

Food Sovereignty & Food Production in East Cleveland:

A Legal and Policy Guide to State and Local Law

Produced for Loiter East Cleveland

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**FOOD LAW
and POLICY CLINIC**
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EXECUTIVE SUMMARY

Throughout the United States, local and state laws facilitate many opportunities to utilize back yards, vacant land, and residential kitchens to produce foods for sale and build local food economies. This report shares some of those opportunities and presents a roadmap for identifying what foods can be produced and sold with little or no regulatory hurdles, using East Cleveland, Ohio as a case study. The report was generated in partnership with the non-profit organization Loiter, which works for economic and environmental justice in its home city of East Cleveland. Loiter asked FLPC to create a resource to help them better understand the primary food production and sales opportunities available to them, identify legal and regulatory barriers impacting food production for East Cleveland residents, highlight strategic policy change opportunities, and learn about state and federal funding available to expand possibilities for community-centered economic development in East Cleveland.

Despite its focus on the laws and policies of East Cleveland, this report provides a roadmap for evaluating and establishing profit-generating, community food systems with minimal upfront investment. The opportunities identified in this report seek to deploy the resources already present in the community to increase the power and financial well-being of residents. While regulations may differ from state to state and city to city, this report offers a framework to explore the feasibility of implementing these strategies in other municipalities and provides a roadmap to identifying helpful state and local policies

Key takeaways from the research detailed below are as follows:

- The land resources in East Cleveland, including residential back- or side-yards and vacant lots available for purchase from city or county land banks, allow residents of East Cleveland to produce fresh produce for sale at commercial scale with little restriction. Federal and state grant funding is also available to help take advantage of these resources. Petitioning East Cleveland to loosen its zoning restrictions would provide additional urban agriculture opportunities for residents, such as raising laying hens or other types of animal husbandry.
- Ohio laws regulating cottage food operations and a regulatory exemption for the sale of up to 115 home-cooked meals per week allow the sale of homemade value-added food products, without the need for licensing or substantial overhead investment. State-level advocacy may broaden these exemptions to allow for the sale of a wider range of home-produced food products.
- Launching a community composting program may offer an additional revenue stream for Loiter and its affiliates, or otherwise support the function of a closed-loop food system in East Cleveland. To take advantage of this opportunity, changes in the municipal code governing food scraps and other organic waste will be necessary.
- The rental of school kitchens in the East Cleveland School District would allow the production of saleable food products not currently legal to make in a home kitchen, while using existing community infrastructure. However, school kitchen use will require some policy changes at the local level.
- New industries such as insect farming offer open, untapped markets for residents but also raise some regulatory concerns and costs associated with addressing those concerns.

INTRODUCTION

This report identifies strategic low-cost opportunities for agriculture and food production in East Cleveland, Ohio, and analyzes the state and local laws and policies that might help or hinder residents' ability to capitalize on these opportunities. The report explores how East Cleveland residents might take advantage of Ohio's regulatory structure to efficiently leverage existing resources into viable food-based businesses, owned by community members at every stage of production. The measures proposed here seek to advance the organization's broader goal of establishing an inclusive, community-based food system at the heart of the city's economy, a project at the intersection of racial, economic, and environmental justice.

This report was drafted by the Harvard Law School Food Law and Policy Clinic (FLPC) for the 501(c)(3) non-profit organization Loiter. Based in East Cleveland, Loiter is dedicated to reconsidering and reimagining a different future for Black communities, centered on spatial and economic justice. Loiter's mission is to confront the effects of systemic racism and encourage the intentional re-investment needed to build successful community-owned enterprises. Loiter was founded by two siblings from East Cleveland who share a background in social entrepreneurship and a vision for a cultural and economic renaissance in East Cleveland. In 2021, Loiter took possession of a vacant 3.5 acre site in the center of East Cleveland that once served as a used car lot, and is gradually transforming that site into an urban farm, community compost hub, café, and farm market. In 2022, Loiter acquired Wake Robin Foods, a Cleveland-based food processor that sells a line of pickled and fermented foods using locally grown produce, and which Loiter intends to serve as a reliable purchaser for its affiliated growers and a key node in its closed-loop business model.

East Cleveland, Ohio is an urban community facing major challenges. Once a hub for industry, innovation, and industrial wealth, East Cleveland has been subjected to disinvestment, depopulation, and a steady decline in resources over the latter half of the 20th century, a trend that continues today. Now one of the poorest cities in Ohio, East Cleveland is majority Black (89% per the 2021 Census), with a median household income of \$21,699,¹ almost 40% of residents (and 57% of children) living in poverty.² Within the city's 3 square miles, more than 500 properties sit vacant.³ On top of widespread poverty and lack of opportunity, East Cleveland residents struggle to access a grocery store; the city largely falls within USDA-designated "Low Income/Low Access" census tracts.⁴

This report was intended to examine the challenges and opportunities unique to Loiter's work in and ambitions for East Cleveland. Each section outlines the regulatory background of the issue, then explains how Loiter might operate against this regulatory background, including opportunities, challenges, and potential funding, and noting policy advocacy opportunities that would provide further business opportunities for Loiter and East Cleveland residents.

The proposals here, however, may be replicable elsewhere. Despite its focus on the laws and policies of East Cleveland, this report provides a roadmap for evaluating and establishing profit-generating, community food systems with minimal upfront investment. Against a historical backdrop of depopulation, economic attrition, and intentional disinvestment, East Cleveland shares the consequences of extractive policies with cities and towns across the Rust Belt and the entire United States. The opportunities identified in this report seek to deploy the resources already present in these communities to increase the power and financial well-being of residents, while minimizing the need for outside capital and investment. Loiter's emphasis on food production and urban agriculture offers many non-economic benefits as well, including improved access to healthy food for East Cleveland residents, opportunities to build community among neighbors, and broader environmental benefits.

like heat island mitigation, stormwater absorption, increased intra-urban biodiversity and pollinator habitat, and even soil contaminant mitigation. While regulations may differ from state to state and city to city, this report offers a framework to explore the feasibility of implementing these strategies in other municipalities and provides a roadmap to identifying helpful state and local policies.

FLPC serves partner organizations and communities by providing guidance on cutting-edge food law and policy issues. Specifically, FLPC focuses on increasing access to healthy foods, supporting sustainable and equitable food production, and reducing waste of healthy, wholesome food. We have produced previous reports detailing broader legislative trends in cottage food and home kitchen laws, supported urban agriculture and other movements to develop food in urban areas, and supported communities on various efforts to support their vision for policy change to support food justice and food sovereignty. This report draws on much of FLPC's institutional knowledge, and adds unique, tailored research on Ohio state laws and East Cleveland's municipal policies in order make recommendations that will be helpful to Loiter and its community partners.

The report identifies five broad categories of opportunities for Loiter and East Cleveland residents to make use of existing infrastructure and resources to develop and sell marketable food products: community-based agriculture, beekeeping and insect farming, home food preparation, the use of school kitchens for food preparation and processing, and community composting. With few financial and regulatory barriers, these projects allow residents to generate and share profits, while ensuring the sustainability and community ownership of the city's food system.



PART I: GROWING AGRICULTURAL PRODUCTS

This portion of the legal guide outlines the individual business opportunities broadly categorized as growing, harvesting, and selling raw and unprocessed agricultural products. Ranging from traditional market gardens to backyard chickens to cricket farming, these ventures take advantage of East Cleveland's open and abandoned land base to produce marketable goods. Local zoning ordinances, state licensing requirements, and other similar regulations shape Loiter's ability to develop a community-owned urban agrarian economy. Likewise, the pursuit of these projects must consider various environmental and infrastructural challenges to the health and safety of the food production system. In post-industrial cities like East Cleveland, producers must assess water quality, soil toxicity, and other similar factors that can affect whether locally grown food is safe to eat. However, onerous regulatory regimes and substantial environmental constraints can be successfully navigated, as discussed below.



SECTION 1: URBAN AGRICULTURE

This section provides the regulatory background and available business opportunities for growing fruits, vegetables, and other plants. Cultivating plants is a relatively low-barrier way to produce culinary or ornamental products that can be sold without processing—for example, fresh fruits and vegetables, cut flowers or fresh herbs—or processed into value-added products—such as pickled vegetables—that can be sold at a higher profit. For more on value-added products, see Section 2 below.

A. REGULATORY BACKGROUND

Regulation on growing produce happens at the municipal, state, and federal level: local zoning ordinances control where produce and other plants can be grown, and the federal and state laws and regulations govern the handling and sale of produce for human consumption.

GROWING PLANTS

Commercial-scale growing of plants is explicitly allowed in East Cleveland in certain zones, while the municipal code is silent on agriculture in other zones. The zoning ordinances specify that “farming, greenhouse, nursery, truck gardening” is a permissible usage of land in zones U3 Local Retail Stores and U4 Commercial.⁵ The ordinances do not mention agricultural uses of land in the residential zones, U1 and U2.⁶ Zones U5 Industrial and U6 Limited Residence-Business also does not mention agricultural or food-related land usage.⁷

SELLING AND HANDLING PRODUCE

The sale of fresh produce is regulated at the federal and state level. Produce that is sold for consumption must meet certain growing and handling standards set by the U.S. Food and Drug Administration (FDA) to comply with the federal Food Safety Modernization Act. Under FDA regulations, produce growers must train food-handling employees in hygiene and food safety; water crops with sanitary, uncontaminated water; ensure that animals and animal by-products are not contaminating crops with bacteria such as *E. coli*; and take steps throughout the growing, harvesting, and handling processes to prevent food from coming into contact with germs and bacteria that could produce food-borne illnesses.⁸ Additionally, farmers must keep records of where crops were growing, such as a specific portion of a field, and actions done to crops.⁹ Farms that produce less than \$25,000, adjusted for inflation with 2011 as a baseline—about \$30,000 today—are entirely exempt from these regulations.¹⁰ Farms that produce between \$25,000 and \$500,000 adjusted for inflation—between about \$30,000 and \$630,000 today—and that make at least 50% of their sales to “qualified end users”—are exempt from the training and water quality regulations, but are still required to make general efforts to prevent contamination and to keep records.¹¹ A “qualified end user” is an individual consumer, restaurant, or retail food establishment in the same state or less than 275 miles from the farm.¹² Farms that do not meet these conditions must enroll in a state-provided training and are subject to inspection.¹³ While these regulations were created at the federal level, they are enforced by the Ohio Department of Agriculture.¹⁴ Exempt farms can ask for a voluntary inspection to make sure that produce is grown safely even if they are not subject to the requirements.¹⁵

Growers can sell produce directly from a farm site (known as a “farm market”), as well as at farmers’ markets, without being licensed as a retail food establishment. A farm that sells food directly on the premises is exempt from

the regulations for retail food establishments as long as the farm only sells fresh, unprocessed produce; maple syrup or honey; cottage foods; cider or juices manufactured on site; eggs and poultry from the farmer's own hens; non-amenable meats raised by the farmers (e.g. exotic animals such as rabbits or bison that are not subject to the same regulation as traditional meats like poultry, pork, and beef); or commercially prepackaged food that takes up less than one hundred cubic feet of the premises.¹⁶ If a farm market sells other items, it is subject to regulation as a retail food establishment.¹⁷ Although they are exempt from extensive regulation as retail food establishments, farm markets must register with the Ohio Department of Agriculture.¹⁸ Fresh produce can also be sold at an off-site farmers' markets without a license.¹⁹

SPECIAL CONSIDERATION: SOIL CONTAMINATION

East Cleveland residents, as well as farmers and gardeners in similar post-industrial cities, should consider the risk associated with growing food in soils that may be contaminated by lead, cadmium, petroleum products, or other heavy metals and toxic chemicals left behind after industrial or commercial use. While the primary risk associated with growing produce in contaminated soil is direct human exposure to the soil, some plants do take up contaminants and can pose a risk to humans when eaten.²⁰ Currently, federal and Ohio agricultural and environmental agencies do not specifically offer technical assistance or funding tailored to soil remediation for urban farmers and gardeners. However, several state and federal resources may be able to assist with soil testing and remediation, through either financial or technical assistance, including the U.S. EPA's Land Revitalization program,²¹ the Ohio E.P.A.'s Community Brownfield funding and assessment programs,²² the Cuyahoga Soil and Water Conservation District's soil testing and mapping assistance programs,²³ NRCS's EQIP soil health program,²⁴ and the USDA's Urban Agriculture and Innovative Production Grants.²⁵ In the meantime, East Cleveland farmers and gardeners can mitigate potential exposure to these toxins by growing plants in raised beds, siting gardens away from old painted buildings or high traffic areas, avoiding root and leaf crops in potentially contaminated soils, and/or building barriers between potentially contaminated soil and growing soil with landscape fabric and thick layers of organic material such as mulch or compost.²⁶

B. BUSINESS OPPORTUNITIES AND CHALLENGES

Currently, growing plants offers a significant business opportunity for Loiter and community members in East Cleveland. The land at 15001 Euclid Ave., owned by the organization, is currently zoned commercial, and can be immediately used for growing vegetables, fruits, herbs, and flowers. These can then be sold as fresh produce, value-added food products like jams, pickled vegetables, and dried tea – though such value-added products are subject to different regulatory requirements, as explained below – or even plant starts. Loiter can sell fresh produce wholesale or retail as long as it complies with the federal regulations implementing the Food Safety Modernization Act. Loiter would be exempt from trainings and water quality regulations if they sell under \$500,000 of produce, adjusted for inflation, to qualified end users. Additionally, Loiter can sell produce directly at a market on the premise of the farm or at farmers' markets. Due to the extensive regulations at both the state and county level, operating a retail food establishment (described in greater detail below) is the most complicated option.

Federal grants can help support Loiter's development in the area of urban agriculture. The U.S. Department of Agriculture offers Urban Agriculture and Innovative Production grants for planning and implementation projects. The grants award between \$50,000 and \$300,000.²⁷ Planning grants are awarded to projects that start or expand the efforts in areas of food access, education, agricultural business and farming startups, the development of policies and zones to support agriculture, and other ventures related to the urban production of food.²⁸ The projects must involve stakeholders including, but not limited to citizens, government officials, schools, and farmers.²⁹

Implementation grants support projects that improve or expand local food access and support infrastructure needs, emerging technologies, education, and policy implementation.³⁰ In 2023, grant applications were due in late March.

At the local level, the Ohio State University Extension Office in Cuyahoga County offers resources for people and organizations interested in starting community and market gardens. For community gardens, the Summer Sprout program provides soil testing, tilling services, seeds, starting plants, and technical assistance.³¹ For market gardens, which the Extension Office defines as gardens created with the goal of selling produce, the Extension Office offers the Market Gardener Training Program.³² The Market Gardener Training Program offers training on small business management and urban agriculture.³³ These programs may be useful starting places for community members interested in participating in urban agriculture enterprises.

In addition to produce, there are several other agricultural opportunities worth considering.

Cut Flowers. Cut flowers offer a low-barrier income opportunity for East Cleveland residents. Most cut flowers can be grown from seed, and do not require any special equipment beyond standard gardening tools. Ohio does not currently regulate either the production or sale of cut flowers, beyond requiring vendors to collect sales tax.³⁴ Additionally, because cut flowers are not eaten, they can be grown in lots that may have soil contaminated by lead, industrial or residential chemical waste, or other environmental hazards. Cut flowers can be sold alongside other fresh produce at farmers' markets, or as part of a subscription following a CSA model. They may be an attractive product offering for events producers, wedding planners, and local restaurants or specialty grocery stores. Some flower farms offer additional customer experiences, like flower arranging workshops or pick-your-own flower events, which may provide value-added opportunities for East Cleveland flower growers.³⁵ Flowers can offer ecosystem benefits such as pollinator habitat and soil remediation.³⁶ And finally, flowers are beautiful! Whether or not they end up as a successful product offering, growing ornamental flowers may provide immeasurable aesthetic benefits to East Cleveland residents.

Nursery Starts. Loiter-affiliated farmers and gardeners could create additional income by selling nursery starts for vegetables, herbs, and flowers. The state of Ohio only requires a Nursery Stock certification for any vendor selling "[a]ny hardy tree, shrub, plant, or bulb," where "hardy" means capable of overwintering in Ohio.³⁷ Thus, the sale of almost all annual garden plants is exempt from licensure. Because seed-starting is a routine component of vegetable-growing operations, selling excess nursery stock would both provide an easy income opportunity for East Cleveland market gardeners, as well as an accessible source of locally-propagated plants for community members who may be interested in growing their own food outside of the Loiter business ecosystem.

Culinary Mushrooms. Culinary mushrooms provide a unique agricultural opportunity, in that they are grown in a sterilized substrate, such as sawdust, rather than directly in soil, and grow best in a cool, damp, dark place, which can be an indoor location like a basement or closet, or the interior of one of Loiter's own buildings on Euclid Avenue.³⁸ Production and sales of fresh (non-processed) culinary mushrooms fall under the same relaxed food safety and sales regulations as all other fresh produce. With relatively low startup costs and a friendly regulatory environment, Loiter-affiliated East Clevelanders could produce high-value culinary mushroom varieties like shiitake, oyster, and lion's mane. Culinary mushrooms are well-suited to direct sale environments, like CSAs or farmers' markets; could be dried and incorporated into cottage food products like soup mixes; sold to restaurants or specialty grocery stores; or used in processed or value-added products.

C. POLICY CHANGE OPPORTUNITIES

Opportunities exist to strengthen the local policy landscape and make it more friendly towards urban agriculture. First, Loiter can petition East Cleveland to rezone its residential property for greenhouses and farming, as property in a residential area cannot be used for urban agriculture as of right. Alternatively, Loiter or affiliated growers can file a petition with the Board of Zoning Appeals to request a zoning variance to use residential property for urban

agriculture uses that are already explicitly allowed on its commercial property.³⁹ If granted, an annual fee of \$25 must be paid to the city as long as the property is being used in the requested way.⁴⁰

Loiter could pursue more extensive policy changes by advocating for a new ordinance that allows for urban agriculture and animal husbandry. A new ordinance could take multiple forms. For example, the city could update its existing zoning ordinance to allow for animal husbandry as of right in certain existing zone types in the city.⁴¹ Alternatively, the city could create a new zone type specifically for urban agriculture and animal husbandry and designate Loiter's property as this new zone.⁴²

Cleveland has a comprehensive ordinance that could serve as a model for East Cleveland. The Cleveland ordinance designates a new "Overlay District" that maps onto existing land and allows for urban agriculture. For growing plants, Cleveland explicitly allows for land to be used as an "Urban Farm," "Community Garden," or "Market Garden."⁴³ Loiter could advocate for a similar ordinance in East Cleveland.



SECTION 2: ANIMAL HUSBANDRY

This section explores the regulatory issues and business opportunities related to animal husbandry. By raising animals such as chickens, goats, and rabbits in backyards or empty plots, Loiter and other East Cleveland residents can begin to sell meat, eggs, and milk, or incorporate these animal-based ingredients into their other products.

A. REGULATORY BACKGROUND

State and local ordinances govern the raising of animals, while federal and state laws generally control the slaughter, processing, and sale of meat and other animal products.

ANIMAL HUSBANDRY

At the city level, livestock are currently not allowed in East Cleveland. East Cleveland ordinances ban “rabbit, goat, chicken, pigeon, goose, turkey, horse, mule, donkey, sheep, bovine, swine or other such animal or fowl”.⁴⁴ Owning one of these animals is considered a misdemeanor and potentially punishable by up to 6 months in jail or a maximum fine of \$1,000.⁴⁵

Additionally, there are animal welfare regulations at the state level.⁴⁶ These require that livestock are properly fed and watered,⁴⁷ handled humanely,⁴⁸ monitored for disease,⁴⁹ and properly disposed of.⁵⁰ The food and water requirements are basic, mandating generally that livestock be provided with food and water except when authorized by veterinarians,⁵¹ while the other regulations are more specific with detailed requirements depending on the animal.⁵² For example, the housing requirements for poultry layers requires that moisture levels are managed, the chickens have enough room to rest without being on top of each other, and that natural or artificial light is available.⁵³

HANDLING, SLAUGHTERING, AND SELLING ANIMAL PRODUCTS

The sale of all animal and meat products is subject to some kind of regulation; however, different types of products are regulated differently, as described below.

Eggs produced from farms with under 500 chickens can be sold directly through farm markets, which are small stores on the farm premises, without inspection.⁵⁴ However, eggs sold wholesale or to restaurants require an inspection by the Ohio Department of Agriculture to test the area for coliform bacteria and ensure that eggs are stored below 45 degrees.⁵⁵ All eggs must be labeled with the name and address of the farm, date of packing, number of eggs in the package, a statement that the eggs are ungraded and mixed size, and a label stating that eggs must be cooked thoroughly to prevent illness.⁵⁶

Producing milk and dairy products for sale requires a license in Ohio.⁵⁷ To receive a license, a producer must submit an application to the Department of Agriculture.⁵⁸ The Department of Agriculture will then inspect the farm to assess the cows, area where cows are kept, and milk and cream processing equipment.⁵⁹ Processing milk and cream into other dairy products—cheese, butter, yogurt, etc.—requires an additional license.⁶⁰ Processing facilities are inspected by the Department of Agriculture. Dairy must be processed in its own room.⁶¹ All Grade A dairy products

including milk, cottage cheese, and sour cream must be pasteurized.⁶² Additionally, containers must be capped and filled mechanically.⁶³

Meat can be legally slaughtered for sale in a few main ways. First, animals can be sent to a slaughterhouse that is licensed by the USDA or Ohio Department of Agriculture.⁶⁴ After meat is slaughtered at these facilities, it can be sold wholesale or to consumers.⁶⁵

Second, live animals (or portions of live animals) can be sold directly to the consumer prior to slaughter and then taken for slaughter at a custom slaughterhouse.⁶⁶ In this case, the buyer of the animal and their family must be the final consumer of the meat, and it cannot be resold.⁶⁷ This means the buyer must be identified before the animal is slaughtered or processed. Some types of exotic meat require that a slaughterhouse have gone through a “voluntary inspection” to ensure that it can process the unusual animal.⁶⁸ These are called “non-amenable” meats and include bison, domestic rabbits, and deer.⁶⁹

In the case of poultry, there are additional exemptions. Farmers who raise and slaughter fewer than 1,000 chickens or other poultry in a year are generally able to slaughter and process that poultry on their own farms and can sell that poultry direct to consumer or to hotels and restaurants.⁷⁰ Farmers who raise and slaughter up to 20,000 poultry per year may do so onsite, but must abide by the same licensing and operating standards as other meat processing facilities.⁷¹ Unlike the custom slaughter procedure described above, poultry farmers that fall within these exemptions do not need to sell live animals, then process them to order; they can simply process their chickens according to the pertinent operating standards, and then offer them for sale through approved outlets.

B. BUSINESS OPPORTUNITIES AND CHALLENGES

There are significant barriers to selling animal products in the near term. The most immediate barrier is the fact that farm animals currently are not allowed in East Cleveland. Beyond this, dairy and meat products are heavily regulated from production to sale. In the future, the most feasible animal product venture would likely be to raise chickens, as eggs are subject to less regulation and can be sold directly from the farm, and poultry also can be sold below the thresholds noted above. Additionally, residents may be able to consume the products from animals they raise directly.

C. POLICY CHANGE OPPORTUNITIES

As discussed in more detail above, Loiter can pursue more extensive policy changes by advocating for a new ordinance that allows for urban agriculture and animal husbandry. Specifically, the example Cleveland ordinance described in the previous section explicitly allows for the keeping of farm animals. The ordinance divides animals into small animals (poultry and rabbits), medium animals (goats, pigs, and sheep), and large animals (cows and horses).⁷² Then, the ordinance provides requirements of how to house each type of animal and the amount of land required per animal.⁷³ There are no limits on the amount of each animal allowed as long as there is sufficient space per animal.⁷⁴ Loiter could advocate for a similar ordinance in East Cleveland.

SECTION 3: BEEKEEPING

This section concerns beekeeping, which would allow Loiter to produce honey and beeswax. Honey can be sold on its own or used to sweeten other food products such as hot sauce. Beeswax can be used to create non-food products such as balms or candles.

A. REGULATORY BACKGROUND

Beekeeping is primarily regulated at the state level. Ohio regulates beekeeping separately from animal husbandry and urban agriculture. The State Department of Agriculture requires hives to be registered.⁷⁵ To register, a hive owner must submit a simple form and a registration fee of \$5 to the Department.⁷⁶ The registration must be renewed annually.⁷⁷ Once registered, hives are subject to inspection from both the state apiarist and county inspectors.⁷⁸ Although some inspections are conducted by county officials, all inspection reports are sent to the Department.⁷⁹ Current East Cleveland zoning rules do not mention honeybees or beekeeping, which means there is no restriction on beekeeping in the current local laws.

Processing and selling honey from hives is also regulated at the state level. Ohio exempts beekeepers from food processing licensing, registration, and inspection requirements when they are jarring honey that is at least 75% honey from the beekeeper's own hives.⁸⁰ This honey can then be sold with a label that includes a statement of identity (the name of the product), net quantity, and a statement of responsibility with the name and address of the producer.⁸¹ Because the honey is a single-ingredient food, an ingredient list is not required.⁸² While pure honey is regulated independently of cottage foods, flavored honey is considered a cottage food and can be sold, without any further licensure, as a cottage food.⁸³

B. BUSINESS OPPORTUNITIES AND CHALLENGES

Honey and beeswax provide a number of business opportunities for Loiter. Pure or flavored honey could be sold by Loiter with minimal regulatory barriers, as they are both exempt from state food service operation laws. Honey sales could offer an especially good business opportunity given Loiter's interest in selling tea. Additionally, honey can be added to other foods such as hot sauces and butters, although these foods would not be exempt as cottage foods. Beyond food products, beeswax can be used in balms for skin, lips, and beards, or to make candles.

C. POLICY CHANGE OPPORTUNITIES

Beekeeping is not prohibited by East Cleveland zoning ordinances. However, there are also no explicit indications that the practice is allowed in any of the zoning ordinances. As the law stands, Loiter has a few options: proceed with beekeeping regardless of the lack of explicit permission, ask the city for clarification on local policy, and/or advocate for policy change that would ensure that beekeeping is explicitly legal in East Cleveland. If Loiter chooses to do more general policy advocacy regarding urban agriculture, beekeeping could be included. Alternatively, Loiter could have a more targeted zoning advocacy campaign centered on beekeeping only.

The Cleveland urban agriculture ordinance discussed above includes beekeeping. Under the Cleveland ordinance, beekeeping is explicitly allowed.⁸⁴ Beehives are limited based on land area: no more than one beehive can be kept for each 1,000 square feet of land.⁸⁵ Additionally, beehives cannot be placed within five feet of a property line nor within ten feet of a dwelling on another property.⁸⁶ Depending on how far the beehive is from the property line, beekeepers may have to build a fence or hedge to prevent bees from crossing over.⁸⁷ Having specific provisions such as these may alleviate the concerns of neighbors and municipal officials and make a beekeeping ordinance easier to pass.



SECTION 4: INSECT FARMING

In addition to more traditional possibilities around food production, insect farming is a low-cost, low-overhead industry that is expected to grow substantially in the future.⁸⁸ This potential growth trajectory poses a unique opportunity and competitive advantage for early adopters, as domestic production currently is close to non-existent. However, this open field poses a problem in its own right: federal and state regulations are absent or ambiguous, it may be more challenging to get buy-in from the local farmers, and while the market may be poised to grow, that growth currently remains mostly speculative.

The wide range of farmable insects corresponds to a wide range of end uses. Black soldier flies can be raised for both food composting and industrial purposes,⁸⁹ cochineal is often farmed for dyes used in food, paints, and fabrics,⁹⁰ and crickets are grown throughout the world for human consumption, eaten either whole or ground and included in flours. While niche and specialized insects may be suitable to farm in East Cleveland, we focus primarily on the possibility of growing crickets and other insects for human consumption due to the broader potential market.

A. REGULATORY BACKGROUND

The narrow regulatory distinction between insects raised for food and insects as pests poses a clear challenge to insect farming. The Federal Food, Drug, and Cosmetic Act (FDCA) categorizes insects as “filth”⁹¹ and the vast majority of regulations on insects and agriculture deal with the prevention of insects on food production premises.⁹²

However, at least in some presentations and public discussions the FDA has acknowledged that bugs and insects may be regulated and raised as food.⁹³ Presumably, any such production would need to follow Good Manufacturing Practices (GMP).⁹⁴ But there has not yet been any formal recognition from the FDA, nor have they outlined what constitutes GMP for insects. Instead, the FDA generally allows production facilities to operate on a discretionary level.

Part of this problem emerges from the sheer variety of insects and the limited scientific knowledge regarding what practices would make insects most safe for human consumption.⁹⁵ Without clearer knowledge regarding the environmental factors that may contribute to, for example, lead poisoning from the consumption of crickets,⁹⁶ the FDA has declined to set fixed regulatory standards.

This discretion carries over to the state level: Ohio has no regulations or standards for the production of insects for human consumption, despite being the site of the first urban cricket farm in the country.⁹⁷ If looking to scale, Loiter would likely need to receive individual discretionary approval from the Ohio Department of Agriculture.

B. BUSINESS OPPORTUNITIES AND CHALLENGES

Raising crickets or other insects is a low cost and environmentally-friendly endeavor. While crickets match cows in their protein value, they require thirteen times less space to produce the same amount of meat.⁹⁸ Starting a farm requires “little more than a few escape-proof containers and some cardboard egg crates for the crickets to live in.”⁹⁹ Crickets’ ability to thrive in “densely populated areas” makes them particularly suited for urban farming and other

environments where space would otherwise pose an issue.¹⁰⁰ For East Cleveland residents, cricket farming may be an easy, do-it-yourself practice that requires few resources and little time.

However, the “practice of farming crickets for human consumption is still in its infancy in the U.S.,” and most insect-based food products produced domestically are made using insects from farms in Thailand, or, less frequently, Mexico or Ghana.¹⁰¹ Several companies have tried to develop domestic cricket farms in the United States; while some have been unsuccessful, others report business success and even expansion.¹⁰²



PART II: PROCESSING, COOKING, AND SELLING PREPARED FOOD

Beyond growing and selling various agricultural products, Loiter, East Cleveland residents, and other similarly situated urban communities can also develop businesses from selling processed food and cooked meals. While standard retail food establishments like restaurants require substantial start-up costs and strict regulatory compliance, selling food produced at home or in local community kitchens can provide an easy method of expanding East Cleveland's food economy. At a larger scale, Zone U5 Industrial allows factories, including the factories for producing canned or preserved goods, or sausages.¹⁰³ However, like restaurants, such facilities require substantial investment and regulatory compliance.



SECTION 1: ESTABLISHING RETAIL FOOD ESTABLISHMENTS AND FOOD SERVICE OPERATIONS

Opening a successful retail food establishment or food service operation is a challenging and risky endeavor; taking advantage of specific regulatory carve-outs and existing infrastructure provides a much more accessible avenue to generating income from prepared food. However, we include a brief overview of the steps required of retail food establishments and food service operations below, for the sake of comparison to other possibilities.

A. REGULATORY BACKGROUND

Retail food establishments and food service operations are subject to extensive regulation and require licensing in Ohio. A “retail food establishment” is a business that stores, processes, prepares, or similarly handles food that will be sold to a person who is the ultimate consumer.¹⁰⁴ Alternatively, Ohio defines a “food service operation” as “a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation.”¹⁰⁵ Retail food establishments and food service operations must be licensed by the Cuyahoga County Board of Health and are subject to additional regulations at the state level.

To receive a license from the county, a retail food establishment or a food service operation must submit an application that includes a floor plan detailing where food is prepared, the location of sinks and bathrooms, entrances and exits, and capacity, among other things.¹⁰⁶ The business must also provide lists of the foods served and equipment used.¹⁰⁷ Additionally, the business must pay a licensing fee that varies based on the level of risk of the type of food service.¹⁰⁸ A business cooking and serving food, like a restaurant, is the highest level of risk, while a business only selling pre-packaged foods is the lowest level of risk.¹⁰⁹ The business must also ensure that at least one staff member present while the business is operating has taken a required food safety course.¹¹⁰ Getting licensed is a complex process, and the Board of Health recommends contacting local officials prior to developing and submitting a plan or application.

At the state level, there are a number of specific regulations that apply to a retail food establishment or food service operation: Foods must be stored at and cooked to specific temperatures;¹¹¹ employees must report illnesses such as norovirus and symptoms that could be a sign of illness;¹¹² equipment must be made of certain materials;¹¹³ and facilities must be constructed with specific design characteristics.¹¹⁴

B. BUSINESS OPPORTUNITIES AND CHALLENGES

Due to the extensive regulations at both the state and county level, operating a retail food establishment or food service operation typically poses more initial costs and challenges than selling or preparing foods that are exempt from these requirements. However, if Loiter or affiliated East Cleveland home cooks are able to make use of a licensed facility, such as Wake Robin Foods or a local school kitchen, they may be able to produce a wider variety of safe, marketable foods without subjecting themselves to dramatically higher financial or regulatory burdens.

SECTION 2: USING HOME KITCHENS FOR COOKING AND PROCESSING

Consumer demand for locally produced food products and legislative efforts to support in-state producers around the country have grown over the last decade. Every state, including Ohio, now allows for the sale of at least some foods prepared at home, allowing home cooks to start and run flexible small businesses from their homes.¹¹⁵ In Ohio, there are several different ways to produce and sell food from home, each of which must comply with slightly different limitations and regulatory restrictions. However, these products provide an accessible means of creating a local business that can serve the community and help build wealth for East Cleveland residents.

A. REGULATORY BACKGROUND

States have the primary responsibility for regulating safety for retail food sales and food service operations. Most states' food safety laws, however, are modeled after the federal Food and Drug Administration's (FDA) Model Food Code ("the Food Code").¹¹⁶ The Food Code applies to any "food establishment", defined as "an operation that stores, prepares, packages, serves, vends . . . or otherwise provides food for human consumption."¹¹⁷ Under the Food Code, if a food producer is legally a "food establishment", the operation is subject to the extensive requirements contained in the 767-page Model Code (or whatever portion of it has been adopted in that state) and other relevant state laws. The FDA Food Code advises against ever licensing or permitting any kitchen in a home as a food establishment, though it includes in its model text a limited exemption for producers that prepare certain low-risk foods in a private home and offer them at a bake sale for a religious or charitable organizations.¹¹⁸

Despite the FDA's recommendations, every state in the country provides broader exemptions for the sale of foods prepared in home kitchens. Ohio allows for the sale of cottage foods, baked goods produced at home, and some meals fully prepared at home. These exemptions lower or remove the requirements for the sale of certain products produced under certain conditions. The legal requirements for each are detailed below.

COTTAGE FOODS

Under Ohio statute, a cottage food operation may produce food items that are not "potentially hazardous foods," without any permit, license, or registration.¹¹⁹ A cottage food operation is defined as "a person who, in the person's home, produces food items that are not potentially hazardous foods."¹²⁰ This language does not contain any ownership requirement, allowing renters or lessees to produce cottage foods. It also appears that someone is allowed to produce cottage foods in a home kitchen that is not where they reside, or in an unoccupied home's kitchen. Because the law entirely exempts the cottage food operation from permitting, it seems that this legal gray area would allow cottage food producers to operate out of any home kitchen, whether their own or someone else's.

The primary rules for cottage food operations are promulgated by the Ohio Department of Agriculture, Food Safety Division.¹²¹ The Food Safety Division has created an exhaustive list of foods that may be prepared in a home kitchen and sold without a permit, all of which are non-time and temperature control for safety ("non-TCS") foods. Non-TCS foods are low-risk, and generally do not require refrigeration or heating to a consistent temperature. This includes dry tea blends, dry herbs and herb blends, dry cereal and nut snack mixes with seasoning, and granola.¹²² Foods not listed may not be produced for sale in a home kitchen,¹²³ including any pickled, canned, or fermented

Cottage Food in Ohio

Know the law!

ALLOWED (Full List)	NOT ALLOWED (examples, not all-inclusive)
<ul style="list-style-type: none"> Baked goods that do not require refrigeration, like bread, cookies, brownies, cake, fruit pie, fruit cobbler. Candy Fruit Jams Fruit Jellies Flavored honey produced by an exempt beekeeper Fruit chutneys, non-acidified Fruit butters Granola, granola bars dipped in candy Maple sugar produced by an exempt maple syrup producer Popcorn, flavored popcorn, kettle corn, popcorn balls, caramel corn Unfilled baked donuts Waffle cones and waffle cones dipped in candy Pizzelles Dry cereal and nut snack mixes with seasonings Roasted coffee, whole beans or ground, flavoring permitted Dry baking mixes in a jar (other pkg permitted) Dry herbs and herb blends Dry tea blends Dry soup mixes Dry seasoning blends 	<ul style="list-style-type: none"> Any item that requires refrigeration to keep from spoiling, including fresh fruit garnishes or fillings. Candy covered fresh fruit Freezer jam Sugar-Free jams/jellies/fruit butters Fresh pasta Dehydrated fruits or herbs Cheesecake, cream pie, pumpkin pie Fry pies Popping corn Acidified foods (ex: pickles, relishes) Salsa Hot pepper butter, pumpkin butter, nut butter Hummus Waffles or Belgian waffles Raw pizza dough, cookie dough Cream cheese frosting Beef jerky Meals

Figure 1. Foods that may and may not be produced without a permit under Ohio's cottage food law.

Source: Cottage Foods, Ohio Dep't of Ag., Food Safety Div., <https://agri.ohio.gov/divisions/food-safety/resources/cottage-food> (last visited Mar. 24, 2022)

goods, though foods may be added when the Department of Agriculture updates its rules every five years. The last update occurred in January of 2022.¹²⁴

According to Ohio laws, all cottage foods must be labeled with (1) statement of identity—the name of the food product; (2) net quantity of contents—the net weight, in both U.S. Customary System (inch-pound system) and International System (metric); (3) ingredient list—ingredients of the food product, listed in descending order of predominance by weight; (4) statement of responsibility—the name and address of the business; and (5) the following statement in ten-point type: “This Product is Home Produced.”¹²⁵

There is no cap on the sales or revenue received by a cottage food operation, and the products may be sold directly from the home where the products are prepared or farmers’ markets, or resold through grocery stores or commercial restaurants. However, cottage food products produced in Ohio may be sold only within the state of Ohio.¹²⁶

HOME BAKERIES

Ohio also allows for the sale of both non-time and temperature control for safety (“non-TCS”) and time and temperature control for safety (“TCS”) baked goods prepared in home kitchens, pursuant to \$10 registration with the Ohio Department of Agriculture, Food Safety Division as a “home bakery.”¹²⁷ A home bakery may be operated by any owner or operator of the home kitchen, so long as it includes only one ordinary oven and stove; there is no requirement that the home baker owns the home.¹²⁸ In addition to the \$10 registration fee, home bakeries must be licensed and inspected by the Food Safety Division.

Among other requirements, home bakeries cannot be home to pets, must contain a mechanical refrigerator with a thermometer, and if the home is served by a private well, the well must be tested annually, and proof of a negative coliform test submitted to the Food Safety Division inspector.¹²⁹ Unlike cottage foods, there is no list of acceptable baked goods, or prohibitions on any products, so long as they are baked goods and the home bakery has registered with the Department of Agriculture.¹³⁰

Home bakery products must be labeled with (1) statement of identity—the name of the food product; (2) net quantity of contents—the net weight, in both U.S. Customary System and International System; (3) ingredient list—ingredients of the food product, listed in descending order of predominance by weight; (4) statement of responsibility—the name and address of the business; (4) for products requiring refrigeration, the declaration, “Keep Refrigerated” or a similar statement.¹³¹ Home bakery products may be sold from the home bakery and may be served as a food item offered by restaurants. Unlike cottage foods, home bakery products produced within Ohio may be sold outside Ohio.¹³²

SALE OF FULLY PREPARED MEALS

Ohio also allows for the limited sale of meals prepared in home kitchens and served in the home. If a homeowner prepares and serves fewer than 115 meals per week in his or her own kitchen, Ohio exempts that operation from definition of “food service operation,” and does not require that operation to obtain a license.¹³³ The home must be owner-occupied, and must conspicuously display a notice that “the home is not required to be licensed as a food service operation.”¹³⁴ This contains no prohibition on selling the meals, allowing homeowners to serve up to 115 fully-prepared meals per week to guests of the home, to be eaten in the home, meaning that home cooks could operate as micro-restaurants.

Ohio also allows the sale of up to 20 meals or baked goods to be sold for consumption off the premises of the home.¹³⁵ This allows home cooks to sell meals or meal components “to go.”

BED AND BREAKFASTS AND OTHER FOOD BUSINESSES

Finally, Ohio exempts small bed and breakfasts from the requirement to be licensed as food service operations. The statute exempts any bed and breakfast operated by homeowners occupying the bed and breakfast, as long only breakfast is served, the number of guest bedrooms is not more than six, and the number of guests is not more than sixteen.¹³⁶ This is somewhat restrictive, however, as it requires owner-occupation and a small number of guest rooms, and limits the meals served to breakfast (though breakfast itself is not defined). Bed and breakfasts operated in private homes do not appear to require other licenses to operate, but are otherwise subject to Ohio laws. The East Cleveland zoning code does not prohibit the operation of bed and breakfasts.

Outside of these exemptions, to be licensed as a food service establishment—the permit required for most kinds of restaurants—food businesses in East Cleveland (including larger or unoccupied bed and breakfasts, or businesses that wish to serve a larger number of meals or broader range of foods) need to apply for a food service operation license issued by the Cuyahoga County Board of Health.¹³⁷

B. BUSINESS OPPORTUNITIES AND CHALLENGES

The food business opportunities most accessible to Loiter are those that do not require licensing to get started. First, the sale of cottage foods: Based on Loiter’s resources, the clearest opportunities within cottage foods are the sale of dried tea blends and dried herbs. Because Ohio allows for broad sales venues for cottage foods,¹³⁸ these could be sold under a commercial processor’s label as well (such as Wake Robin, in Loiter’s case), and without a cap on revenue (though there may be a “common sense” limitation on a very large business enterprise). The most important two limitations are the limits on the type of foods sold and restrictions on out-of-state sales. Ohio is unique in providing an exhaustive list of acceptable products. One challenge is that under Ohio law anything canned, fermented, or pickled would need to be produced in a licensed commercial kitchen and cannot be a cottage food.¹³⁹ Cottage foods may also only be sold within the state of Ohio, so selling these products outside the state would likely require a commercial food service license. This means that Loiter could contract with individuals in private homes to produce non-TCS foods on the cottage food list for sale under the Wake Robin label, so long as those products were sold only within the state of Ohio.

Second, those with an interest in serving small customer bases may start up micro-restaurants in their homes without a food service operation license.¹⁴⁰ This may be particularly valuable as a weekend enterprise and would also provide the opportunity for some community-owned spaces that serve food. This allows for a greater range of food production than the bed and breakfast exception. There are a few important limitations: first, an unlicensed home micro-restaurant can only produce and sell up to 115 meals per week to be eaten in the home and second, the home cook does need to occupy the home.¹⁴¹ There is a second exemption in the law that allows home cooks to make and sell up to twenty meals per week to be eaten off the premises of the home; this exemption does not require that the home be owner-occupied.¹⁴²

The home bakery exemption may also provide opportunities for those who wish to sell a broader range of baked goods, though they must comply with inspection and licensure processes.¹⁴³ Subject to the requirements of home bakery licensing, including not having pets, having a mechanical refrigerator, and other requirements,¹⁴⁴ the home baking permit would allow home bakers to produce and sell a wider range of products. These sales could be made through a variety of venues including retail and selling to restaurants; the home bakery exception also allows home bakers to sell their products outside the state of Ohio.¹⁴⁵

Finally, the bed and breakfast exemption would allow Loiter and East Cleveland residents to operate small bed and breakfasts out of their own homes. The bed and breakfast exemption, however, does require occupancy by the operator, and only allows up to sixteen guests, as well as restricting the sale of food to only breakfast.¹⁴⁶ This likely makes the bed and breakfast option less promising for East Cleveland home cooks than the 115 meals per week exception above.

C. POLICY CHANGE OPPORTUNITIES

There are a few ways that Loiter could advocate for policy change both at the state level and at the local level, beginning with advocacy around a more permissive cottage food law. In 2021, fifty-one unique pieces of legislation to expand home food producer exemptions were introduced in thirty-one states and the District of Columbia, and nineteen of these bills were enacted.¹⁴⁷ This was the result of ongoing significant legislative momentum around expanding cottage food production, particularly in the wake of the COVID-19 pandemic.¹⁴⁸

In Ohio in particular, it would benefit home cooks to make the non-TCS food list illustrative like in Tennessee,¹⁴⁹ rather than exhaustive. Converting the list to an illustrative list would allow home cooks to make and sell goods that are similar to the precise items named in the current exhaustive list, a common sense shift that provides helpful flexibility to home food producers. This change would not require legislation, but rather could be done by agency-level advocacy directed at the Ohio Department of Agriculture, encouraging them to amend the Ohio Administrative Code § 901:3-20-04, though the state legislature also could instruct the Department to make this change. More significant steps might include allowing for the sale of some canned, fermented, or pickled foods, as in Indiana,¹⁵⁰ or even some TCS foods, as in Montana.¹⁵¹ Finally, some states, including California¹⁵² and Utah,¹⁵³ have begun experimenting with a new regulatory program for “microenterprise home kitchens.” These laws allow for the production of more types of foods in a home kitchen than traditionally allowed under cottage food laws, and impose requirements stricter than cottage food laws but less rigid than traditional restaurants.¹⁵⁴ In these states, meals can be sold for takeout, so they are not required to be served in the home. Advocacy for a microenterprise home kitchen law, building on the 115-meal exception discussed above,¹⁵⁵ would be a significant opportunity for Loiter.

Along similar lines, Loiter might push at the state level to broaden the existing 115 meal exception for home-cooked meals.¹⁵⁶ Already, this exception is an innovation of the Ohio Food Code; no such exception appears in the federal 2017 Food Code promulgated by the U.S. Food and Drug Administration.¹⁵⁷ Removing the occupancy requirement, raising the 115-meal cap, or expanding the 20-meal limit for the consumption of homemade meals offsite would allow East Cleveland residents to sell more products.

Finally, small bed and breakfasts might be de-regulated. This could happen by broadening the bed and breakfast exception in the Ohio Food Code to allow for more guests to be served (for example, Ohio’s law allows six guest bedrooms and service to up to 16 guests, whereas the FDA model Food Code allows for six guest bedrooms and service of up to 18 guests), or allowing the sale of a certain number of additional meals from the bed and breakfast to be consumed off the premises.

SECTION 3: USING SCHOOL KITCHENS FOR COOKING AND PROCESSING

Loiter may be able to take advantage of existing local food processing and production infrastructure such as school kitchens to produce various meals and food goods. Using school kitchens would allow Loiter to produce and sell a wider variety of products without the restrictions placed on home kitchens. And, perhaps most significantly, their use speaks directly to the mission of Loiter: developing bonds in a community using existing resources, and recognizing the unique potential of mutual aid and shared spaces to create an alternative to the limited, largely heavily processed options for groceries and restaurant food in East Cleveland.

A. REGULATORY BACKGROUND

Ohio's Food Code considers a school kitchen to be a "food service operation," which is a "place, location, site, or separate area where food intended to be served in individual portions is prepared or served."¹⁵⁸ Therefore, food produced in school kitchens may be sold without restrictions, like any other food from a food service operation. While Ohio has not provided any direct guidance for the rental or operation of school kitchens by private parties, there are several requirements that generally appear in states that allow such programs:

- Any party using a school kitchen needs to follow federal, state, and local food safety guidelines in accordance with the school, as well as take additional precautions to prevent allergen cross-contamination.¹⁵⁹
- Any party who receives a permit or license to use the school kitchen also must be designated, or designate another individual, to be legally responsible for following the state's food safety guidelines.
- East Cleveland School District requires a unionized school employee to be present when any of their facilities are used, who must be paid by the renting party.¹⁶⁰

Public schools, including the East Cleveland City School District, get funding for kitchen equipment, infrastructure, and food products through the USDA's Food and Nutrition Service, as part of the school's participation in the National School Lunch Program (NSLP) and School Breakfast Program (SBP).¹⁶¹ East Cleveland City School District currently provides free breakfast and free lunches to all students through the Community Eligibility Provision of the NSLP. Schools that purchase equipment with these funds must primarily use them for the benefit of school children, but are allowed to use the facilities for other purposes when not in use as long as they are rented to community users at a fair market rate.¹⁶² This market rate is based on the rental costs of comparable equipment, the market conditions in the area, and the type, life expectancy, condition, and value of the kitchen equipment.¹⁶³

East Cleveland City School District generally does not allow for the rental of the kitchen space, but will charge \$50 per day for the rental of the elementary cafeterias, \$75 per day for the cafeteria at Heritage Middle School, and \$100 per day for the cafeteria at Shaw High School, not including the costs of labor.¹⁶⁴ The school district requires a school employee to be present when the kitchen is used.¹⁶⁵ Community non-profit groups are allotted third priority for permit issuance for facility rentals during non-school hours, after student groups and community groups directly affiliated with the schools. Commercial users are "strongly discouraged" from applying and are given last priority, but technically are allowed.¹⁶⁶

B. BUSINESS OVERVIEW

The use of school kitchens in East Cleveland could provide an opportunity to use existing local infrastructure—paid for by local taxpayers, at least in part—to support the growth of new food processing capacity. By operating in a school kitchen, East Cleveland residents would be able to create value added products that they may commercially produce in a home kitchen under the existing Ohio exemptions, such as the cottage food exemption mentioned above. For example, many of the canned or fermented products that are currently sold under the Wake Robin label cannot be prepared for sale in home kitchens under the cottage food law, but could be prepared in a school kitchen as such kitchen is licensed by the state.

Instead or in addition, school kitchens could be used as a location for training and education programming for East Cleveland residents as to how to prepare value added goods for sale, even if the goods will be produced in home kitchens or elsewhere. The kitchen could also be offered as a community resource for East Cleveland residents who want to can or preserve their own home-grown food, following the “community cannery” model.¹⁶⁷ There could be a business opportunity to charge low fees for registration for such classes, trainings, or community use.

C. OPPORTUNITIES AND CHALLENGES

The use of East Cleveland school facilities by Loiter may be a useful way to expand the footprint of the organization’s commercial kitchens as well as connect directly with the local community and school infrastructure. Renting the kitchens would further embed Loiter and its mission into community institutions, and also provide a relatively inexpensive and flexible way to increase the organization’s commercial food production capacity or provide capacity for other local producers.

And although, as noted below, Loiter would likely need to change the school system’s policies to be able to use the kitchens, these changes would only need to occur at the local level. The school may raise concerns related to liability, in case someone were to be injured while using the school kitchens, though this concern could be mitigated in several ways.

First, several states offer immunity from liability for recreational use of school facilities—known as “joint use,” “shared use” or “community use.”¹⁶⁸ Ohio does have a statute on “liability for damages arising from use of school premises” that offers liability protection for the school in the event that someone were injured while using the school premises, unless the school charged a fee for the use of the premises that “significantly exceeds the costs incurred for the operation of the school premises.”¹⁶⁹ Thus, if the school were to charge only a reasonable fee tied to the cost of using the premises as stipulated by the USDA, the school likely would be protected.

Alternatively, any fears of liability could be reduced through a contractual agreement between Loiter and the school for Loiter to indemnify the school were someone to be injured; however, the school may require Loiter to hold an insurance policy. Even if not required, Loiter may also want to consider purchasing insurance or using other methods of limiting its own liability when using school kitchens because even if the school had immunity, Loiter likely would not.

D. POLICY CHANGE OPPORTUNITIES

The school district currently does not allow private parties to access the schools’ kitchens and rarely allows for rental of any of its facilities to parties that are not directly tied to the school. Therefore, some degree of policy change would need to occur to facilitate either long- or short-term use of school kitchens. However, these obstacles occur only at the local level, and may be mitigated or eliminated by meeting directly with members of the school board, school employees, and the school district’s food program coordinators. The federal requirement for market-rate rental of the facilities, however, is unlikely to be able to be changed, and may pose a monetary barrier to Loiter’s ongoing use of the school kitchens.

PART III: COMPOSTING FOOD WASTE

Community composting is, as the name suggests, the practice of composting organic material at the community level. Community composting can provide a number of benefits to participants, including diverting waste from landfills, closing local food system loops, engaging and empowering community members, and serving as an income source.¹⁹² By developing a community composting program, Loiter could provide East Cleveland residents with local waste disposal, community-level environmental education, rich fertilizer for community garden or agriculture projects, and, in some models, an income stream.



SECTION 1: COMPOSTING FOOD WASTE

A. REGULATORY BACKGROUND

Composting is primarily regulated at the state and local, rather than federal, level. However, the federal Environmental Protection Agency maintains some baseline regulation on so-called “biosolids” disposal under the Clean Water Act, which applies to all solid waste sites.¹⁷⁰ These regulations largely pertain to the disposal of sewage sludge, and should not apply to a typical community composting program.

The state of Ohio’s own Environmental Protection Agency (OEPA) regulates and supports composting facilities at all levels. Notably, Ohio does not require any permitting for a compost facility under 500 ft² in size, so long as that facility does not constitute “a nuisance or health hazard” and does not “cause or contribute to surface or ground water pollution.”¹⁷¹ This regulatory exception is designed to allow for composting in community gardens and on urban farms, and could allow for a significant amount of composting on properties owned or managed by Loiter and affiliated community members. For larger-scale composting, OEPA recognizes four classes of composting facilities; most saliently, facilities of greater than 500 ft² processing food scraps are designated as “Class II.”¹⁷² Class II composting facilities are subject to a number of licensing and inspection provisions, based on size of facility and volume of material processed.¹⁷³ Although licensing fees can be quite modest at lower composting volumes, the program’s planning and site assessment and management requirements may pose a significant cost barrier to launching a true commercial-scale composting operation.¹⁷⁴ Additional testing and logging requirements also apply for any finished compost products that are sold or distributed off-site.

Despite friendly state policies and myriad opportunities under state law, East Cleveland does not have a permissive policy regime for composting. East Cleveland city ordinances do not directly mention composting facilities, but its solid waste-related regulations do seem to ban, on nuisance grounds, any garbage accumulation outside of approved containers, whether on private or public property. The most relevant garbage ordinance specifically prohibits the collection of vegetable matter and food scraps on both public and private property.¹⁷⁵ These ordinances would seem, on their face, to prohibit even a small personal compost pile within city limits (although they would seem to allow capsule-style composting systems); however, the topic was last revisited in 1963, and the city may be open to updating their composting guidelines, especially given the state of Ohio’s enthusiastic support of community composting, as discussed below.

B. BUSINESS OVERVIEW

At its most basic, a community composting program takes very little capital investment to get started. Composting sites could be hosted at community gardens or on privately held land; essentially all that is needed is a piece of unoccupied ground and some organic waste. The larger and more systematized the composting operation, the more cost inputs are required—for example, a commercial composting facility that conducts curbside pickups and sells bags of finished compost may need to invest in vehicles, a poured concrete composting facility, state licensing costs, packaging supplies, advertising expenses, and more. Ray Leard, who started the Compost Exchange (now based in Columbus, OH), stated that he invested close to \$250,000 when he first began his large-scale composting business.¹⁷⁶ However, much of that investment was in hard infrastructure like pouring concrete pads and building sheds; here, Loiter may be able to exploit one of their owned structures or take ownership of a nearby, abandoned structure in order to build a compliant Class II composting facility.

East Cleveland, unlike many neighboring Ohio cities, only offers residents traditional trash and recycling pickup throughout the city. A Cleveland-based company, Rust Belt Riders, offers a private curbside pickup service in East Cleveland; that service costs between \$30 and \$40 per month, depending on payment schedule.¹⁷⁷ Rust Belt Riders also offers a lower-cost drop-off service for the much more affordable \$10 per month, but currently does not have any drop-off locations in East Cleveland.¹⁷⁸ This seems to leave something of a gap in the market for a low-cost, locally based composting option for East Cleveland community members.

C. BUSINESS OPPORTUNITIES

Successful composting businesses operate on any number of models. For example: Rust Belt Riders' pickup customers receive a modest amount of composted soil each year; the rest of their compost product is sold to the general public under the brand name Tilth Soil.¹⁷⁹ The Compost Exchange, in its current iteration, offers curbside pickup to Columbus residents on a sliding scale—cost is based on number of households per pickup, from single households up through “Neighborhood Hubs” of 25 or more households.¹⁸⁰ The organic waste collected is trucked to community gardens and other community partners, who manage the rest of the composting process, then use the compost onsite.¹⁸¹ Detroit Dirt, an intra-urban community composting company in Detroit, Michigan, collects food scraps and organic waste from institutional partners like General Motors and the Detroit Zoo, then processes and sells the resulting high-quality compost to businesses and individuals in Detroit.¹⁸²

Because there is not currently a low-cost or free community composting option available to East Cleveland residents, there seems to be something of a business—or at least community-building—opportunity open to Loiter in this space. Loiter could think of a composting project in one of two ways: first, as an opportunity to reduce cost inputs for Loiter-affiliated farmers and gardeners, or alternatively as an income-generating waste removal service.

The first model would prioritize keeping costs low, both for food and yard waste disposal for residents and finished compost for gardeners or urban farmers. Under this model, similar to the lower-cost options provided by The Compost Exchange, East Cleveland households would be able to access compost drop-off sites throughout the city at no cost or minimal cost. These sites could be placed on or proximate to Loiter-affiliated urban agriculture projects, and farmers and gardeners would then manage the composting process and use the finished compost to enrich their soil, reducing their need to purchase commercial fertilizer. This model would require minimal infrastructure or employee oversight and could be more or less self-sustaining with the occasional help of a Loiter coordinator.

Under the second model, Loiter could generate income by providing a higher-cost curbside pickup option; Loiter would coordinate pickup of compost buckets at subscriber's homes, then deposit the collected waste at either sub-500 ft² community-based sites on Loiter-affiliated farms and gardens, or potentially aggregated at a centralized Class II composting facility. Should Loiter choose to pursue this option, they would need to find a way to generate income to offset the cost of necessary infrastructure for the business—labor, vehicles, marketing, etc.—either through charging a sufficiently high rate for pickup, through processing and selling finished compost, or both.

Grant funding for community composting may be available at both the state and federal level. Ohio offers a “Market Development Grant” through the state Environmental Protection Agency that grants up to \$200,000 to waste management businesses for expenses like site improvements, screening equipment, bagging machinery, and so on.¹⁸³ At the federal level, USDA has also provided grant funding for community composting projects through the Community Composting and Food Waste Reduction grants under its Office of Urban Agriculture and Innovative Production.¹⁸⁴ Under this program, funding has been distributed to municipalities, counties, local governments, state and federally recognized tribes, or city planners, to plan or implement composting and food waste reduction projects.¹⁸⁵ Funding for this grant was authorized through the 2018 Farm Bill, but Congress has appropriated

different amounts in different years, and USDA has been able to use other internal funding, such as excess American Rescue Plan Funds, to increase support for the program in recent years. The USDA awarded around \$900,000 total in FY 2020, \$1.94 million in FY 2021, and \$9.4 million in FY 2022.¹⁸⁶ In FY 2022, these projects were funded as 24-month pilots, with each grant ranging between \$45,000 and \$90,000. Both the total amount awarded and the size of individual grants have increased in FY 2023: the USDA expects to award approximately \$9.5 million in grants this year, with grants ranging between \$55,000 and \$400,000.

D. POLICY ADVOCACY OPPORTUNITIES

Loiter could engage in policy advocacy at both the local and state level in order to create a more compost-friendly business environment. Although the state composting regulations are currently quite compost-friendly, local ordinances in Easts Cleveland seem to pose some challenges to composting at even the most personal scale; even backyard composting seems to be prohibited, let alone a full-scale commercial composting operation.

At the local level, Loiter may wish to lobby the mayor and city council to clear up or amend the language in the existing ordinances to explicitly allow community composting to better accord with state law. The Ohio EPA has issued a sample ordinance that communities may use in just such an instance, which may prove a useful tool in these lobbying efforts.¹⁸⁷ Additionally, surrounding towns have more explicitly permissive composting regulations, and Cuyahoga County offers robust support for backyard compost, which may help demonstrate to city officials that it is time to update East Cleveland's approach to compost.¹⁸⁸

At the state level, Ohio already has a fairly supportive policy regime for community composting. However, should Loiter pursue a community composting business, they may also want to lobby the state to enact laws that further improve the business environment for community compost. One type of legislative intervention would help to increase the inputs for that business, such as a mandatory organic waste diversion law (requiring facilities over a certain size to compost organic waste and food scraps rather than send them to a landfill). This would mean that any large-scale businesses or institutions, like a school or hospital, would need to compost their food waste rather than direct it to the landfill. Another type of policy that could improve the business environment for community compost would be policies that increase the purchase of compost end-products. The state (or locality) could implement procurement policies that mandate, as a condition for construction permits, that commercial developers consider a bid from compost manufacturers when installing soil for landscaping.¹⁸⁹ This type of mandated procurement would provide a larger customer base for finished compost products by increasing consumer demand. A model local government compost policy published by the NRDC (Natural Resources Defense Council) could provide a good starting place for the language.¹⁹⁰

CONCLUSION

Under current federal, state, and local laws, Loiter can take advantage of several promising business opportunities, like fresh produce, honey production, and cottage foods or certain home-based meals. With a few key regulatory tweaks at the local level, Loiter could expand its business to incorporate egg production, animal husbandry, or revenue streams from community composting. The suggested policy advocacy steps outlined in each section above would help Loiter achieve its important mission of community-owned and community-centered economic development in East Cleveland.



APPENDIX 1 - FUNDING OPPORTUNITIES

Project	Funder	Type of funding	Timeline	More information
Urban Agriculture	USDA – Office of Urban Agriculture and Innovative Production	Planning and implementation grants for food access, education, etc. - \$50,000 and \$300,000	Last due March 2023	USDA Website
Community Compost	Ohio Environmental Protection Agency	Market Development Grant – up to \$200,000	Look for 2023-24 application window in November of 2023.	OEPA Website
Composting and Food Waste Reduction	USDA – Office of Urban Agriculture and Innovative Production	Cooperative Agreements for Composting and Food Waste Reduction -- \$55,000-\$400,000	Last due June 15, 2023	USDA Website
Regional Food Systems Partnership	USDA – Agricultural Marketing Service	Supporting Regional Food Systems (strengthening the viability and resilience of regional food systems) Grants -- \$100,000 - \$1,000,000; Requires a 25% match of federal funds	Last due May 2, 2023	USDA Website
Community Food Projects Competitive Grants Program	USDA – National Institute of Food and Agriculture	Increasing the self-reliance of communities for food needs, promote comprehensive responses to local food access Grants -- \$5,000 - \$ 400,000	Window has closed for FY 2023, unclear for 2024	USDA Website

APPENDIX 2 – POLICY CHANGE OPPORTUNITIES

Project	Decision maker	Current policy	Type of change needed	Current law; more information
Urban Agriculture and Animal Husbandry	City of East Cleveland	Urban agriculture not permitted as of right on residential property	Petition for zoning variance , to allow one-off use; or lobby for a permanent change to the municipal code (could be modeled on Cleveland’s ordinance, see App’x 3 below).	East Cleveland Ordinances § 1107.04.; Cleveland model ordinance .
Home Food Preparation	Ohio Department of Agriculture	Current list of non-TCS cottage foods is exhaustive and rarely edited	Amend Ohio Administrative Code to make list illustrative rather than exhaustive; add pickled or fermented foods; or even add some TCS foods.	Ohio Administrative Code § 901:3-20-04; FLPC issue brief

Project	Decision maker	Current policy	Type of change needed	Current law; more information
Home Food Preparation	Ohio state legislature	The 115 meal exception only allows for onsite consumption; preparation must be in cook's own home	<ul style="list-style-type: none"> Advocate for statutory change allowing for the sale of more meals per week; offsite consumption; sale out of unoccupied homes Advocate for a more comprehensive micro-enterprise home kitchen law, which would legitimize more types of home kitchen operations. 	Ohio Rev. Code §3717.42(B)(13).; FLPC issue brief
Home Food Preparation	Ohio state legislature	Bed and breakfast exception is limited to a small number of overnight guests; only breakfast may be sold	<ul style="list-style-type: none"> Broaden the exception to allow for more overnight guests Allow for the sale of food products in addition to breakfast Broaden the exception to allow for the preparation and sale of more meals, or the consumption of meals off the premises. 	Ohio Rev. Code §3714.42(B)(2).
Community Compost	City of East Cleveland	All backyard composting seems to be prohibited under existing municipal garbage code.	Clarify or amend the language in the existing ordinances to explicitly allow community composting in accordance with state law. (The state of Ohio provides a sample ordinance, provided in App'x 4 below)	City of East Cleveland, Ordinance 5455 § 939; OEPA Website ; Cuyahoga County composting website .
Community Compost	Ohio state legislature	Generally friendly to community compost state, but room for improvement.	Advocate for mandatory organic waste diversion laws (requiring facilities over a certain size to compost organic waste and food scraps rather than send them to a landfill); or mandatory procurement guidelines (e.g., as a condition for construction permits, that commercial developers consider a bid from compost manufacturers when installing soil for landscaping.)	NRDC Composting policy guide
School Kitchens	Local school authorities	Private parties not affiliated with the schools currently not allowed to rent school kitchens.	Change school district policy to allow for private party rentals of school kitchens.	East Cleveland facility rental procedures

APPENDIX 3 – MODEL URBAN AGRICULTURE ORDINANCE

CLEVELAND URBAN AGRICULTURAL OVERLAY DISTRICT MODEL CODE

Source: Cleveland City Ordinances § 336A et seq.

336A.01 Purpose

The “Urban Agriculture Overlay (UAO) District” is established for the following principal purposes:

- (a) to provide appropriately located and sized land for urban agriculture use;
- (b) to facilitate local food production and improve community health;
- (c) to provide local opportunities for agriculture-based entrepreneurship and employment;
- (d) to enhance the environment and improve stormwater management;
- (e) to ensure safe and sanitary conditions for urban agriculture uses;
- (f) to protect nearby residential areas from any adverse impacts of agricultural use; and
- (g) to ensure that land best suited for non-agricultural use remains available for such use.

336A.02 Mapping and Applicability

- (a) Mapping.** The UAO District shall be mapped on the Zoning Map as an overlay district in areas where it has been determined that urban agriculture is an appropriate use of the land. The minimum size of a UAO District, composed of a single parcel or multiple contiguous parcels, shall be one (1) acre.
- (b) Applicability.** The regulations of the underlying district shall govern except where in conflict with any regulation of the UAO District, in which case the regulation of the UAO District shall govern.
- (c) Land Use Analysis.** To assist the City Planning Commission and City Council in determining whether urban agriculture is an appropriate use of particular properties, the City Planning Commission staff shall prepare or cause to be prepared a land use analysis that evaluates the suitability of particular properties for urban agriculture and non-agricultural uses. This analysis shall be presented to the City Planning Commission and City Council prior to a decision on designating land as a UAO District.

336A.02 Definitions

- (a) “Urban Farm” means a parcel of land or multiple contiguous parcels of land managed and maintained by an individual or group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, to be sold for profit.
- (b) “Community Garden,” “Market Garden,” “Greenhouse,” “Hoophouse,” and “Coldframe” are as defined in Section 336.02.
- (c) “Farm Animals,” “Predatory Birds,” “Similar Animals,” “Coops and Cages,” and “Enclosures” are as defined in Division 347.02(I).
- (d) “Subject Property,” for purposes of this Chapter, means a parcel of land or two or more adjacent parcels of land in agricultural use.

336A.03 Permitted Principal Uses

In addition to the principal or main uses permitted in the underlying zoning district, urban farms, market gardens and community gardens shall be permitted in a UAO District.

336.04A Permitted Accessory Uses

In addition to the accessory uses permitted in the underlying zoning district, the following accessory uses shall be permitted in

a UAO District:

- (a) greenhouses, hoophouses, coldframes, and similar structures used to extend the growing season;
- (b) benches, bike racks, raised/accessible planting beds, composting, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, chicken coops, beehives, and children's play areas;
- (c) buildings, limited to tool sheds, shade pavilions, barns, restroom facilities with composting toilets, and planting preparation houses, in conformance with the regulations of Section 336A.05;
- (d) off-street parking and walkways, paved with pervious material, loose materials or hard-surfacing.

336A.05 Setback, Height and Coverage Regulations

Buildings and other structures in a UAO District shall be developed and maintained in accordance with regulations of the underlying district except as follows.

- (a) Buildings.** Buildings no greater than thirty-five (35) feet in height shall be set back from property lines of an adjoining Residential District a minimum distance of five (5) feet. Buildings exceeding thirty-five (35) feet in height shall be set back from Residential District property lines a minimum of one (1) foot for each five (5) feet of building height. Buildings other than greenhouses shall cover no more than fifteen percent (15%) of the land area of an urban agriculture use.
- (b) Fences.** Fences are permitted as regulated in the underlying zoning district and Chapter 358, except that in a UAO District, chain link fences up to six (6) feet in height are permitted in all locations, unless the underlying district is a Residential District. In Residential Districts, a chain link fence in a front yard or side street yard shall be set back from the street line at least five (5) feet, with grass or other vegetation planted in front of the fence. If the urban agriculture use in a Residential District is located adjacent to a Residential-zoned lot that is occupied by a house, any fence above four (4) feet in height shall be set back a distance that is at least equal to the required front yard set-back for adjoining lots in a Residential District.

336A.06 Keeping of Farm Animals and Bees

The keeping of farm animals and bees in a UAO District shall be governed by the following regulations, as well as the regulations of Section 347.02 and the regulations of Section 205.04 regarding licensing and applicable state and federal law.

(a) Small Size Animals. The keeping of chickens, roosters, ducks, geese, turkeys, rabbits and similar farm animals, and cages, coops and enclosures for the keeping of such animals, shall be governed by the following regulations.

- (1) Number.** No more than one such animal shall be kept for each 100 square feet of land area, except that no more than one rooster shall be kept for each 10,000 square feet of land area.
- (2) Setbacks.** The coops or cages housing such animals shall not be located within five (5) feet of a side yard line nor within eighteen (18) inches of a rear yard line, except that roosters shall be kept at least twenty (20) feet from the lot line of a Residential District outside of the UAO District.
- (3) Prohibitions.** No predatory birds or roosters raised for fighting may be kept on any property under the regulations of this Section.
- (4) Coops and Cages.** All animals shall be provided with a covered, predator-proof coop or cage or other shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals, exclusive of areas used for storage of materials or vehicles.
- (5) Enclosures and Fences.** Chickens and other birds shall have access to an outdoor enclosure adequately fenced or otherwise bounded to contain the birds on the property and to prevent access by dogs and other predators and providing at least ten (10) square feet of area for each bird.

(b) Medium Size Animals. The keeping of goats, pigs, sheep and similar farm animals, and stables and enclosures for the

keeping of such animals, shall be governed by the following regulations. No more than one such animal shall be kept for each 4,000 square feet of land area. Stables or other enclosures for such animals shall be set back at least twenty (20) feet from any street, at least five (5) feet from any property line, and at least seventy-five (75) feet from the lot line of a Residential District outside of the UAO District.

(c) Large Size Animals. The keeping of horses, cows, alpacas, llamas and similar farm animals, and barns, stables, and enclosures for the keeping of such animals, shall be governed by the following regulations in all zoning districts. No more than one such animal shall be kept for each 8,000 square feet of land area. Stables or other enclosures for such animals shall be set back at least twenty (20) feet from any street, at least ten (10) feet from any property line, and at one hundred (100) feet from the lot line of a Residential District outside of the UAO District.

(d) Bees. The keeping of bees, and associated beehives, shall be governed by the following regulations.

(1) Number. No more than one (1) beehive shall be kept for each 1,000 square feet of lot area.

(2) Locations and Setbacks. No beehive shall be kept closer than five (5) feet to any lot line and ten (10) feet to a dwelling or the permitted placement of a dwelling on another parcel, and no beehive shall be kept in a required front yard or side street yard. The front of any beehive shall face away from the property line of the Residential property closest to the beehive.

(3) Fences and Shrubs. A solid fence or dense hedge, known as a “flyway barrier,” at least six (6) feet in height, shall be placed along the side of the beehive that contains the entrance to the hive, and shall be located within five (5) feet of the hive and shall extend at least two (2) feet on either side of the hive. No such flyway barrier shall be required if all beehives are located at least twenty-five (25) feet from all property lines and for beehives that are located on porches or balconies at least ten (10) feet above grade, except if such porch or balcony is located less than five (5) feet from a property line.

(4) Water Supply. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

(5) Prohibitions. No Africanized bees may be kept on a property under the regulations of this Section.

336A.07 Supplemental Regulations

(a) Composting. Composting shall be conducted in a manner that controls odor, prevents infestation and minimizes run-off into waterways and onto adjacent properties. Composting may not be conducted for sale unless permitted by the underlying zoning.

(b) Retail Sales. Regardless of the underlying zoning district, retail sales of agricultural products, plants, eggs and honey are permitted for an urban agriculture use in a UAO District.

(c) Slaughtering. Chickens, ducks, rabbits, and other similar small animals raised on the subject property may be slaughtered on the site if inside a building or if screened from view from adjacent properties.

336A.08 Permit Requirements

Except for agriculture uses permitted in Residential Districts outside of UAO Districts, no urban agriculture use in a UAO District shall be established without submission of an application and site plan to the City’s Department of Building and Housing and subsequent issuance of a Certificate of Occupancy or Use Permit. A Building Permit shall be required for installation of all buildings, fences and other structures except as provided in Division 347.02(i) regarding the keeping of farm animals and bees.

APPENDIX 4 OHIO MODEL COMMUNITY COMPOST ORDINANCE191

Urban Agriculture, Composting and Zoning
Provided by the Ohio EPA.

Section (i) is relevant to community compost

Section ###.##- Community Gardens

(a) DEFINITIONS: This section refers to community gardens, hoop houses, cold-frames, greenhouses, composting and compost as defined in section _____ of this code.

(b) PERMITTED USES: A community garden shall be permitted in the following zones pursuant to all applicable conditions of section _____ of this code:

1) Residential, Commercial, Industrial, Open Space, and _____.

(c) MAINTENANCE: At the end of the growing season – no later than December 1 of each year – all plant material must be cut to no more than 6 inches in height.

(d) DEVELOPMENT STANDARDS: Any community garden established under section _____ of this code must meet the following development standards:

1) SETBACKS: All structures and activities must be located at least ____ feet from any side property line, ____ feet from any back property line and ____ feet from any front property line.

2) MAXIMUM HEIGHT: No structure or building may exceed ____ feet in height.

3) AREA: A community garden may only operate on a parcel of less than ____ acre(s) in area.

4) FENCING: All fencing shall conform to the requirements set forth in section _____ of this code.

Alternative when there is no existing or applicable fencing code: Fences shall not exceed ____ feet in height, shall be at least ____ percent open if they are taller than ____ feet, and shall be constructed of wood, chain link, ornamental metal, or _____. For any garden that is ____ square feet in area or greater, and is in a location that is subject to design review and approval by the ____ (City Planning Commission, Historic District Board), no fence shall be installed without review by the ____ (City Planning Commission, Historic District Board) to ensure that fences are compatible in appearance and placement with the character of nearby properties.

5) SIGNS: All signage shall conform to the requirements set forth in section _____ of this code.

Alternative when there is no existing or applicable graphics or signage code: Only one (1) non-illuminated sign per access point, measuring no more than _____square feet in total area and no more than ____feet in height from the ground may be erected onsite.

* 6) PARKING: No off-street parking shall be allowed except on parcels of greater than _____ square feet. In such a situation, only ____ space(s) per each additional ____ square feet above _____ square feet will be allowed.

7) WATER: The community garden shall have reliable and legal access to an onsite source of water. Use of water storage systems such as cisterns and rain barrels is allowed when in compliance with the accessory structures provisions of this code.

8) DRAINAGE: The community garden shall be operated in a manner which prevents the drainage of water or chemicals onto any neighboring property.

9) SOIL TESTING: Prior to development of a community garden, soils shall be tested to ensure the viability and safety of the location.

1) This requirement is waived when:

a) Soils have been remediated and/or demonstrated to meet the Ohio EPA's Voluntary Action Program direct-contact soil cleanup standards for residential land use in Chapter 3745-300 of the Ohio Administrative Code.

b) Raised beds are utilized on site for growing all crops for human consumption.

2) At a minimum, soil shall be tested for the following heavy metals: boron, arsenic, mercury, selenium, lead, cadmium, chromium, nickel, zinc and copper. Analytical test shall be conducted with methods and procedures suitable for soil media.

3) Suitable soil shall be defined as soil which meets the standards set forth in/by _____.

*(e) ACCESSORY BUILDINGS: The following buildings and structures are permitted on the site seeing as they do not exceed _____ square feet in total area:

1) Green Houses.

2) Gardening Sheds.

3) Other enclosed buildings which are found to be reasonably related to the activities of community gardening.

*(f) ACCESSORY STRUCTURES: The following structures are not considered buildings and may be erected on the site seeing as they do not exceed a reasonable size:

1) Benches.

2) Bike racks.

3) Cold-frames.

4) Hoop houses.

5) Raised planting beds.

6) Composting, recycling and waste bins.

7) Picnic tables.

8) Garden art.

9) Rain barrel systems.

10) Children's play areas.

11) Other structures which are found to be reasonably related to the activities of community gardening and are not enclosed structures.

*(g) HOURS: The community garden shall only operate from the hours of _____ AM until _____ PM.

(h) REGISTRATION: Prior to development and operation, all community gardens must complete a registration to be filed with _____, which contains the following information:

1) Governing structure.

2) Coordinator and contact information.

3) Plot distribution rules.

4) Parcel owner and contact information.

5) _____

(i) COMPOSTING: Composting may occur on-site pursuant to Ohio Environmental Protection Agency chapter 3745-560 of the Ohio Administration Code and the following standards:

1) No compost pile or total composting area may exceed 300 square feet in size without obtaining the required authorizations from the Ohio Environmental Protection Agency.

2) Any compost pile must be placed at least _____ feet from _____ (any, front, rear, side) property line.

3) Unless generated at the community garden location, the following materials shall not be accepted from off-site sources for composting in areas zoned ____ : ____ (animal manures, food scraps).

4) Composting areas and structures must be maintained in a manner that protects adjacent properties from nuisance odors and the attraction of rodents or other pests.

*(j) SALE: No produce may be sold or distributed on site.

(k) NUISANCE: The community garden and all related activities shall not be operated in any manner which may constitute a nuisance under section _____ of this code

ENDNOTES

- ¹ U.S. Census Bureau, *QuickFacts: East Cleveland, Ohio* (2022) <https://www.census.gov/quickfacts/eastclevelandcityohio>.
- ² Zachary Smith, “See child poverty and overall poverty rates for every Ohio city – new census estimates,” *Cleveland.com* (Mar 30, 2022) <https://www.cleveland.com/data/2022/03/see-child-poverty-and-overall-poverty-rates-for-every-ohio-city-new-census-estimates.html>.
- ³ Cuyahoga County Land Bank, *Cuyahoga Land Bank Properties: East Cleveland* (2023) https://cuyahogalandbank.org/all-available-properties/?view=parcel-list-table-view&zip=&address=&parcel_number=&ward=&neighborhood=&municipality=East+Cleveland&web_status=.
- ⁴ U.S. DEP’T OF AGRIC. ECON. RES. SVC., *Food Access Research Atlas* (2023) <https://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas/>.
- ⁵ East Cleveland Ordinances §§ 1123.01, 1129.01.
- ⁶ *Id.*
- ⁷ *Id.*
- ⁸ 21 C.F.R. 121.
- ⁹ *Id.* at 112.161.
- ¹⁰ *Id.* at 112.4.
- ¹¹ *Id.* at 112.5.
- ¹² *Id.* at 112.5, 112.3.
- ¹³ *Id.*
- ¹⁴ *Produce Safety*, OHIO DEP’T OF AGRIC., <https://agri.ohio.gov/divisions/food-safety/resources/produce-safety>.
- ¹⁵ *Id.*
- ¹⁶ *Farm Market Registration Form*, OHIO DEP’T OF AGRIC., <https://agri.ohio.gov/divisions/food-safety/forms/farm-market-registration-form>; OHIO REV. CODE § 3717.221.
- ¹⁷ *Id.* See also Part II, Sec. 1 for further discussion of retail food establishments.
- ¹⁸ *Id.*
- ¹⁹ *Vendor’s Licenses and Sales Taxes at Ohio Farmers Markets*, THE OHIO STATE UNIVERSITY, <https://farmoffice.osu.edu/sites/aglaw/files/site-library/Vendor%27s%20Licenses%20and%20Sales%20Taxes%20at%20Ohio%20Farmers%20Markets.pdf>.
- ²⁰ *Reusing Potentially Contaminated Landscapes: Growing Gardens in Urban Soils*, U.S. ENV’T PROT. AGENCY (Spring 2011), https://www.epa.gov/sites/default/files/2014-03/documents/urban_gardening_fina_fact_sheet.pdf
- ²¹ *Land Revitalization*, U.S. ENV’T PROT. AGENCY, [HTTPS://WWW.EPA.GOV/LAND-REVITALIZATION](https://www.epa.gov/land-revitalization)
- ²² *Community Brownfield Funding Programs*, OHIO ENV’T PROT. AGENCY, [HTTPS://EPA.OHIO.GOV/DIVISIONS-AND-OFFICES/ENVIRONMENTAL-RESPONSE-REVITALIZATION/REPORTS-AND-DATA/COMMUNITY-BROWNFIELD-FUNDING-RESOURCES](https://epa.ohio.gov/divisions-and-offices/environmental-response-revitalization/reports-and-data/community-brownfield-funding-resources)
- ²³ *Soil Maps and Testing*, CUYAHOGA CTY. SOIL AND WATER CONSERV. DIST., [HTTPS://WWW.CUYAHOGASWCD.ORG/RESOURCES/SOIL-MAPS-AND-TESTING](https://www.cuyahogawcd.org/resources/soil-maps-and-testing)
- ²⁴ *Environmental Quality Incentives Program – Ohio*, U.S. DEP’T OF AGRIC. – NRCS, [HTTPS://WWW.NRCS.USDA.GOV/PROGRAMS-INITIATIVES/EQIP-ENVIRONMENTAL-QUALITY-INCENTIVES/OHIO/ENVIRONMENTAL-QUALITY-INCENTIVES](https://www.nrcs.usda.gov/programs-initiatives/equip-environmental-quality-incentives/ohio/environmental-quality-incentives)
- ²⁵ *Urban Agriculture and Innovative Production Grants*, U.S. DEP’T OF AGRIC., [HTTPS://WWW.USDA.GOV/TOPICS/URBAN/GRANTS](https://www.usda.gov/topics/urban/grants)
- ²⁶ *Reusing Potentially Contaminated Landscapes: Growing Gardens in Urban Soils*, U.S. ENV’T PROT. AGENCY (Spring 2011), https://www.epa.gov/sites/default/files/2014-03/documents/urban_gardening_fina_fact_sheet.pdf
- ²⁷ *Urban Agriculture and Innovative Production Grants*, U.S. DEP’T OF AGRIC., [HTTPS://WWW.USDA.GOV/TOPICS/URBAN/GRANTS](https://www.usda.gov/topics/urban/grants)
- ²⁸ *USDA Announces Grants for Urban Agriculture and Innovative Production*, U.S. DEP’T OF AGRIC., (May 27, 2021), <https://www.fsa.usda.gov/news-room/news-releases/2021/usda-announces-grants-for-urban-agriculture-and-innovative-production> *Urban Agriculture Grants*, U.S. DEP’T OF AGRIC., <https://www.farmers.gov/your-business/urban/opportunities/grants>.
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ *Community Gardening Program*, OHIO STATE UNIVERSITY EXTENSION, <https://cuyahoga.osu.edu/program-areas/agriculture-and-natural-resources/community-gardening/community-gardening-program-0>.
- ³² *Market Gardener Training Program*, OHIO STATE UNIVERSITY EXTENSION, <https://cuyahoga.osu.edu/program-areas/agriculture-and-natural-resources/market-gardening-and-urban-farming/market-gardener>.
- ³³ *Id.*
- ³⁴ *Vendor’s Licenses and Sales Taxes at Ohio Farmers Markets*, OSU EXTENSION AGRICULTURAL AND RESOURCE LAW PROGRAM, (March 2019) <https://farmoffice.osu.edu/sites/aglaw/files/site-library/Vendor%27s%20Licenses%20and%20Sales%20Taxes%20at%20Ohio%20Farmers%20Markets.pdf>
- ³⁵ See, e.g., *Flower Hill at Osamequin Farm*, OSAMEQUIN FARM, (2021) <https://osamequinfarm.org/flower-hill>
- ³⁶ See, e.g., Borbon Wun & Alicia May-Lin, *Pilot study of a community-engaged phytoremediation garden: Evaluating site-specific*

efficacy of the mammoth sunflower in soil with elevated lead (Pb) in West Atlanta, Georgia (Spring 2020) (unpublished master's thesis, Emory University) <https://etd.library.emory.edu/concern/etds/ms35t994g?locale=zh>; Elena Dominguez-Rosado & John Pichtel, *Phytoremediation of Soil Contaminated with Used Motor Oil: II. Greenhouse Studies* 21 ENV. ENG. SCI. 2 (29 Jul 2004) <https://doi.org/10.1089/109287504773087345>

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Id.

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Id. at §§ 505.99, 501.99

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Id. at 941

Id. at 941

See, e.g., OHIO ADMIN. CODE 901:12-9-02.

See, e.g., OHIO ADMIN. CODE 901:12-9-03.

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