

## Chapter 445

## URBAN AGRICULTURE

### Section 445.010

### Definitions.

Apiary: A place where bees are kept; a collection of beehives.

Bamboo: Any monopodial (running) woody or arborescent grasses from the genera bambusa, arundinaria and dendrocalamus of the subfamily bambusoideae, from tropical or temperate regions having hollow stems and thick rhizomes, including, but not limited to, Acidosasa, Arundinaria, Bashania, Brachhystachyum, Chimonbambusa, Gelidocalamus, Indocalamus, Indosasa, Ochlandra, Phyllostachys, Pleioblastus, Pseudosasa, Sasa, Sasaella, Semiarundinaria, Shibataea, and Sinobambusa.

Bamboo Owner: Any person who plants, grows, or maintains Bamboo, or who permits Bamboo to grow or remain, on property which such person owns or lawfully occupies.

Commission: The Olivette Planning and Community Design Commission.

Horticulture: Garden cultivation and management.

Livestock: Domesticated animals, including bees, raised in an agricultural setting to produce labor and commodities such as meat, eggs, milk, honey, fur, leather, and wool.

Managed natural landscape:

A planned, intentional, and maintained planting of grasses, whether native or non-native, wildflowers, and/or forbs in excess of the height limitations under Chapter 220 Nuisances, including those used as landscapes associated with rain gardens or other bioretention facilities, meadow vegetation, and ornamental plantings.

Rearing: The process of keeping, feeding, breeding, and medical care of livestock.

Urban Agriculture: The practicing of horticulture, exclusive of bamboo, or the rearing of livestock or bees within the City.

### Section 445.020

### Purpose and Intent.

The purpose of this section is to:




- (1) Recognize the balance necessary to regulate traditional agricultural activities within a single family residential urban setting;
  - (2) Establish defined Community parameters for urban agricultural activities in residential properties;
  - (3) Maintain neighborhood identity and ensure that minimum standards are met regarding the condition, appearance and upkeep of the Olivette community's private yard areas (i.e., hedges, grass lawns, natural green spaces, livestock pens and hives, etc.);
  - (4) Develop access and resources for residents to be informed of the investment requirements for urban agriculture;
  - (5) Provide an orderly exit strategy for concluding urban agriculture activities;
  - (6) Preserve and protect private and public property from the damaging spread of certain bamboo grasses, protect indigenous plant materials from the invasive spread of bamboo, and maintain the general welfare of the City's residents; and
  - (7) Provide a framework for permitting and inspecting urban agriculture activities.
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**Section 445.030 Rearing Livestock.**

- (1) Only the following livestock may be reared in the city, pursuant to administrative permit:
- a. Chickens
    - Limited to hens only.
    - No more than ten (10) egg-laying hens more than 18-weeks of age.
    - Coops and pens to be compliant with the standards provided in Section 400.1592 of this Code.
  - b. Bees.
    - Limited to 3 hives.
    - Hives to be located at least 15 feet from any property line, and the entrance to the hives shall open to the interior of the property.
    - Hives to be compliant with the standards provided in Section 400.1592 of this Code.
- (2) The rearing of roosters more than 18 weeks of age and the rearing of chickens for harvesting meat is prohibited.

**Section 445.040 Horticulture.**

- (1) Managed natural landscapes are subject to the following conditions:
- Defined perimeter or edge;
  - Setback 5-feet from an adjacent property line;
  - May not encroach into an abutting street right-of-way; and
  - Limited to no more than 25% of the lot yard area, with no more than 10% encompassing either the front or side yards.
- (2) Managed natural landscapes that do not exceed 250 square feet in area and that otherwise conform with the noted regulations may be approved by the Planning and Community Design Department without applying for an administrative permit; managed natural landscapes that exceed 250 square feet or that exceed the prescribed limitations require administrative permit approval.
- (3) Examples of managed natural landscapes:

Acceptable Managed Natural Landscape used as raingarden	Acceptable Managed Natural Landscape used as ornamental planting	Managed Natural Landscape that would require Site Plan Review
		
<p>Authorized administratively</p> <ul style="list-style-type: none"> <li>• Less than <b>250 sf.</b></li> <li>• Outside of right-of-way.</li> </ul>	<p>Subject to application</p> <ul style="list-style-type: none"> <li>• Exceeds <b>250 sf.</b></li> <li>• Contains defined perimeter.</li> </ul>	<p>Subject to Site Plan Review</p> <ul style="list-style-type: none"> <li>• Exceeds 10% of Front Yard Area.</li> <li>• Encroaches into right-of-way.</li> </ul>

- (4) Managed natural landscapes may not include bamboo, which is prohibited. See Section 445.080 hereof.

**Section 445.050 Variations and Pre-Existing Urban Agriculture Activities.**

- (1) Variations. Upon written request, a property owner may request to exceed the standards under Section 445.030 and Section 445.040 following the procedures of Site Plan Review under Chapter 400 Zoning Regulations; provided that in no case can the Commission authorize the rearing of roosters or the planting of bamboo.
  - a. In exercising this authority, the Commission shall consider:
    - Circumstances. The circumstances as to why the property owner is seeking to exceed the parameters of any requirement.
    - Placement. The placement and location of the urban agriculture activity.
    - Visual Buffering. Visual buffering or screening of the activity to limit visibility from neighboring properties, including excess setbacks, screened landscape perimeters, or installed privacy fencing.
    - Noise Mitigation. An intuitive strategy to reduce the overall impact of noises generated by an Urban Agriculture activity on its surroundings.
    - Lot Size. The size of the lot if exceeding the minimum lot area of the SR Single Family Residential District.
    - Lot Characteristics. The topography or natural features of the property, including adjacency to creeks, parks, highways, etc., and the abutting to nonresidential properties.
    - Other factors. Any other factors that may be germane to the requested variation.
  - b. In exercising this authority, the Commission shall grant a variation only to the extent it is consistent with the aesthetic, health, compatibility, and safety objectives of this Chapter.
  - c. The Commission may impose conditions on the granting of a variance.
- (2) Pre-existing urban agriculture activities.
  - a. This Chapter's prohibition of the rearing of roosters, and its limitation on the number of allowable chickens, shall not apply to such livestock existing as of the date of the adoption of this Chapter, but such non-conforming livestock shall not be replaced after expiration or removal.
  - b. Urban agriculture activities existing at the time of adoption of this Chapter shall be otherwise subject to the requirements of this Chapter, including permit application.
  - c. Permit approval applications for pre-existing urban agriculture activities shall be submitted within 180 days of the adoption of this Chapter.
  - d. Property that includes an existing and permitted urban agriculture activity may be continued by a subsequent and new occupant of the property only on issuance of a permit to the new occupant. Permit approval applications shall be submitted by the new occupant within 30 days of occupancy.
  - e. Pre-existing urban agriculture activities shall be allowed to continue until such time as a final decision has been made on the permit application.

**Section 445.060 Urban Agriculture Permits.**

- (1) Applications. A person desiring to engage in urban agriculture as provided herein shall apply to the City of Olivette Department of Planning and Community Development for an urban agriculture permit.
    - a. Initial approval of an application shall be valid upon issuance through December 31 of the initial application year. Thereafter, a permittee shall apply annually to continue the urban agricultural activity, but such application shall be made not later than January 31 of any continuance year.
    - b. The Commission shall develop application forms consistent with this Chapter, including at minimum the following information:
      - Applicant's contact information, including the address at which the urban agricultural practice is to take place;
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- Applicant's relationship to the property (tenants, lessees, and temporary occupants shall require written permission of the owner);
  - A site plan or other acceptable depiction of the location and dimensions of improvements and yard boundaries;
  - The proposed method for housing livestock; and
  - Existing or proposed screening.
- c. The Commission, with the approval of the City Council, may establish from time to time additional regulations to implement this Chapter, which such regulations shall be included in the application forms.
- (2) Scope and nature of permit. An urban agriculture permit is administrative in nature. It is exclusive to the permittee, is not transferable, is subject to the regulations established by law, and does not create any vested right in the permittee's practice of urban agriculture beyond the context of the permit and this Chapter.
- (3) Inspections. A person applying for or obtaining an urban agricultural permit shall be subject to reasonable inspection of the property by the city on request to ensure compliance with this Chapter. The failure to allow such an inspection shall be grounds for permit denial or revocation. Nonetheless, if a request for inspection is refused, the city may apply for an administrative warrant to inspect the property as provided in Section 135.110 of this code.
- (4) Fees. The fee for permit consideration and issuance shall be established by the City Council from time to time and shall be payable at the time of application.

**Section 445.070 Termination and Revocation of Urban Agricultural Permit.**

- (1) Termination. An urban agricultural permit shall terminate if the permittee quits the property or for any reason ceases or abandons the permitted practice.
- (2) Revocation.
- a. If a complaint is filed regarding a violation of this Chapter, or in the absence of a complaint, on the Department of Planning and Community Development's reasonable suspicion of a violation, an investigation shall be made by the Director of Planning and Community Development or his or her designee.
  - b. If the investigation substantiates a violation, the city shall issue a written notice of the violation. The notice shall be served by personal delivery, by mailing it to the last known address of the permittee, or by posting the property at a conspicuous location. The notice shall direct the permittee to abate the violation within a prescribed time, but not less than ten days of the date of the notice. The permittee shall then be required to correct the violation and notify the Director by certified mail, requesting a reinspection to verify that such violations have been corrected. The permittee's response shall be dated and mailed within the prescribed correction window. The Director may extend the correction window for good cause.
  - c. If the permittee fails to correct the violation and notify the Director within prescribed correction window (or any extension thereof), the Director shall revoke the permit by written notice delivered to the permittee by certified mail.
  - d. Permit revocations may be appealed as follows:
    - Appeals must be filed in writing within five days of the date of the revocation notice, stating the grounds for the appeal;
    - Appeals shall be determined after an informal hearing by the City Manager or his or her designee;
    - At least five days' written notice of the hearing shall be given to the permittee by personal delivery, by mail, or by posting; and
    - The permittee and any other interested party may appear at the hearing and testify and present evidence concerning the conditions giving rise to the revocation.
- (3) On termination or revocation of an urban agricultural permit, the permittee shall (i) remove all structures used for the rearing of livestock or the managed natural landscape area and (ii) restore the grounds to reflect the adjacent yard area.
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### **Section 445.080 Bamboo.**

- (1) Prohibition. Except for pre-existing bamboo, the planting, growing or cultivating of bamboo by any person is prohibited.
- (2) Pre-Existing Bamboo.
  - a. Within 30 days of the adoption of this Chapter, the owner of pre-existing bamboo shall register same with the Department of Planning and Community Development.
  - b. Within 180 days of the adoption of this Chapter, a bamboo owner shall remove all bamboo, including the root system, so that it shall be no closer than ten feet to any public right-of-way. The bamboo owner shall also install a barrier acceptable to the city to prevent future encroachment of remaining bamboo or root systems into the right-of-way.
  - c. Pre-existing bamboo may be maintained by a bamboo owner, provided that: (1) the bamboo shall not be located within ten feet of the lot line of any neighboring property, and (2) the owner shall also install barriers to prevent future encroachment of remaining bamboo or root systems into the restricted area.
  - d. Notwithstanding Section 445.080(2)(c), it shall not be a violation of this Chapter if the owner of the neighboring property consents to the bamboo, but in no circumstance shall pre-existing bamboo encroach into the lot of a neighboring property owner.
  - e. A neighboring property owner who does not consent to the location of pre-existing bamboo shall notify the Department of Planning and Community Development, and the bamboo owner shall then be required to remove all bamboo, including the root system, so that it shall be no closer than ten feet to the neighboring lot line. The bamboo owner shall also install a barrier acceptable to the city to prevent future encroachment of remaining bamboo or root systems into the restricted area.
- (3) Encroachment Notice and Enforcement.
  - a. If any bamboo encroaches on restricted areas adjacent to any public right of way or adjacent property as provided herein, the City may issue an encroachment notice for removal of such bamboo within a prescribed time from the date of the notice, which time may be extended by the Director for good cause.
  - b. The notice shall be served by personal delivery, by mailing it to the last known address of the bamboo owner, or by posting the property at a conspicuous location.
  - c. If the bamboo owner fails to remove the encroachment within the allotted time, the City may pursue one or more of the following remedies:
    - Subject to the requirements and scope of an administrative warrant issued pursuant to Section 135.110 of this code, enter the property and remove the encroachment at the owner's cost, taking reasonable action to eradicate its re-growth, and if such costs are unpaid more than 30 days after demand for payment has been made by the City on the bamboo owner, the City may lien the property of the bamboo owner for these costs, plus interest, fees, and expenses, including attorney fees, for the collection of same;
    - Issue a municipal court citation to the bamboo owner for violating this Chapter; and/or
    - Pursue litigation, in equity or at law, to restrain, prevent, or abate the encroachment, with the expense of such proceedings, including attorney fees, being recoverable from the bamboo owner. If such costs are unpaid more than 30 days after demand for payment has been made by the City on the bamboo owner, the City may lien the property of the bamboo owner for these costs, plus interest, fees, and expenses, including attorney fees, for the collection of same.

### **Section 445.090 Violations and Penalty.**

- (1) It shall be unlawful for a person to engage in urban agriculture without (i) applying for a permit as required herein or (ii) complying with the regulations authorized by and implemented through this Chapter.
  - (2) It shall be unlawful for a person to plant bamboo after the date of the adoption of this Chapter, and it shall be unlawful for a bamboo owner to fail to manage pre-existing bamboo as required by this Chapter.
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- (3) Any person convicted of a violation of this Chapter shall be subject to punishment in accordance with Section 100.180 of the City Code.

