Growing Milwaukee

by Bruce Wiggins

Finding Land

Whether you are starting a community garden or starting a commercial farm business, you need to gain access to land and obtain permission to use it for an extended period of time. You don’t want to go to all the work of creating a farm or garden and then have the owner show up to go to all the work of creating a farm or garden.

Finding and Securing Land

Securing Land

Gardening on City of Milwaukee Property – Obtaining Permission

The city has several methods for making land available for community gardens.

Seasonal Permit: This permit allows a group to start a community garden and operate it during the growing season, typically March 1 through October 31. The permit is a two-page license agreement (a form of legal document) specifying the rights and responsibilities of both the owner (the city) and the garden operator. This permit allows a group to gain the experience of gardening and demonstrate that they can manage the garden. It might be renewed the next year or even year after year, but the city makes no promises that the lot will be available in future years. There is no cost for this permit.

Three-Year Agreement: Typically after a garden group gains some experience with a Seasonal Permit for a year or two, the city can issue a three-year lease or license a property to a community group, a local land trust such as Milwaukee Urban Gardens, or another community institution such as a church or the Milwaukee County Extension Service. A license agreement allows you to enter onto the property and use the land for gardening. City Real Estate staff has the authority to license properties to MUG or the Milwaukee County Extension Service. Other agreements, such as a long-term lease, require legislative action through the Common Council, which can be a time-consuming process. This permit currently costs $25/year and is a longer legal document.

Sale of Property: The city can sell land to a garden group, land trust, or institution such as a church. Sale of property requires Common Council approval, so groups must work closely with the District Alderperson.

Farming on City of Milwaukee Property – Obtaining Permission

The city’s new HOME GROWN program was created partly to promote urban farming and reuse of vacant lots. Sale or long-term lease of land for a commercial farm requires special legislation with Common Council approval. If you want to secure long-term access to a property, start by working with HOME GROWN staff and the district alderperson.

Other Ownership

If you find land that is owned by an individual, a company, an institution such as a church or hospital, or a unit of government other than the city, you will need to negotiate directly with that owner. You may be able to obtain a lease or agreement of sale.

All matters can be negotiated – such as term (for example, one year or multiple years), uses (farming or community gardening), plans (the layout of activities and any buildings, etc.), costs or fees, and insurance. All these should be specified in the agreement signed by both parties. You should have an attorney help you with the final agreement.
SPECIAL SECTION
CITY OF MILWAUKEE URBAN AGRICULTURE ORDINANCES

Urban Farming

The city’s new ordinance allows growing of crops for commercial purposes, defining such a farm as a Commercial Farm Enterprise (CFE). Commercial Farming Enterprise means a premises used to grow and harvest plants or compost for sale to the general public, retail businesses or wholesale establishments. This use does not include community gardens or outdoor storage facilities. Edible plants (vegetables and herbs) and non-edible plants (trees, bushes, perennials, flowers) can be grown on a CFE. Composting can be a primary use on a CFE. Chickens (hens) and bees can be raised on a CFE under the same rules as ordinary permits for those animals (see other sections of this Insert.) The city now differentiates a farm with and without animals. A farm or business with animals must follow a different set of rules than a CFE does. The new ordinance definition for raising animals is the following (note that aquaculture is included in this definition).

Raising Of Livestock means the use of land or buildings for aquaculture, or the keeping of bees, cows, cattle, horses, sheep, swine, goats, chickens, ducks, turkeys, geese or any other domesticated livestock permitted by the health department under the provisions of Chapter 78 of the City of Milwaukee Code of Ordinances. This insert does not cover the special procedures and rules for raising of livestock other than hens or bees. Contact HOME OR/OWN staff or the resources listed here for additional information on raising of livestock.

Permits & Certificates: A CFE operator (a farmer) needs to obtain a permit from the city’s Development Center (see Resources). You will need to develop a site plan showing where you will be growing crops along with the location and type of any structures on the land. A CFE is allowed in an industrial or institutional zoning district without a special hearing. A CFE in a residential or commercial district will require a special use permit and a public hearing at the Board of Zoning Adjustment (BOZA), which has a special application process, an application fee, and it may take several months to schedule the BOZA hearing. CFEs are not allowed in the Downtown zoning areas. See the Buildings section of this insert regarding the requirements for buildings on the farm property. You should start working with your district alderperson and neighbors as soon as you have identified a parcel of land you want to farm.

Community Gardening

All community gardens will now need a permit from the city – whether on city land or private property. As defined in the ordinance:

Community Garden means any use of land or a premises for the growing of crops, plants or other vegetation by a group of individuals or by a public or non-profit organization. This use includes composting and the raising of crops, native vegetation or fruit not otherwise in violation of this code. It also includes the sale of produce and ornamental crops grown on-site. This use does not include a commercial farming enterprise or outdoor storage facilities. If your community garden existed on June 1, 2014, you do not need a permit for this year. You can continue without a permit. But all community gardens in 2015 will need a permit, including gardens that existed in 2014 or new ones being created. There is no cost to obtain the permit. The city will soon have a permit application form online. The garden group is asked, among other things, to describe the community outreach efforts made to neighbors. The permit application form for gardening on city-owned land is to be sent to Yves LaPierre (contact information previous page). The permit application for gardening on privately-owned land is processed at the Development Center.

A new procedure in the permit process is approval by the district alderperson, so you should contact him or her early in your planning and organizing process. When you submit your application to the city, the Development Center will notify the alderperson and he or she has 10 days to decide whether your permit should be granted or denied based on the following narrow criteria. A garden permit can be denied if:

- The applicant is not a group of individuals or a public or non-profit organization.
- The applicant has had a community garden permit revoked in the past three years.
- Operation of the community garden will unreasonably disrupt the safe and orderly use of any street, alley or other public place as a result of vehicular traffic or parking related to the community garden.
- Operation of the community garden will unreasonably disrupt the public right-of-way through the tracking of dirt and other materials onto the public right-of-way; damaging of turf, creation of rats, damaging of curbs and so forth.
- Operation of the community garden will occur at such hours or at such intensity as to disturb the peace of the surrounding neighborhood.

The community garden will not be in compliance with the applicable standards and requirements of the City Code. Once a Community Gardening Permit is issued, it can be revoked by the city if there have been multiple code violations found by inspectors of the Department of Neighborhood Services (DNS). The presence of rats, weeds or uncult grass, cars parked on the property, and late-night parties are examples of activities that may cause a permit to be revoked.

For the first time, gardeners are allowed to sell produce at the garden (fruits and vegetables) along with ornamental crops (flowers, perennials, shrubbery). They cannot sell compost, packaged, or processed food. The city requires raised beds filled with twelve inches of clean soil or compost to be used in community gardens on city-owned land. Community gardeners usually build four foot by eight foot beds of two-by-twelve lumber. This allows easy of access, and since these beds hold about one yard of soil, makes ordering easier. You can compost at your community garden, but the size and placement are restricted under current regulations. Compost bins must be no taller than five feet and cannot exceed 125 cubic feet (for example, a cube-shaped bin five feet on a side). See Sec. 79.125 of the City Code of Ordinances (available online at Milwaukee.gov) for further details.

You may want to visit some successful community gardens to see how they work. There are now more than 100 community gardens in Milwaukee proper. See the Resources list.
A major goal of Milwaukee urban ag advocates, identified several years ago, was accomplished this year with the new ordinance that includes definitions and rules for structures on community gardens and farms.

Three types of accessory structures are now allowed on CFIs and community gardens: hoop houses, large agricultural structures, and sheds.

Hoop House means a temporary or permanent structure typically constructed with, but not limited to, pipping or other material covered with translucent material for the purpose of growing food or ornamental crops, but not for storage of inorganic materials. A hoop house is considered more temporary than a greenhouse.

Large Agricultural Structure means an accessory structure that does not fit the definition of a hoop house and that is greater than 150 square feet in area.

Shed means an accessory building of not more than 150 square feet of floor area and not more than 14 feet in height.

“Accessory” means a structure customarily incidental or subordinate to the principal building or use on the property.

So, for example, a shed up to 150 square feet (10 by 15 feet in floor area) is permitted at a community garden for selling produce. Also allowed as accessory to the garden farm stands for selling of produce are also allowed as accessory to the garden for selling produce.

Permitting Process
While these structures are now permitted on both city-owned and privately-owned land, they may still need special review and may need building permits issued by the city’s Development Center.

The normal procedure for obtaining a permit is to take your plans to the Development Center. A Plans Examiner will review them and issue the permit or tell you what additional information you must supply or requirements you must meet.

The plans you take to the Development Center can be, for a simple structure, a hand-drawn site plan and description of your construction. You will need more elaborate drawings by a design professional for a large building or complex of buildings.

Combinations of Structures
Here are specific requirements for combinations of these structures:

- Not more than one shed and one large agricultural structure may be located on a single lot.
- The total lot coverage of sheds and large agricultural structures cannot exceed 15% of the lot area.
- The total lot coverage of all sheds, large agricultural structures and hoop houses on a single lot must not exceed 70% of the lot area.

Getting Help With Plans
Plans Examiners in the city’s Development Center can provide permit information and requirements specific to your site. The Development Center is located in the City Hall complex of buildings downtown.

It doesn’t cost anything to meet and consult with Plans Examiners. So if you are planning a business or a community garden with structures, you should set up an appointment at the Development Center (see Resources).

Note, however, that fees are required when it comes time to obtain a permit.

Do you need a building permit for…

- An Accessory Shed under 150 sq. ft. and set back at least three feet from the property line? N O
- Rainwater harvesting on the shed? Y E S
- Rain barrels? N O
- Farm stand (not mobile)? N O
- A Large Agricultural Structure? N O
- A hoop house? Y E S
- A rainwater harvesting system that is larger or more unconventional than rain barrels or rainwater harvesting on a shed? Y E S

**Accessory Structure Restrictions**

<table>
<thead>
<tr>
<th>Structure Type</th>
<th>Shed</th>
<th>Large Ag Structure</th>
<th>Hoop House</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front, side or rear street setback</td>
<td>Avg* + 5 feet</td>
<td>Avg* + 5 feet</td>
<td>Avg* + 5 feet</td>
</tr>
<tr>
<td>Side or rear setback</td>
<td>5 feet</td>
<td>5 feet</td>
<td>5 feet</td>
</tr>
<tr>
<td>Maximum height of sidewall</td>
<td>8 feet</td>
<td>10 feet</td>
<td>14 feet</td>
</tr>
<tr>
<td>Maximum overall height</td>
<td>10 feet</td>
<td>If on a vacant lot, 14 feet. If on a lot with a building: 24 feet or the height of the principal building</td>
<td>14 feet</td>
</tr>
</tbody>
</table>

* Avg refers to the average setback of adjacent properties

Resources

City of Milwaukee Development Center
841 N. Broadway, First Floor
DevelopmentCenterInfo@milwaukee.gov
Suzanne Hanson 414.286.8542
Suzanne.Hanson@milwaukee.gov

No building permit is required for a small hoop house to extend the growing season on a raised bed.
Beekeeping in the city, where pollinating backyard bees is of great benefit and helps increase the yields and the quality of a large variety of plants found in backyard gardens, municipal parks, and flowerbeds. Bees are a critical pollinator for flowers, fruits and vegetables. The new ordinances allow residents to keep bees on private property within the city limits. Bees are successfully kept in small backyards, on balconies and rooftops in congested urban environments with little, if any impact to adjacent property owners.

In addition to the benefits of plant pollination, the honey, beeswax, pollen and other hive products are high in nutritional value and are a local, renewable and sustainable resource. In 2010, the City of Milwaukee passed a new law allowing residents to keep up to two colonies of honeybees on private property within the city limits. See Chapter 78-6 of the Milwaukee Code of Ordinances, available on the City of Milwaukee web site.

If you want to keep honeybees, you should learn about best practices. You can take a course at the Cooperative Extension (see Resources box.) You should also talk to your neighbors before applying for a permit to explain the behavior and benefits of beekeeping. Be prepared to address their concerns, as your neighbors will have a voice in the permit approval process. Here are a few of the particulars regarding rules and procedures:

- A permit and inspection is required. Permit applications may be obtained from the Department of Neighborhood Services Environmental Section. The fee is an $81.12 permit fee.
- A simple map with dimensions showing the apiary and surrounding area must be provided with the application.
- Neighbors within 200 feet will be notified and given an opportunity to voice any concerns they may have. You might also be required to get written permission from your immediate neighbors if your hives are within 50 feet of their dwellings or certain structures.
- Proof of beekeeping competency must be provided with the application.
- You will be responsible for monitoring your bees on a regular basis for the health of the hive and to ensure that you have not created a nuisance to others.

Resources

City of Milwaukee Beekeeping Page city.milwaukee.gov
The Institute promotes healthy beekeeping practices and offers a Certified Beekeeper Course.
Wisconsin Department of Agriculture
Craig Petros, State Apiary Inspector 262.968.5391
Free hive inspections Spring and Fall.
Milwaukee/Waukesha Beekeeping Association mwbeekers.org
Meetings monthly, provides workshops, mentoring, networking, a lending library and other helpful resources.
Charlie Koenen BeePods, Inc.
facebook.com/charlie.koenen
Courses and beekeeping supplies.

Hens

Since the passage of an ordinance in July 2011, Milwaukee residents have been allowed to keep hens for egg production. Here are a few specifics of the rules:

- Residents may keep up to four hens (no roosters) on their property. Hens are not allowed on commercial or mixed-use properties.
- A permit is required and is issued by the Dept. of Neighborhood Services (DNS) at 4001 S. 6th St., 2nd floor Monday through Friday 8am to 4pm. The permit fee is a one-time cost of $35.49.
- At all times, including winter, fresh water and feed is required and the coop must be kept clean.
- Enclosures (the coop and yard) can be no closer than 25 feet to a residence on an adjacent property, and cannot be in the applicant’s front yard.
- At all times, including winter, fresh water and feed is required and the coop cannot be larger than 50 square feet.
- Slaughter of the hens is not allowed in the city.
- DNS will respond to complaints from neighbors. A permit can be revoked for failure to keep the coop clean or for failure to follow the rules of the hen ordinance and City Code. A permit that has been revoked cannot be reinstated.

One of the forms required as part of the application is a site plan. A site plan form and sample are available at the DNS office or online to help guide the applicant. Another required form is the Neighbor Approval Statement signed by any neighbor whose property touches the applicant’s, including across an alley (but not across the street.) This form is also available at the DNS office or online.

- An enclosed structure, called a chicken coop, is required. The coop plus a yard provided must add up to 16 square feet per bird. The coop cannot be larger than 10 feet and cannot be larger than 50 square feet.
- A simple map with dimensions showing the apiary and surrounding area must be provided with the application.
- You will be responsible for monitoring your bees on a regular basis for the health of the hive and to ensure that you have not created a nuisance to others.

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Mary Beth Driscoll
Executive Director, Groundwork Milwaukee
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Milwaukee, Wisconsin 53202-1715
groundworkmkme.org
414.763.9947

Riverwest Currents
PO Box 716, Milwaukee, WI 53201
riverwestcurrents.org
414.265.7278

Questions? Contact Bruce Wiggins 414.372.4991