URBAN FARMING: ZONING FOR GROWING AND DISTRIBUTING FOOD IN PORTLAND NEIGHBORHOODS

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In a continued effort to encourage all things local, the City of Portland is taking steps to impose order onto the booming business of local, urban food production by formally recognizing market and community gardens, farmers markets, and food co-ops within its zoning code. Portland is joining a handful of other cities—such as San Francisco, Seattle, Philadelphia and Kansas City, reducing zoning barriers and encouraging the growing and selling of food in urban spaces. Although these activities have been allowed on a temporary basis within existing open spaces and empty parking lots, the objective with these amendments is to make existing uses permanent, create additional opportunities for access to new sources of food while, at the same time, restricting and mitigating negative impacts.

A series of draft urban food zoning code amendments scheduled for adoption in May of 2012 aims to update food production codes to increase the food options available within urban areas. The existing limitations identified in the current zoning code include restricting large-scale production, primary use farm and agricultural activities to be located only in industrial or rural zones and limit small-scale food-growing activities as a conditional or prohibited use in residential, commercial or institutional zones. Further, they disallow any for profit operation. Community gardens are temporarily allowed in some zones and farmer’s markets are allowed only as retail uses in commercial zones. The code does not contemplate food co-ops or farm membership distribution sites.

The new code amendments identify a new use - Market Gardens, including orchards, where food may be grown individually or collectively and sold on-site to consumers, restaurants and stores. Classified as an Agricultural Use, it may be a primary or an accessory use within any residential, open space, or institutional zone. In single-dwelling zones, a Market Garden compassing the equivalent of two minimum-sized lots within the base zone (e.g. 14,000 square feet in an R7 zone) is allowed outright. Whereas a Market Garden occupying three minimum-sized base zone lots (e.g. 21,000 square feet in an R7 zone) is allowed if the gardener notifies the neighbors and holds a meeting. An applicant who does not wish to be limited to the Market Garden size restrictions and will agree to more limited on-site sales restrictions, may operate an Agricultural use outright in the higher density residential zones and subject to a conditional use in the medium density single family zones. Market Gardens are preferred in residential zones over other home occupations because they provide increased access to food and provide green space. Larger-sized Market Gardens are allowed in multi-dwelling zones and sites with institutional uses in residential zones and are limited in size based on a rough estimate of typical lots sizes. Market Garden sales must be limited to food grown on-site or “value-added products made from produce grown on site, such as jams and pickles.” The code does not specify how much of the total sales must come from food grown on-site such that presumably a hamburger could be sold so long as the cucumber used to make the pickle was grown on-site. No particular amount of parking, off-street or on-street is required beyond that of the underlying zone. Sales in residential zones are further limited to between 7 AM and 9 PM and are allowed up to 70 days each year. Although the code is silent about lighting, as might be necessary to support sales after dark, it does prohibit exterior signage.

A use that has long-existed on vacant residential lots in Portland as a temporary use, the new code expressly recognizes Community Gardens as a permanent and primary use. This “offsite back yard” may be publicly or privately owned and cultivated by several individuals or households providing food or flowers for personal
consumption or donation. “Seasonal outdoor sales” are allowed twice a year, for up to five weeks each time but the funds raised must be used for operating expenses only. Most of these gardens are operated by the Portland Bureau of Parks and Recreation, which imposes additional operating regulations and may be more restrictive.

The third category of urban farm use identified in the new amendments relates to farmers markets. Approximately 25 farmers markets currently operate within Portland although they are not identified as a use category within the current code and are permitted as temporary uses. The new code amendments allow Farmers Markets in all non-residential zones and in the highest density multi-dwelling zones. At least 70 percent of the vendors must be farmers, ranchers or other agricultural producers who sell food, plants, flowers, and “added-value product, such as jams and jellies, they have grown, raised or produced from products they have grown or raised.” Up to 20 percent of the vendors may sell food that is freshly made and available for immediate consumption and 10 percent of the market vendors may be community groups or other vendors not related to agriculture or food. Time will tell whether by focusing on the nature of the vendor’s profession rather than what is being sold and its origins will lead to exaggerations of the use categories such as local farmers selling coffee, a farm-product that is not locally grown. These Markets may be open for up to 70 days per calendar year. Citing a lack of complaints regarding the early-morning setup times and the need for a critical mass of customers making evening hours difficult, no limitations have been set regarding hours of operations.

Food Member Distribution Sites, such as community supported agriculture where urban residents share in the farm goods by picking them up at a distribution site or food buying clubs, and where groups buy bulk food directly from wholesalers or growers that is picked up at a single location are permitted as accessory to residential, institutional, office and retail sales and service uses. The Code amendments are focused on capping these activities at an identified intensity and once that intensity is reached, the activity must relocate to a different site. Intensity is gauged by categorizing the number of delivery days per calendar year, the maximum number of members who visit the site, and the proximity of the site to non-local streets that are assumed to be in close proximity to transit.

There are a number of challenges associated with urban farming that are not addressed by these amendments. First, the City of Portland does not have access to irrigation water and must rely on the higher-cost water that is safe for human consumption. It is unclear how the high cost of water will deter these efforts at enhancing urban food cultivation. Second, all food consumption and soil testing laws that apply to commercial farming similarly apply to small-scale urban farming efforts. Thus producers and consumers alike must be diligent in ensuring that this food, like all other food purchases, is safe. Third, traffic congestion, road closures and parking for customers and vendors are concerns that are left to the transportation bureau and the neighborhoods to address.

In the brave new world of sustainability, Portland has come up with a bold experiment. That experiment must now be tested and evaluated.

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