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HOT TOPIC ALERT

Backyard Farming

Growing our own food has become a fashionable choice for city and suburban dwellers. Many homes have a small “kitchen” garden where a few tomatoes or other vegetables are grown, resuming a long American tradition. Henry David Thoreau famously “cherished” his bean field, writing that he gained strength from growing beans. These days, most of us limit ourselves to saying we enjoy having the fresh produce.

In recent years, Americans started growing more and more of their own food. The kitchen garden has turned into a small farm. Instead of being largely just a way of supplementing the family’s groceries, the backyard garden or farm is the source of a significant part of the household food supply. Many urban gardeners or farmers are no longer limiting themselves to growing seasonal fruits and vegetables, but are raising chickens or keeping bees. Where space and local ordinances allow, some city dwellers are even raising goats and sheep.

FARMING THE BACKYARD

Backyard or urban farming has become a significant part of modern living. The United Nations Food and Agriculture Organization promotes urban farming “as a legitimate land use and economic activity.” It estimates that 800 million urban dwellers are practicing some form of agriculture.

In the United States, urban residents have taken to agriculture with enthusiasm. It has become a significant lifestyle trend all over the country. Backyard and window box gardens have always been popular, but city farmers today go beyond small patches tilled in backyards. Gardens are growing in any unused plot, on rooftops, and even in airports. In addition, many neighborhoods now boast greenhouses, chicken coops, and beehives. In some cities, urban farms are started on vacant or abandoned properties as a way of putting those properties to good use, and as a way of increasing access to nutritious food for city residents. Inner city neighborhoods are notorious for “food deserts” where there are very few grocery stores with fresh produce available for residents in the community. Urban farms in those neighborhoods can be a helpful way of expanding food options.

What is driving the renewed interest in growing food? One factor often noted is the trend for eating locally or regionally produced food—the “locavore movement.” Locavores are typically defined as those who eat food made or produced within 100 miles of their homes. This group is motivated by a number of factors. Some are concerned about food origins and safety. Others cite environmental concerns, with local food as one way to reduce carbon footprints. But many are just looking for healthier, tastier food.

Some urban and suburban farmers have interests beyond the food that is produced, and make social, political, and economic arguments. Farming encourages neighbor-to-neighbor commerce, especially where local laws allow selling or bartering food that is homegrown. Growing food in the neighborhood also is associated with increased social and political activity. There are also educational benefits, as city dwellers gain first-hand knowledge of food production and the eco-system.

Many city and local governments have come to understand the many benefits of urban or backyard farming. These governments go beyond merely tolerating the practice and take steps to encourage it by changing zoning ordinances to permit expanded food production. Some local authorities provide a clearinghouse for information about local laws regarding a backyard farm. In other cities, tax breaks are given to property owners who dedicate land to farming.



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THE LAW OF THE BACKYARD FARM

Do you have the right to farm on your property? All [fifty states have so-called "right-to-farm" laws](#) on the books, but those laws were generally meant for the protection of farmers who find their property surrounded by new development. The laws do not do much for a homeowner who just wants to grow his or her family's food.

In most areas, there are no laws that prohibit growing fruit or vegetables for one's own consumption. Zoning ordinances or rules generally allow a homeowner to keep a garden on his or her own property. Growing "trees, shrubs, plants and flowers" tends to be a permitted accessory use of residential property. But the situation is different if the backyard farm [is not just for the property owner's own food](#). If any of the produce is sold, the backyard farm becomes a "business," and may be subject to the restrictions or prohibitions on running a business in an area zoned for residential uses.

Instead, there are often laws or ordinances that put restrictions on the location of a garden. For example, a number of cities have ordinances that prohibit growing food plants [in the front yard](#). While proponents of these ordinances may claim that the purpose is to protect the health and safety in the neighborhood, the real purpose may be to protect neighborhood real estate values by ensuring that the property in the area meets an aesthetic standard. Some cities have been known to take this idea to extreme lengths: the City of Oak Park, Michigan [filed, but later dropped, misdemeanor charges](#) against a homeowner who resisted municipal efforts to have her front-yard vegetable garden removed. Her offense was having five raised garden beds in her front yard, instead of "grass, shrubbery or other suitable live plant material." The charges were dropped without explanation.

Some rules may not come from ordinances. A homeowners' association's rules may put [very strict limitations](#) on how and where a garden is located. These rules put uniformity of appearance as their primary goal. For homeowners living in these communities, the backyard may be the only place for a vegetable bed, if they can have a bed at all. Would-be home buyers with an interest in gardening should check on association rules to make sure they will be able to grow what they like.



GROWING FOOD FOR YOUR HEALTH

Growing your own food has a clear economic benefit in the form of lower grocery bills. But there is also the very real benefit of having fresh and tasty food. Experts point to a number of health benefits that flow from backyard farming.

The first benefit is dietary. Urban residents who work their own gardens [tend to eat more fresh fruits and vegetables](#) than they would otherwise. That freshly-picked produce is [likely healthier](#) than the store bought kind—commercial produce must be picked before it has a chance to ripen and fully develop nutrients.

Farming and gardening also involve a lot of [physical exercise](#). Many gardeners say they do not consider their work exercise, but even moderate gardening-related activity is associated with increased muscle strength and endurance. [One study](#) showed that gardeners are active for more time than people whose exercise comes in other forms. The study reported that gardeners were active for an average of 225 minutes per week, while bicyclists pegged their activity at an average of 170 minutes per week.

While a garden itself may be within the permitted uses of a residential property, there are often restrictions on other related uses. For example, [building a storage shed](#) for a garden may require a building permit. Even if a building permit is not required, there are usually limitations on where a shed or other outbuilding [may be located on the property](#). [Composting](#) is another common activity that backyard farmers often engage in. While some cities [encourage](#) or [require composting](#), others have [detailed specifications](#) for the construction and location of home composting.

The rules become significantly more complex when the backyard farm expands from growing just fruits and vegetables to raising animals. [Raising chickens in the backyard](#) for meat as well as eggs has become very popular, especially among dedicated locavores. In fact, it has become so popular that a chicken enclosure in the backyard has become a [selling point for houses](#). It is hard to know just how popular the practice has become, since it is [illegal](#) in many cities to keep chickens except in unusual circumstances. In the growing number of cities that allow keeping chickens, there are often [restrictions on the number that may be kept](#), or on the [size and location of chicken enclosures](#). Many cities also [prohibit keeping roosters](#) (perceived—rightly or wrongly—as noisy).

Rules and ordinances regarding [other farm animals](#) vary. Goats, which are popular as a source of milk, are permitted in many cities, subject to restrictions. In [San Diego](#), a person may keep dehorned pygmy goats, but must have two of them (for mutual companionship). In [Spokane](#), residents may keep one small farm animal (small goats, sheep, and pigs) per 1,000 square feet of property. [Chicago](#)—a city whose [legendary history](#) includes the myth of a bad experience with a farm animal—allows all types of animals to be kept, provided they are not being kept for slaughter.

[Bees](#), not commonly thought of as a “farm animal,” are increasingly common for urban farms. A beehive was installed on the [South Lawn of the White House](#) in 2009. Bees are valued not only for honey, but are also essential for the [pollination of plant species](#). There are also [environmental concerns](#), as the collapse of bee colonies has raised [concern about plant pollination](#) throughout the country. As is the case with laws relating to other types of livestock, more and more [local laws are crafted to allow home beekeeping](#). [Los Angeles](#) recently passed an ordinance to allow beekeeping in residential areas. Beekeepers must register with the County, and hives must be at least 5 feet from a property line.

Larger-scaled backyard farming is still a relatively recent phenomenon in the United States. It should not be too surprising that the laws to obey are not always in sync with the practice. Be sure to check your local laws before tilling the soil or keeping a flock. ■



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ADDITIONAL STATE & LOCAL RESOURCES

State Issues Tracker: Database with over thirty real estate related issues and state laws. Examples include: Transfer Taxes, Seller Disclosures, Broker Lien Laws, Foreclosure Procedures, Sales Tax on Services, Licensing Requirements and Maintenance, etc.

White Papers: Comprehensive reports prepared for NAR on issues directly impacting the real estate industry. Examples include: Rental Restrictions, Land Banks, Sales Tax on Services, State and Local Taxation, Building Codes, Hydraulic Fracturing, Foreclosure Property Maintenance, Climate Change, Private Transfer Fees.

Growth Management Fact Book: Analysis of issues related to land use and modern growth management topics include: density—rate of growth, public facilities and infrastructure, protection of natural resources, preservation of community character, and affordable housing.

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