

**CITY OF SALEM URBAN AGRICULTURE
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SECTION 1: STATEMENT OF PURPOSE:

An ordinance amending the Salem zoning ordinance to encourage agriculture in the city of Salem, adding definitions, and amending the table of uses and the footnotes to the table of uses to allow high yield food gardens and farms as accessory residential uses, and to allow community gardens, community farms and farming on municipal land.

SECTION 2: DEFINITIONS

Agricultural use, nonexempt: Agricultural use of property not exempted by G.L. c. 40A, s. 3 and limited to the following: customary agricultural, horticultural and floricultural operations, provided that all the buildings combined shall not occupy a greater percentage of the lot area than listed in the Table of Dimensional Requirements

Accessory building: A subordinate building located on the same lot as the main, or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

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

Aquaponics: Cultivation of fish and plants together in a constructed, re-circulating system using natural bacterial cycles to convert fish wastes to plant nutrients.

Arbor: An accessory structure consisting of an open frame, freestanding or attached to another structure, with horizontal and/or vertical latticework often used as a support for climbing food or ornamental crops.

Coldframe: A temporary, unheated outdoor structure built close to the ground, no higher than thirty-six inches (36") typically consisting of, but not limited to, a wooden or concrete frame and a top of grass or clear plastic, used for protecting seedlings and plants from cold weather.

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: enclosed shelter that houses domesticated fowl.

Customary agricultural, horticultural and floricultural operations: Urban Agriculture activity for the purpose of growing or harvesting of agricultural, horticultural and floricultural crops, including but not limited to the production of eggs, milk, honey, or the carrying out of any other prescribed agricultural activity or process, for the primary purpose of making a profit, meeting a community need, or providing a livelihood. Does not include residential gardening or keeping of honeybees or domesticated fowl for personal consumption or use.

Domestic fowl: a breed of bird specialized for meat production and/or egg laying

Farm (verb): The cultivation and tillage of the soil, the production, planting, caring for, treating, growing and harvesting of any agricultural, aquaculture, floricultural or horticultural commodities, the keeping and raising of domestic fowl and/or honey bees, with sales and/or distribution subject to compliance of local, state, and federal regulations. Farming may be conducted on open land, in a greenhouse, in raised beds, in an enclosed building, or on the roof of a principal or accessory structure.

Farm, Commercial: Primary use of a lot is commercial urban agriculture.

Farm, Community: Operated by a nonprofit or municipality, on privately or publicly owned land, with the intent of producing food for the benefit of the community; revenue from sales of any products grown or raised on a community farm must be used for the sole purpose of sustaining the community farm.

Farm, Roof: Urban agriculture on a roof of a principal or accessory structure

Farm, Yard: Urban agriculture on a residential yard. Sales subject to permit by the Zoning Board of Appeals and compliance with local, state and federal regulations.

Farm Stand: A temporary structure such as a table, stall or tent, operated by a sole vendor for the purpose of selling clean, whole, unprocessed produce, eggs, or honey cultivated on site.

Farm Structures: Structures that may be temporary or permanent and include, but are not limited to, sheds (tool and packing), compost bins, shade pavilions, Farm Stands, trellises or other vertical supports for growing crops, and structures used to extend the growing season such as Greenhouses, Hoop houses, Coldframes, Freight Containers, and similar structures.

Freight Farm: standardized reusable steel box previously used for the storage and movement of materials and products within an intermodal freight transport system and repurposed for a Controlled Environment Agriculture (CEA) use, such as Hydroponics and/or Aquaponics.

Garden, community: Gardens operated by a nonprofit or municipality on privately or publicly owned land, with a primary purpose of providing space for members of the community to grow plants for beautification, recreation, donation and/or consumption for personal use. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by group members.

Garden, home/yard: An accessory use on a residential lot to grow plants for consumption, beautification, recreation, and consumption for personal use. The garden may be outdoors, in accessory greenhouses or on the roof of a structure. The ownership, care and control is the responsibility of a resident of the dwelling on the lot. Sales are prohibited.

Greenhouse: A temporary 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.

Hoop house: A temporary structure typically made of, but not limited to flexible PVC piping or other material covered with translucent plastic, constructed in a “half-round” or “hoop” shape, for the purposes of growing food or ornamental crops.

Hydroponics: The cultivation of plants in nutrient solution rather than soil.

Livestock : Any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle.

Raised Bed: method of cultivation in which soil is placed over a geotextile barrier, and raised and 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.

Run : An outdoor enclosure generally made of wire mesh.

SECTION 3.0: USE REGULATIONS

Table of Uses is hereby amended as follows:

3.1 - PRINCIPAL USES

Except as provided by law or in this Ordinance in each district, no building or structure shall be constructed, used or occupied, nor shall land be used or occupied, except for the purposes permitted as set forth in the accompanying Table of Principal and Accessory Use Regulations.

3.1.1 By Right. A use listed in the Table of Principal and Accessory Use Regulations is permitted as of right in any district under which it is denoted by the letter "Y" subject to such restrictions as may be specified elsewhere in this Ordinance.

3.1.2 Special Permit: Zoning Board of Appeals. A use designated in the Table of Principal and Accessory Use Regulations by the letters "BA" may be permitted as a special permit only if the Zoning Board of Appeals so determines and grants a special permit therefore as provided in [Section 9.4](#) of this Ordinance subject to such restrictions as are set forth elsewhere in this Ordinance, and such restrictions as said Board may establish.

3.1.3 Special Permit: Planning Board. A use designated in the Table of Principal and Accessory Use Regulations by the letters "PB" may be permitted as a special permit only if the Planning Board so determines and grants a special permit therefore as provided in [Section 9.4](#) of this Ordinance subject to such restrictions as are set forth elsewhere in this Ordinance, and such restrictions as said Board may establish.

3.1.4 Not Allowed. A use listed in the Table of Principal and Accessory Use Regulations which is denoted by the letter "N" is not allowed without an amendment to these Zoning Ordinances enacted by the Salem City Council.

PRINCIPAL USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
a. Without the keeping of honey bees and/or hens	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
b. With the keeping of honey bees and/or hens	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
Community Farm	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
a. Without the keeping of honey bees and/or hens	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
b. With the keeping of honey bees and/or hens	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-
C. COMMERCIAL USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
1. Commercial farm and/or Greenhouse without keeping of honey bees and/or hens; Operations, in part or in whole, conducted outside an enclosed building or on a roof; at least 50% of products for sale must be grown on site:											
a. less than 5,000 s.f. of gross floor area	N	N	N	N	Y	Y	Y	Y	Y	Y	-

C. COMMERCIAL USES	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
b. 5,000 to 9,999 s.f. of gross floor area	N	N	N	N	Y	Y	Y	Y	Y	Y	-
c. 10,000 s.f. or more of gross floor area	N	N	N	N	Y	Y	Y	Y	Y	Y	-
2. Commercial farm and/or Greenhouse without keeping of honey bees or domestic fowl; all operations conducted entirely within an enclosed building; at least 50% of products for sale must be grown on site:											-
a. less than 5,000 s.f. of gross floor area	N	N	N	N	Y	Y	Y	Y	Y	Y	
b. 5,000 to 9,999 s.f. of gross floor area	N	N	N	N	Y	Y	Y	Y	Y	Y	
c. 10,000 s.f. or more of gross floor area	N	N	N	N	Y	Y	Y	Y	Y	Y	
3. Commercial farm and/or Greenhouse with keeping of honey bees and/or hens; at least 50% of products for sale must be grown on site:											
a. less than 5,000 s.f. of gross floor area	Y	Y	N	N	Y	Y	Y	Y	Y	Y	

Home/yard gardens	Y	Y	Y	Y	Y	N	N	N	N	N	-
Roof gardens	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	-

Urban Agriculture Use Categories

3.1 - PRINCIPAL USES

1. Exempt Uses

- a. Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than two acres in area on which the facility is located
 - i. Sales are subject to compliance with local, state and federal regulations
 - ii. May be conducted outdoors, in a greenhouse, or on the roof of a principal or accessory structure

2. Institutional Uses

- a. Community Garden
 - i. Sales, processing and storage of plants or plant products are prohibited on-site.
 - ii. Nonprofit community gardens on municipal land must sign a Memorandum of Understanding with the City of Salem.
- b. Community Farm
 - i. Must be operated by a nonprofit or municipality
 - ii. May be conducted outdoors, in a greenhouse, or on the roof of a principal or accessory structure
 - iii. All sales revenue must be used for the sole purpose of sustaining the farm
 - iv. Sales are subject to compliance with local, state and federal regulations

3. Commercial Uses

a. Commercial farm

- i. Sales are subject to compliance with local, state, and federal regulations.
- ii. May be conducted outdoors, in a greenhouse, or on the roof of a principal or accessory structure.
- iii. At least 50% of products for sale must be grown or produced on site

3.2 - ACCESSORY USES

Urban Agriculture is allowed as an Accessory Use in all zoning districts, provided that no Urban Agriculture activity shall be conducted, or Farm Structure erected, except in compliance with the provisions of this Article, provided, however, that the provisions of this Article shall not apply to any of the following:

1. Any Urban Agriculture activity for which appeal to the Zoning Board of Appeals has been made prior to the first notice of hearing for adoption of this Article, and provided that such Zoning relief has been or is thereafter granted by the Zoning Board of Appeals pursuant to such appeal; or
2. Any Urban Agriculture activity conducted or Farm Structure erected pursuant to a building permit issued prior to the first notice of hearing before the Zoning Board of Appeals for adoption of this article

Notwithstanding the above, any replacement of either such Urban Agriculture activity or Farm Structure described in this Article with another Urban Agriculture activity or Farm Structure must comply with all of the requirements of this Article:

1. All Urban Agriculture activities shall be subject to any applicable building code requirements and any applicable rules and regulations established by the Salem Board of Health
2. All the buildings combined shall not occupy a greater percentage of the lot area than listed in the Table of Dimensional Requirements.

The following accessory uses shall be permitted as set forth in the Table of Principal and Accessory Use Regulations.

1. Customary Agricultural, Horticultural and Floricultural Operations

On-site sale of agricultural products, including produce, honey or eggs, are subject to the following provisions:

- a. Retail sale display areas shall not exceed fifty square feet
- b. One farm stand is allowed per lot
- c. No sales display or structure shall be located on a public sidewalk, street or block vehicle and/or pedestrian flow
- d. Signage shall be limited to one (1) sign and not exceed six (6) square feet; signs shall not be illuminated or require electricity.
- e. Proof of annual soil testing must be posted during all sales of produce
- f. All products sold must be produced on-site
- g. Sales of products shall be permitted between the hours of 7:00am and 6:00pm.

2. Domestic Fowl

- a. Domestic fowl shall be kept per the Table of Principal and Accessory Use Regulations. Ownership, care and control of the fowl shall be the responsibility of a resident of the dwelling on the lot.
- b. If the keeper of the domestic fowl is not the lot owner, written permission from the lot owner permitting the keeping of fowl on the lot shall be attached to the permit application.
- c. Keeping of domestic fowl is subject to all applicable State and local laws and regulations including but not limited to an annual permit and one-time training certification provided by the Salem Board of Health.
- d. No roosters shall be kept under an Urban Agricultural use on lots in Salem.
- e. The on-site sale of eggs is subject to compliance with local state and federal regulations.
- f. Domestic fowl are not permitted within 20 feet of a front lot line.
- g. Dimensional Regulations
 - i. Maximum Height.
 1. Coop. Enclosed Coop space shall not exceed eight (8) feet in height.
 2. Run. Runs shall not exceed eight (8) feet in height.
 - ii. Size
 1. Coop. Coop space must allow a minimum of four (4) square feet per and one (1) nest box per three (3) Hens.
 2. Run. Runs must allow a minimum of four (4) square feet per fowl.

h. Setback Requirements

- i. No fixed coop or run shall be located nearer than five (5) feet to any principal building, including the principal building on an abutting lot, and no coop or run shall be located nearer than five (5) feet to any side or rear lot line. Side lots in this instance refer to a projected line starting from the front lot line, terminating at the rear lot line parallel ten (10) feet from the side lot line.
- ii. Moveable coops (i.e. coops on wheels) are not subject to setback requirements.
- iii. Any domestic fowl-keeping use or structure in existence prior to the adoption shall be allowed to continue, as per the zoning code enforcement standards of other pre-existing nonconforming uses and structures. Any future alterations to applicable pre-existing uses or structures shall seek necessary approvals.

3. Honeybees

- a. Honeybees shall be kept per the Table of Principal and Accessory Use Regulations. Ownership, care and control of the honeybees shall be the responsibility of a resident of the dwelling on the lot.
- b. If the keeper of the bees is not the lot owner, written permission from the lot owner permitting the keeping of bees on the lot shall be attached to the permit application.
- c. Keeping of honeybees is subject to all applicable State and local laws and regulations including but not limited to an annual permit and one-time training certification provided by the Salem Board of Health.
- d. A maximum of 1 hive 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.
- e. Dimensional Regulations
 - i. No Hive shall exceed five (5) feet in height and twenty (20) cubic feet in size on any Lot or roof.
- f. Setback Requirements
 - i. Where there is a wall, fence or similar barrier between the subject property and adjacent property, no setback from the property line is required. Where there is no wall, fence or similar barrier between subject

property and adjacent property, Hives shall be set back five (5) feet from the property line.

ii. No Hive shall be located closer than ten (10) feet from a public sidewalk.

g. Hive Placement and Flyways.

- i. For any ground level Hive that is within twenty (20) feet of the doors and/or windows of the principal building on an abutting Lot, either of the following conditions must exist:
 - ii. The Hive opening must face away from doors and/or windows; or
 - iii. A flyway of at least six (6) feet in height comprising of a lattice fence, dense hedge or similar barrier must be established in front of the opening of the Hive such that the honeybees fly upward and away from neighboring properties. The flyway shall be located within three (3) feet of the entrance to the Hive and shall extend at least two (2) feet in width on either side of the Hive opening.

h. Specific Rooftop Beekeeping Requirements.

- i. Dimensional Regulations.
 1. No Hive shall exceed five (5) feet in height and twenty (20) cubic feet in size on any Lot or roof.

ii. Setback Requirements

1. Hives shall be set back six (6) feet from the edge of the roof.

iii. Hive Placement and Flyways.

1. For any roof level Hive that is within twenty (20) feet of the doors and/or windows of the principal building on an abutting Lot, either of the following conditions must exist:
 - a. The Hive opening must face away from doors and/or windows; or
 - b. A flyway of at least six (6) feet in height comprising of a lattice fence, dense hedge or similar barrier must be established in front of the opening of the Hive such that the honeybees fly upward and away from neighboring properties. The flyway shall be located within three (3) feet of the entrance to the Hive and shall extend at least two (2) feet in width on either side of the Hive opening.

4. Yard Farms

- a. Yard farms may be kept on residential properties only.
- b. Yard farms must be in compliance with all State and local laws and regulations.
- c. Ownership, care and control of the farm shall be the responsibility of a resident of the dwelling on the lot.
- d. Land devoted to agricultural use shall be well-maintained and free from debris, excessively tall weeds and grass.
- e. Yard farms may include raised beds, greenhouses, hoop houses and cold frames as accessory structures subject to applicable setbacks and dimensional regulations.
- f. Accessory structures to an agricultural use shall also be well-maintained.

5. Roof Farms

- a. Roof farms as an accessory use may be kept on residential properties only
- b. Roof farms must be in compliance with all State and local laws and regulations and must adhere to all building codes and structural requirements
- c. Ownership, care and control of the roof farm shall be the responsibility of a resident of the dwelling on the lot.

6. Farm Structures

- a. Farm structures such as arbors, greenhouses, hoop houses and cold frames, shall be allowed as accessory structures subject to the following provisions:
 - i. Green houses are allowed within any rear or side yard up to but not closer than five (5) feet from the lot line.
 - ii. Arbors, hoop houses and cold frames are allowed within any rear or side yard up to but not closer than one (1) foot from the lot line.
 - iii. Hoop houses, cold frames, arbors, greenhouses or other similar structures shall not exceed a maximum height of 15 feet and can not be taller than the primary structure; the covers shall be removed and stored when plants are not being cultivated or structure is not being used for domesticated fowl or other livestock.
 - iv. Farm structures shall be subject to any applicable State and local building code requirements.

7. Composting

- a. Accessory Composting shall be allowed per the Table of Principal and Accessory Use Regulations.

- b. Composting which is accessory to Customary Agricultural, Horticultural and Floricultural Operations is subject to regulation by the Massachusetts Department of Agricultural Resources (MDAR) under 330 CMR 25.00, Agricultural Composting Program.
- c. Composting must be contained within an enclosed bin that does not have direct contact with flammable materials.
- d. Dimensional Regulations
 - i. Maximum height of Composting structures or bins shall not exceed ten (10) feet.
- e. Setback Requirements
 - i. Compost bins, structures and windrows shall be set back five (5) feet from all property lines.
 - ii. Compost bins, structures and windrows shall not be located in the front yard or in a side yard that abuts a street in all residential and commercial zones.
- f. Composting which is accessory to Customary Agricultural, Horticultural and Floricultural Operations shall be used primarily to support onsite operations and shall comprise no more than seven and a half (7 ½) percent of the Lot area.
