale. Lead levels must be below 200 ppm per the Massachusetts Contingency Plan (MCP), 310 CMR 40 requirement for S-1 soils.

- i. The UMass Soil & Plant Nutrient Testing Laboratory provides a Total Sorbed Metals test: https://ag.umass.edu/sites/ag.umass.edu/files/pdf-doc-ppt/metals_101519.pdf. All other lab tests must be approved by the Salem Health Department.
 - b. Lead testing through a Routine Soil Analysis is required every three years following the initial Total Sorbed Metals test for in-ground growing. A safe soil lead threshold level of 22 ppm Modified Morgan extractable has been determined using data collected at the UMass Soil Lab. It is recommended that soils with elevated levels of extractable lead (>22 ppm) be re-tested for Total Sorbed Lead. Results must be submitted to the Salem Health Department and must be clearly posted at the point of sale.
 - i. UMass Soil & Plant Nutrient Testing Laboratory screens for lead in their Routine Soil Analysis service. https://ag.umass.edu/sites/ag.umass.edu/files/pdf-doc-ppt/routine_home_grounds_101019.pdf. All other lab tests must be approved by the Salem Health Department.
 - c. For raised-beds, documentation from the soil supplier that soil is free from contamination is required. Documentation must be submitted to the Salem Health Department and clearly posted at point of sale. It is strongly recommended that landscape fabric be used as a barrier between the clean imported soil and the ground. A minimum 12 inches depth of imported clean topsoil is recommended.
- 8. Any person who keeps bees and sells honey must comply with Massachusetts Department of Public Health Food Protection Program for the sale of unprocessed honey. Honey must be produced from hives either located or extracted on-site from hives owned, rented or hosted by resident.
- 9. All eggs sold must be produced by animals kept on-site. Massachusetts Department of Public Health Food Protection Program states that the sale of farm fresh eggs must be stored and maintained at 45°F (7.2°C). A mechanical refrigerator is preferred, but a cooler with ice packs (not cube ice) is acceptable. The temperature of the refrigerator or cooler should be checked regularly with a foodservice-grade thermometer.

Domestic Fowl

- 10. No person shall keep domestic fowl on their premises without obtaining a permit from the Animal Control Officer. Permits must be renewed annually.

11. Adequate housing must be provided for domestic fowl to protect them from wind, weather and predators. Housing shall provide plenty of ventilation, ample space to allow fowl to move freely and an area out of direct sunlight to lay eggs.
12. Roosters are not allowed to be kept in the City of Salem.
13. Coop structure will be located in a well-drained area that does not discharge on a public way, neighbor's property, wetland or waterbody.
14. All outdoor roaming areas for domestic fowl shall be sufficiently enclosed and screened from the street and neighboring properties.
15. Domestic fowl shall not be kept within the living area of the residential structure.
16. Noise from domestic fowl at the property boundary must meet DEP regulation for noise.
17. Odors from hens, hen manure, or other hen-related substances shall not be perceptible at the property boundaries.
18. Waste shall either be composted with carbonaceous material such as hay, bedding, or leaves or stored in a sealed container until it is removed from the property.
19. Henhouses shall be cleaned at least on a weekly basis.

Honey bees

1. All Salem residents who purchase, rent or host honey bee hives must schedule an inspection with a State Apiary Inspector: <https://www.mass.gov/forms/mdar-apiary-inspection-request-form>. Inspections are free, and proof of inspection must be submitted to the Salem Health Department (i.e. MDAR Health Inspection Report or Health Certificate). Frequency of inspections to be determined by MDAR and/or State Apiary Inspector.
2. A maximum of four (4) hives may be kept on a Lot, with additional hives pending approval from the Salem Board of Health. Additional Board of Health regulations may further limit the number and/or manner of keeping of honeybees on lot. Existing beekeepers with more than four hives may apply for a variance. If an emergency split or rescue of a swarm results in more than four hives on a lot, the Board of Health must be notified within two business days.
3. The Beekeepers shall maintain their apiaries in such manner that the same shall not become a public nuisance.
4. The beekeeper must comply with all Massachusetts General Law's and Regulations of beekeeping (MGL Chapter 128 Sections 32-38 and 330 CMR 8.00) including:
 - a. Notify the Commonwealth of the hives within 48 hours of possession

- b. Mark all hives with the name of the owner, either inside or outside, to be easily found by the inspector. Branding or stencil-marking or broad ink pen lettering is recommended.
 - c. Bees moved between sunrise and sunset shall be covered with wire mesh, screen or net.
- 5. Stagnant water that could provide a breeding area for mosquitoes is not permitted.
- 6. The Board of Health may suspend, revoke, or decline to renew a beekeeper permit for cause after reasonable notice to the licensee of the ground for the proposed action.
- 7. If the Board of Health, or its agent, determines that the hive causes disturbances on, or damage to neighboring property or public areas, the Board or its agent may require that the hive be removed, at owner's expense.

Severability

If any section, paragraph, sentence, clause, phrase, or word of this regulation is declared invalid for any reason, that decision will not be applicable to the remaining portions of these regulations.

Effective Date

This regulation will take effect on July 1, 2022.

City of Salem
Board of Health
98 Washington Street, 3rd Floor
Salem, Massachusetts 01970-3928

Dr. Jeremy Schiller, Chair
Paul Kirby
Geraldine Yuhas
Datanis Elias
Sara Moore

A summary of the regulation was published as a legal notice in the Salem Evening News on June 10, 2022.

After a vote of the Board of Health, at a posted meeting on June 14, 2022: 4 affirmative; 0 negative, and 1 absent, the following signature is authorized.

Signed,

A handwritten signature in dark ink, appearing to read 'J. Schiller', with a long horizontal flourish extending to the right.

Dr. Jeremy Schiller, Chair

