

**ORDINANCE NO. 15-11**

**AN ORDINANCE AMENDING THE MARION CODE OF ORDINANCES AND ESTALBISHING CHAPTER 176.49, URBAN AGRICULTURE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, IOWA:

Section 1. The Code of Ordinances is amended by inserting section 176.49 in its entirety:

**176.49 URBAN AGRICULTURE**

1. Statement of Purpose. The purpose of this Section is to establish zoning regulations for the operation of Urban Agriculture activities and to provide standards for the siting, design, maintenance and modification of Urban Agriculture activities that address public safety, and minimize impacts on residents and historic resources in the City of Marion.
2. Definitions. For the purposes of this Section, the following words and phrases shall have the meanings indicated:
  - A. "Beekeeper," means a person or persons managing and maintaining Honey Bees in a Hive or Hives.
  - B. "Coldframe," means a temporary, unheated outdoor structure, no higher than thirty-six (36") inches, used for protecting seedlings and plants from the cold. Coldframes may be erected for up to 6 months during any given calendar year.
  - C. "Colony," means a natural group of Honey Bees having a queen or queens.
  - D. "Composting," means a process of accelerated biodegradation and stabilization of organic material under controlled conditions yielding a product which can safely be used as fertilizer.
  - E. "Comprehensive Farm Review," means an evaluation by the Planning and Development Department staff of the City of Marion for the overall design and siting of an Urban Farm and Farm Structures. Activities defined as Urban Agriculture must conform to the Zoning Code, specifically this Section, in all other respects, and must be processed and approved by the Planning and Development Department for the City of Marion.
  - F. "Controlled Environment Agriculture (CEA)", means any agricultural technology that enables the grower to manipulate the environment to desired growing and /or cultivation conditions.
  - G. "Farm Area," means the area of a Lot designated for activities and uses defined as Urban Agriculture.

H. "Farmers' Market," means a public market administered by a market manager and held multiple times per year to connect and mutually benefit Local farmers, communities and shoppers. Vendors may include Local farmers, farmers' cooperatives and producers selling any of the following: whole produce; value-added agricultural products such as jams, jellies, and pickles; prepared food; all agricultural, and horticultural products including but not limited to whole produce; plants; flowers; meats; dairy products; shellfish and finfish; and other food-related products.

I. "Farm Stand," means a Farm Structure such as a table, stall or tent, in use during that Urban Farm's growing season, and operated by a sole vendor for the sale of agricultural or horticultural products.

J. "Farm Structures," means those structures that may 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, Hoophouses, Coldframes, Freight Containers, and similar structures.

K. "Greenhouse," means a permanent structure made of glass, plastic, or fiberglass in which plants are cultivated year round under controlled temperature and humidity settings.

L. "Ground Level Urban Farm," means the use of a Lot on the ground plane for Urban Agriculture for commercial purposes, whether for profit or nonprofit.

M. "Hive," means a manufactured receptacle or container prepared for the use of Honey Bees that includes movable frames, combs and substances deposited into the Hives by Honey Bees.

N. "Honey Bee," means a subset of bees in the genus *Apis*, primarily distinguished by the production and storage of honey and the construction of perennial, colonial nests out of wax.

O. "Hoophouse," means an outdoor structure made of flexible PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, generally tall enough for a person to enter standing up.

P. "Local", means from Iowa or Midwestern States.

Q. "Open Air Rooftop Farm," means an unenclosed area of a rooftop that is used for Urban Agriculture for commercial purposes, whether for profit or nonprofit.

R. "Raised Bed," means a 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.

S. "Roof Level Urban Farm," means the use of a roof for Urban Agriculture for commercial purposes, whether for profit or nonprofit.

T. "Rooftop Greenhouse," means a permanent structure located on a roof made of glass, plastic, or fiberglass in which plants are cultivated year round.

U. "Urban Agriculture," means the use of a Lot for the cultivation of food and/or horticultural crops and accessory Composting. Such use may include the Accessory Keeping of Hens, Ducks or Honey Bees where Allowed by Underlying Zoning.

V. "Urban Farm, Ground Level, Large," means a Ground Level Urban Farm with a Farm Area greater than one (1) acre that is used for Urban Agriculture for commercial purposes, whether for profit or nonprofit.

W. "Urban Farm, Ground Level, Small," means a Ground Level Urban Farm with a Farm Area less one (1) acre that is used for Urban Agriculture for commercial purposes, whether for profit or nonprofit.

X. "Urban Farm, Roof Level, Large," means a Roof Level Urban Farm with a Farm Area greater than one (1) acre that is used for Urban Agriculture for commercial purposes, whether for profit or nonprofit.

Y. "Urban Farm, Roof Level, Small," means a Roof Level Urban Farm with a Farm Area less one (1) acre that is used for Urban Agriculture for commercial purposes, whether for profit or nonprofit.

Z. "Vertical Agriculture," means an exterior building wall or other vertical structure designed to support the growing of agricultural or horticultural crops.

3. Applicability. No Urban Agriculture activity shall be conducted, or Farm Structure erected, except in compliance with the provisions of this Section. The provisions of this Section apply to all Urban Agriculture activities, whether such activity is a Primary Use or an Accessory Use; provided, however, that the provisions of this Section shall not apply to any of the following:

A. Any Urban Agriculture activity for which appeal to the Board of Adjustment for any Zoning Relief has been made prior to the first notice of hearing before the Zoning Commission for adoption of this Section, and provided that such Zoning Relief has been or is thereafter granted by the Board of Adjustment pursuant to such appeal; or

B. 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 Commission for adoption of this Section.

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

4. Permit Required.

A. Permit Required. No person shall grow or maintain an Urban Farm within the City of Marion without a valid Urban Farm permit obtained from the Permitting Officer under the provisions of this Section.

B. Application. In order to obtain a permit, an applicant must submit a completed application on forms provided by the Permitting Officer, either online or in paper form, and paying all fees required by this Section.

C. Requirements. The requirements to the receipt of a permit include:

- (1) All requirements of this Section are met;
- (2) All fees, as may be set from time to time by City Council resolution, for the permit are paid in full;
- (3) All judgments in the City's favor and against the applicant have been paid in full;
- (4) The applicant has provided notice to the residents of all immediately adjacent dwellings of the applicant's intent to obtain a permit.
- (5) The applicant has provided a site plan consistent with the requirements of a Comprehensive Farm Review.

D. Issuance of Permit. If the Permitting Officer concludes, as a result of the information contained in the application, that the requirements for a permit have been met, then the Officer shall issue the permit.

E. Denial, suspension, revocation, non-renewal. The Permitting Officer may deny, suspend, revoke, or decline to renew any permit issued for any of the following grounds:

- (1) False statements on any application or other information or report required by this section to be given by the applicant;
- (2) Failure to pay any application, penalty, re-inspection or reinstatement fee required by this section or city council resolution;
- (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice;
- (4) Failure to comply with the provisions of an approved mitigation/remediation plan by the Permitting Officer, or designee.
- (5) Failure to comply with any provision of this Section.

F. Notification. A decision to revoke, suspend, deny or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification shall specify reasons for the action.

G. Effect of revocation, etc. When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one (1) year from the date of the denial or revocation.

H. Appeals. No permit may be denied, suspended, revoked, or not renewed unless notice and an opportunity to be heard is given the applicant or holder of the permit. In any instance where the Permitting Officer has denied, revoked, suspended, or not renewed a permit, the applicant or holder of an Urban Farm permit may appeal the decision to the City Manager, or designee other than the Permitting Officer within ten (10) business days of receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an opportunity for a hearing. The decision of the officer hearing the appeal, or any decision by the Permitting Officer which is not appealed in accordance to this Section shall be deemed final action.

5. Urban Farm, Ground Level.

A. Urban Farm. Ground Level.

(1) Use Regulations. The primary activity to be performed on an Urban Farm shall be the cultivation of plants and horticultural crops; other activities may be subject to permitting.

(a) Urban Farm. Ground Level, Small. Small Ground Level Urban Farms are Allowed in all Districts.

(b) Urban Farm. Ground Level, Large. Large Ground Level Urban Farms are Allowed in all Industrial Districts. Large Ground Level Urban Farms are Conditional in all other Districts.

(2) Maximum Height of Farm Structures. Farm Structures, including but not limited to Hoophouses, sheds and shade pavilions, shall be subject to the applicable height limits in the Underlying Zoning.

(a) Setbacks for Farm Structures.

i Subject to Section 176.32, Accessory Buildings and Uses, all Farm Structures shall be set back five (3) feet from all property lines in all District.

(3) Signage. The following regulations shall apply to signage used for Urban Farms:

(a) Types of Signage:

i All Ground Level Urban Farms shall be required to post one (1) identification sign, not exceeding six (6) square feet in total area, attached at a height of no more than four (4) feet high stating only the name of the Ground Level Urban Farm and contact information.

ii One (1) temporary sign shall be allowed for a Farm Stand and may be displayed during sales hours but must be removed from the premises and stored inside a structure when the Farm Stand is not in operation. Temporary Farm Stand signs shall not encroach upon sidewalks, driveways and I or other rights of way, and shall be displayed so as not to create a nuisance or hazard.

(b) Sign Design Review.

i Urban Farm Signage shall be reviewed as required by Section 176.31 Signs.

ii Urban Farms subject to Comprehensive Farm Review shall provide, as part of their CFR submittal, a signage plan showing proposed signage and related architectural features on the sign frontage.

6. Urban Farm Roof Level

A. Rooftop Greenhouse.

(1) Use Regulations. The primary activity to be performed on an Urban Farm shall be the cultivation of plants; other activities may be subject to permitting.

(a) Rooftop Greenhouses are Allowed in all Commercial, Office and Industrial Districts.

(b) Rooftop Greenhouses are Conditional in all other Districts.

(2) Maximum Height. Rooftop Greenhouses shall be no higher than twenty-five (25) feet from the roof surface.

B. Urban Farm, Roof Level.

(1) Use Regulations. The primary activity to be performed on an Urban Farm, or within a Farm Structure, shall be the cultivation of plants; other activities may be subject to permitting.

(a) Urban Farm, Roof Level. Small. Small Roof Level Urban Farms are Allowed in all Districts.

(b) Urban Farm, Roof Level, Large. Large Roof Level Urban Farms are Conditional in all Districts.

(2) Maximum Height of Farm Structures. Farm Structures, including but not limited to Hoophouses, sheds and shade pavilions, shall be subject to the applicable height limits in the Underlying Zoning except for Rooftop Greenhouses shall be no higher than twenty-five (25) feet from the roof surface.

7. Comprehensive Farm Review.

A. Purpose of Comprehensive Farm Review. The purpose of the Comprehensive Farm Review ("CFR") requirement of this Section is to ensure that all Urban Farms are sited and designed in a manner that is sensitive to the surrounding neighborhood. In addition, any Urban Agriculture activities that are designed as part of a new building, including but not limited to Rooftop Agriculture, are integrated into the overall design and architecture of the new building through Comprehensive Farm Review.

B. Applicability of Comprehensive Farm Review. Comprehensive Farm Review shall be required for all Urban Farms.

C. Urban Farm Permit. A Comprehensive Farm Review shall be completed prior to issuance of an Urban Farm Permit.

D. Conditional Use Permit Approval. Comprehensive Farm Review shall be reviewed and approved as a part of the Conditional Use Permitting Process for large Ground Level or Large Roof Level Urban Farms. The Board of Appeal shall not grant a Conditional Use Permit for Large Urban Farm or Large Roof Level Farm unless the conditions of this Section are met.

E. Information required to be a Complete Application for Comprehensive Farm Review.

(1) The information required for Comprehensive Farm Review shall include:

(a) At minimum, a sketch plan showing planted areas, footprints for all Farm Structures, driveways, parking areas, and landscape buffers; and

(b) At minimum, a sketch drawing for Farm Structures; and

(c) Photographs of existing site and adjacent properties to provide site context; and

(d) Proposed plans for irrigation, and controls for storm water runoff as required by City of Marion.

(e) Proposed signage plan showing proposed signage.

(2) Such submission materials shall describe or illustrate the dimensions, location and appearance of:

(a) All Proposed Urban Agriculture activities, materials used, screening, fencing, landscaping, and the like, in a manner that is sensitive to the surrounding area; and

(b) Any existing buildings which will remain along with the Proposed Urban Agriculture activities, if applicable, and any Farm Structures within the visible context of such activity.

F. Design Guidelines. This subsection establishes the following design guidelines for all Proposed Urban Farms subject to Comprehensive Farm Review.

(1) Site Plan.

(a) Site planning, including location of Farm Structures, vehicular access, and parking areas, should be designed to enhance the street frontage and surrounding buildings and spaces. In addition, Placement of Farm Structures should respect significant landscape features on the site, such as rock outcroppings, drainage areas, and mature trees.

(b) Vehicular access and egress to and from an Urban Farm should minimize traffic impacts on the adjacent roadways and provide safe visual access for drivers and pedestrians.

(c) Composting, equipment storage, and disposal areas should not be located in the front setback, unless there are special circumstances that make it necessary. While a driveway may be Allowed in the front setback, the parking zone shall only be permitted within the side or rear setbacks of the property.

(d) Composting which is accessory to an Urban Farm shall be used primarily to support onsite operations, and shall comprise no more than five (5%) percent of the Lot area.

(2) Structures.

(a) New Farm Structures should be compatible with the size, scale and material of the surrounding built and natural environment.

(3) Perimeter Fencing.

(a) Any perimeter fencing for Ground Level Urban Farms may be made of one or more materials, such as masonry (piers or walls), metal pickets, decorative metal, post and rail, wrought iron, shadow box, vinyl coated chain link, or board-type wood. The use of un-coated metal chain link fencing is discouraged. The use of plywood sheeting also is discouraged. Two or more materials may be used in combination with each other, and piers and walls may be used in combination with fences.

(4) Screening.

(a) Walls and Fences.

i Screening walls and fences may be made of one or more materials, such as masonry (piers or walls), decorative metal, shadow box, or board-type wood. The use of un-coated metal chain link fencing is discouraged.

The use of plywood sheeting also is discouraged. Two or more materials may be used in combination with each other, and piers and walls may be used in combination with fences.

(b) Landscape Screening.

i Street-facing landscape elements, such as fencing, street trees, plantings and signage, should be compatible with the surrounding architecture and environment provided pursuant to this Section may be all deciduous or all evergreen, or a mixture of both types. Shrubs shall be densely planted. Trees required by this Section may be evergreen or a combination of deciduous and evergreen, and of a sufficient size to provide adequate screening. Existing mature trees and shrubs shall be maintained unless this is not possible.

(5) Lighting.

(a) Lighting for Ground Level Urban Farms, Roof Level Urban Farms, and Rooftop Greenhouses should be limited to that required for operational and safety purposes of any activity defined as Urban Agriculture so as not to create a nuisance through excessive brightness to abutting residential uses. For Ground Level Urban Farms, Roof Level Urban Farms and Rooftop Greenhouses abutting residential uses, Applicant shall supply a lighting schedule and plans to mitigate fugitive light.

(6) Materials.

(a) For Greenhouses, at least seventy percent (70%) of all roofs and walls should consist of transparent materials.

(b) For Hoophouses, materials should consist of flexible PVC or metal tubing and transparent or translucent plastic covering. Hoophouses shall be secured to the ground.

G. Design Requirements. This subsection establishes the following design requirements for Proposed Urban Farms subject to Comprehensive Farm Review.

(1) Screening and Buffering.

(a) Any Composting, loading or disposal areas that abut (a) a public street, (b) a public park, (c) a Residential District or Residential Use shall be screened from view as provided. Such screening can include trees, shrubs, and perennial borders and/or screening walls and fences. Any fencing shall not be less than fifty (50%) percent opaque and shall be no less than three (3) feet and no more than six (6) feet high.

(b) Any material or equipment stored outdoors shall be surrounded by a wall or fence or vegetative screen of such height, not less than six (6) feet high, as may be necessary to screen such material or equipment from view from any public street or public open space.

(2) Maintenance.

(a) All Urban Farms required to comply with this Section shall be maintained exclusively for the activities defined as Urban Agriculture so long as a use requiring them exists.

(b) Urban Farms shall be used in such a manner in which at no time shall they constitute a nuisance or a hazard to the surrounding neighborhood. Urban Farms shall be maintained in a healthy growing condition, especially in the off-season.

(c) There shall be no parking of vehicles or equipment between a fence, hedge or other landscape screening and the public way, such as the street or sidewalk. Inside storage of any materials, supplies, or products is preferred.

8. Accessory Composting.

A. Accessory Composting.

(1) Use Regulations. Accessory Composting shall be Allowed where any Ground Level Urban Farm, Roof Level Urban Farm is permitted.

(2) Maximum Height.

(a) Maximum height of Composting structures or bins shall not exceed five (5) feet for Ground Level and Roof Level Urban Farms in any District.

(b) On a Roof Level Urban Farm, any Composting must be contained within an enclosed bin that does not have direct contact with flammable materials.

(3) Setbacks.

(a) Compost bins, structures and windrows shall be set back five (5) feet from all property lines on Ground Level Urban Farms in all Districts.

(b) 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 Districts.

(4) Lot Coverage.

(a) Composting which is accessory to an Urban Farm shall be used primarily to support onsite operations, and shall comprise no more than seven and a half (5 %) percent of the Lot area.

9. Accessory Keeping of Honey Bees.

A. Use Regulations.

Accessory keeping of Honey Bees shall be Allowed as a Conditional Use in all Zoning districts, the Board of Appeal shall not grant a Conditional Use Permit for the Accessory Keeping of Honey Bees unless the conditions of the Section are met.

B. Maximum Number of Hives.

(1) The maximum number of Hives on any given Lot or roof for personal consumption of Honey Bee products shall be two (2).

C. Maximum Height and Size.

(1) No Hive shall exceed five (5) feet in height and twenty (20) cubic feet in size on any Lot.

D. Beekeeping Requirements.

(1) Setbacks.

(a) 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.

(b) Hives shall not be located in the front yard or in a side yard that abuts a street in all residential and commercial Districts.

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

E. Hive Placement and Flyways.

(1) 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:

(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 Honey Bees 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.

F. Compliance with State and Local Laws.

(1) All beekeeping shall comply with applicable State and local laws and regulations.

10. Farmers Markets and Farm Stands.

A. Farmers Markets.

(1) Use Regulations. Farmers Markets shall be subject to the following use regulations:

(a) Farmers Markets on a Lot or Lots are Allowed where Retail is Allowed by the applicable Underlying Zoning.

(b) Farmers Markets on a Lot or Lots are Conditional where Retail is not Allowed by the applicable Underlying Zoning.

(2) Permitting Requirements.

(a) The operation of a Farmers Market requires all applicable permits as required by Iowa Administrative Code, 481 Chapter 30 Food and Consumer Safety.

B. Farm Stands. Up to one (1) Farm Stand may be constructed given the following regulations:

(1) Use Regulations.

(a) Accessory Farm Stands selling and/or distributing only horticultural and agricultural products are Allowed where Urban Farms are Allowed provided that a single stand does not exceed two-hundred (200) square feet in total floor area.

(b) Accessory Farm Stands are Conditional in all other Districts where Retail is not Allowed by the applicable Underlying Zoning, unless they are Accessory to an Urban Farm.

(c) Accessory Farm Stands are only permitted to sell products produced on the Urban Farm upon which the stand is accessory.

(2) Placement and Safety.

(a) Accessory Farm Stands shall not encroach upon sidewalks, driveways and/or other rights of way, and shall be erected so as not to create a nuisance or a hazard.

(3) Permits Required

(a) The operation of a Farm Stand requires all applicable permits as required by Iowa Administrative Code, 481 Chapter 30 Food and Consumer Safety.

11. Abandonment.

A. Removal Requirements. Any Urban Farm which has been abandoned shall be cleared and restored to its original state. The owner/operator shall physically remove all Farm Structures no more than one hundred and eighty (180) days after the date of discontinued operations. More specifically, site clearing shall consist of:

(1) Physical removal of all Farm Structures, farm equipment and machinery;

(2) Disposal of all Composting and agricultural waste in accordance with local and state waste disposal regulations; and

(3) Stabilization of re-vegetation of the site as necessary to minimize erosion. The Building Inspections Department may allow the owner to leave landscaping in order to minimize erosion and disruption to vegetation.

B. Abandonment. The former Ground Level or Roof Level Urban Farm site shall be considered abandoned when it fails to operate for more than one year without the written consent of the Building Inspections Department.

C. The Building Inspections Department shall determine what proportion of the site is inoperable for the facility to be considered abandoned. If the applicant fails to remove the Farm Structures, farm equipment and machinery in accordance with the requirements of this Section within one hundred and eighty (180) days of abandonment, the Building Inspections Department shall have the authority to enter the property and conduct all removal activities.

12. Regulations.

A. The City of Marion City Council may promulgate regulations to administer this Section.

13. Severability.

A. The provisions of this Section are severable, and if any provision of this Section shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Section.

Section 2. All ordinances and or parts of ordinances in conflict herewith are repealed.

Section 3. That the changes as provided in this Ordinance shall be made part of the Code of Ordinances of the City of Marion and made a part of said Code as provided by law.

Section 4. That this Ordinance shall be in full force and effect from its passage and publication as provided by law.

Passed and approved this 7<sup>th</sup> day of May, 2015.

R. J. Spinks  
Raleigh J. Spinks, Jr., Mayor pro tem

ATTEST:

Wesley A. Nelson  
Wesley A. Nelson, City Clerk

**CERTIFICATE OF SERVICE**  
The undersigned City Clerk of Marion, Iowa certifies that the ordinance + summary shown immediately above was published in the marion Times on the 21 day of may, 20 15.  
Wes Nelson PCB  
City Clerk