



Fact Sheet

Farm Fresh Foods: What to Know About Growing and Selling Produce in Buffalo

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This fact sheet was drafted by Colleen Roberts, a law student at the University at Buffalo School of Law. It details local regulations on market and community gardens as well as rules for selling produce. It includes tips to find the right locations to plant food gardens and opportunities for education on growing and selling. It addresses topics such as plant selection and soil safety. The fact sheet also lists many of the organizations and resources leading the way in community gardening and food farming in Buffalo, including Grassroots Gardens, the Massachusetts Avenue Project, the African Heritage Food Co-op, and more.

Where to Grow

For residents of Buffalo, growing produce on your own property can be a relatively simple process. Every gardener must follow state and local laws regarding nuisances, building structures, and maintenance of property, but these statutes present few restrictions on cultivation of fruits and vegetables.¹ If you do not have access to privately-owned land, the options to grow produce within a community garden are expanding in the Buffalo area.

The City of Buffalo's Green Code, which was adopted in January 2017, set out new zoning laws. The Code divides Buffalo into simplified zoning districts with different permitted uses and restrictions. Community gardens are allowed in nearly every designated zone (including residential, mixed-use, and downtown districts) with the small exception of areas zoned for heavy industrial use and in rail corridors.² The only restrictions on community gardens are that seed, fertilizer, and feed must be stored in sealed, rodent-proof containers, and that no process or practice may be used if it creates dust, odor, or other detrimental effects outside the property.³

Based on a finding that community gardens provide health, educational, and social benefits to the public, New York State enacted a law that fosters the growth of community gardens.⁴ This statute establishes an Office of Community Gardens, which facilitates the use of vacant public lands as community gardens,⁵ and designates a task force to develop new ways to encourage state agencies, municipalities, and private parties to establish and expand community gardens.⁶



A local non-profit organization, Grassroots Gardens, offers the opportunity for residents to join existing community gardens or establish new gardens.⁷ New community gardens facilitated by Grassroots are frequently located on vacant city-owned parcels and operated by volunteer gardeners, often organized through neighborhood, school, or block club groups.⁸

It is illegal to plant anything in streets, parks, or other public spaces in Buffalo.⁹ Vacant city-owned land must first be approved as a community garden before any legal planting or cultivating may take place. Grassroots Gardens is able to use vacant land for community gardens through leases with the City of Buffalo.¹⁰ Under its master lease with the City, Grassroots Gardens has negotiated use of dozens of parcels of land for community planting and the organization protects the city against liability in return.¹¹

Site selection is very important for larger scale operations, according to Mike Raleigh of Buffalo's Farmer Pirates cooperative.¹² He advises first assessing how sunny or shaded a potential site is, explaining that clearance to the east and south is key for sun exposure in this region. Good soil quality is essential to successful and safe food gardening. Growers should keep this in mind when considering the potential of an existing parcel.

What to Plant

Food gardening workshops, publications, and courses are available through multiple local organizations for all skill levels and for a variety of needs.

Cornell Cooperative Extension of Erie County offers more than a dozen guides to food gardening, including how to create container and window gardens and how to build simple raised beds.¹³

Contact these local organizations for education opportunities:

- Cornell Cooperative Extension of Erie County
- Grassroots Gardens WNY
- Massachusetts Avenue Project
- Urban Roots Community Garden Center

The Cornell Cooperative website provides a vegetable growing guide which has information about 58 vegetables suitable for growing in New York State.¹⁴ It contains detailed notes about the growing needs, plant traits, varieties, and special considerations for each vegetable. Also included in the Cornell Cooperative's resources is an in-depth guide to growing fruit in this region.



An introductory guide to native plants is accessible online through Grassroots Gardens.¹⁵ This pamphlet features explanations of the benefits of planting native species and includes information about common vegetable varieties that grow well in Western New York.

A network of growers in Buffalo operating as the Farmer Pirates also provides resources to anyone who wishes to become a member of the cooperative.¹⁶ Membership is free and members combine seed purchasing orders and other farming necessities for bulk pricing discounts. Farmer Pirates also operates a

city-wide composting program. This involves picking up food waste from residences and businesses to store and manage it to create rich organic fertilizer. Cooperative members are eligible for reduced cost composted matter for use in their own farms or gardens.

How to Ensure Safe Eats

Knowledge about soil safety concerns is vital to anyone beginning to grow fruits or vegetable for consumption in Western New York. Years of industrial activity left concentrated levels of heavy metals and other toxins in many areas. Common sources of soil contaminants are lead paint from buildings, chemical pesticides and insecticides, high automobile traffic activity, automobile and machine repair or storage, fertilizer use, and petroleum spills.¹⁷ Plants grown for human consumption can become contaminated with environmental toxins in three ways: deposits (commonly of lead) from the air, uptake of heavy metals through the plant roots, and direct contamination by the soil—which is particularly likely with leafy vegetables.¹⁸

The Safe Roots program created by Grassroots Gardens has published two guides to gardening in the Buffalo area.¹⁹

Cornell Cooperative Extension of Erie County offers soil testing resources.²⁰ A general pH test for soil samples is available inexpensively, and instructions for gathering and mailing samples can be accessed through its website.²¹ Soil pH is a measure of the alkalinity or acidity of soil and it effects the nutrients and microorganisms which impact whether plants can grow and

The Safe Roots program guides to gardening in the Buffalo area are available in seven languages: Spanish, French, Arabic, Burmese, Karen, Nepali, and Somali.

thrive.²² These levels can be adjusted through particular chemical additions, allowing various flora to survive in previously inhospitable soil conditions.

Soil pH testing will help gardeners identify and correct low acidity soil, a condition which makes



common metals more bioavailable and harmful to humans.²³ But this type of testing does not identify the various contaminants which may be present in city soil. For comprehensive soil testing, which includes both heavy metal and nutrient analysis, Cornell Cooperative refers gardeners to Dairy One Cooperative, Inc. which offers testing services through its Agro-One branch.²⁴

Best practices for minimizing health risks when growing produce in urban areas include:

- building raised beds with clean soil for growing,
- installing barriers between contaminated soil and plant roots,
- top dressing entire garden areas with clean materials (such as soil, compost, wood chips or peat moss),
- not using pressure-treated lumber when building raised beds,
- adjusting soil pH closer to neutral,
- growing edible produce away from existing structures,
- applying only organic fertilizers, and
- growing certain crops which are less susceptible to contamination.²⁵

Washing vegetables and fruit prior to consumption is also essential to minimizing the health risks from consuming urban-grown produce.²⁶

Because soil toxicity is complex and testing can be expensive, Grassroots Gardens stresses that it is safest for the community to grow fruits and vegetables in raised beds that are not filled with ground soil.²⁷ The organization provides clean soil and lumber to its community gardens for this purpose.²⁸

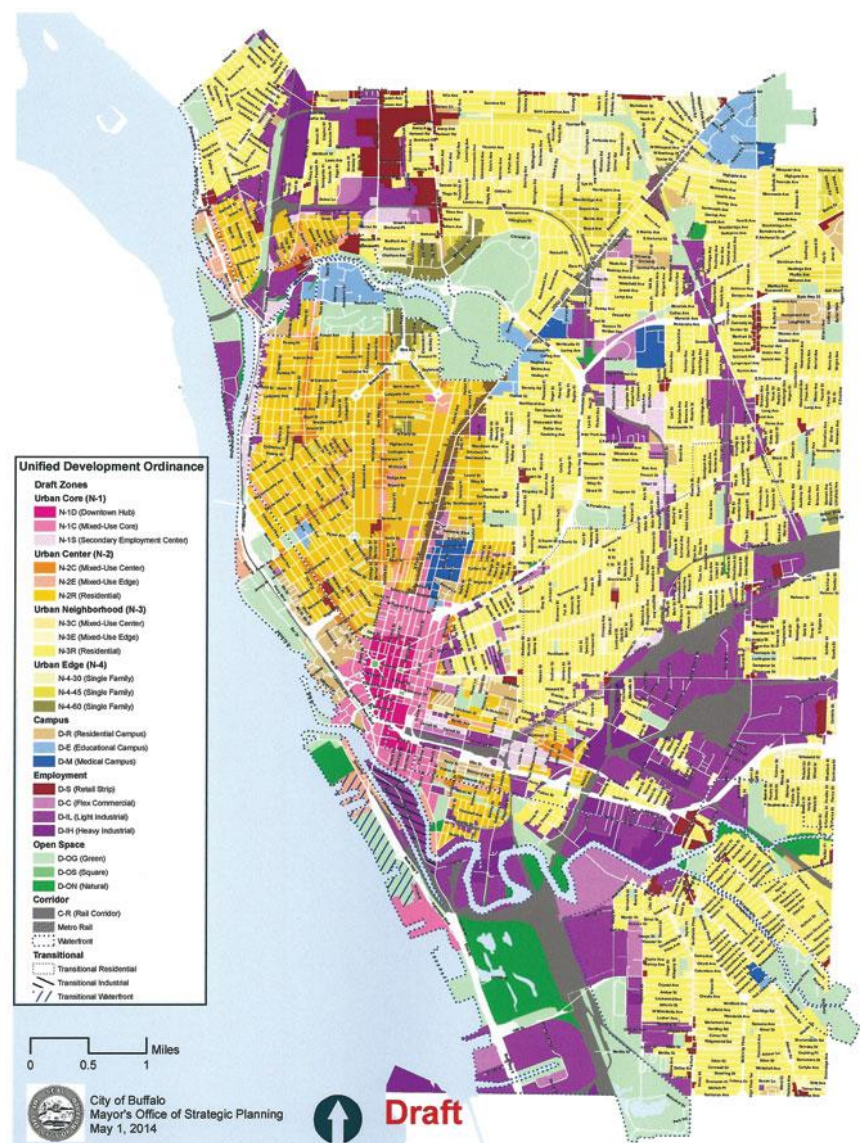


How to Sell Produce

Anyone interested in selling produce in Buffalo has several options for doing so, informed by statutes, regulations, and ordinances which affect this business. If you are planning to sell food that you have grown directly from your land or a community garden, it is considered a “market garden” under the City Code.²⁹ Market gardens are allowed in all zoning districts except heavy industrial zones, public squares, greens, natural zones, and rail corridor zones.³⁰ Additionally, special use permits are required in order to operate a market garden in single-family residential zones in one neighborhood: east of Jefferson Avenue, south of Best Street/Walden Avenue, west of Bailey Avenue, and north of Clinton Street.³¹ It is recommended that anyone starting a market garden check with the City Permit Office in Buffalo City Hall (Room 301) to review current zoning maps, obtain a special use permit, or to ensure the land is zoned appropriately for your use.³² Additionally, City GIS maps can be viewed online.³³

You can sell produce at the property where you grow it only “if the market garden use is the only use of the property or occupies at least 50% of the area of the property.”³⁴ This creates a legal barrier against selling produce from a small garden in the yard of a house or business, but aids sales from parcels of land devoted to agriculture.

Within residential-only zoning districts, no more than one market stand structure can be used to sell produce and on-site sales are limited to 10 hours per week.³⁵



Market gardens, like community gardens, are required to keep seed, fertilizer, and feed stored in sealed, rodent-proof containers and must not employ any process or practice that creates dust, odors, or other detrimental effects outside the property.³⁶

Melissa Fratello of Grassroots Gardens notes that even though community gardens can now operate as market gardens, the permitting process within the City is unclear to some extent.³⁷ As the City institutes the new Green Code rules, it is possible there will be changes to the necessary procedures for growing and selling produce from market gardens. The Food Policy Council of Buffalo & Erie County has recommended that the Buffalo Common Council work with the Urban Growers collective towards instituting their vision of market garden policy that will best facilitate healthy food production in Buffalo.³⁸

Chapter 199 of the City of Buffalo Code also governs any sale of fruits and vegetables within city limits. Under this law, outdoor shops, stands, and markets, as well as wholesale dealers, are subject to licensing requirements.³⁹ The regulations for outdoor stands and markets, which sell produce from any location in the open or from “temporary enclosures,” include an application process and fee for license, with annual reapplications and health inspections by the Erie County Department of Health.⁴⁰ Further, the premises of all outdoor shops and markets must be maintained to ensure clean and sanitary conditions.⁴¹ Vendors must provide toilet and washing facilities for employees, if any,⁴² and must have running water and facilities for cleaning fruits and vegetables on premises.⁴³ In addition to these city regulations, the New York State Agriculture & Markets Law sets out special rules for sale of lettuce⁴⁴ and sale of apples⁴⁵ anywhere within the state.

Licensing requirements for wholesale dealers of fruits and vegetables apply to those selling from a vehicle or travelling from place to place to sell or deliver within in the city.⁴⁶ Requirements for these types of sellers also include special vehicle plates and indicators, and sanitary requirements for any vehicles that are used.⁴⁷ Additionally, storage of commercial vehicles such as delivery or mobile market trucks is prohibited on any property used for residential purposes.⁴⁸

Those considering starting a mobile produce market may look to existing endeavors currently operated by the Massachusetts Avenue Project (MAP) and Buffalo Urban Fruits and Veggies.⁴⁹ The MAP Mobile Market “provides produce,



grown at MAP and local partner farms, to neighborhoods that lack adequate access to fresh fruits and vegetables.”⁵⁰

Farmers markets are one of the most common places for small-scale growers to sell produce. The Farmers Market Coalition⁵¹ provides a variety of resources for individuals looking to join, start, or manage a farmers market, including the USDA’s Farmers Market Guide,⁵² which makes it easy to search for and locate nearby farmers markets.

In Buffalo, there are several markets to choose from, including the Downtown Buffalo Country Market,⁵³ the Elmwood Bidwell Farmers’ Market,⁵⁴ the Broadway Market,⁵⁵ North Buffalo Farmers Market,⁵⁶ and the University Community Farmers Market.⁵⁷ Each operates during different days of the week and runs through different times of the year. Each market also sets its own rules and requirements for vendors who wish to sell produce or other goods.

Lastly, it is prohibited to sell any item within a city park or other open space, without written permission of the Parks Commissioner.⁵⁸ As tempting as it may seem, it is illegal to set up a stand to sell produce in a city park or public commons.

Resources

Urban farming of fruits and vegetables for sale or personal use is a growing practice, and Buffalo is primed for its rise. If you are considering starting a new food garden or expanding to a larger farm operation, you do not have to do it alone. The local urban farmland is already dotted with well-established leaders and organizations which welcome new members and provide a wealth of resources to anyone seeking assistance.



PPG produced this fact sheet for the Crossroads Collective, which is comprised of nine organizations working at the intersection of climate justice with economic and racial justice in Western New York.

Additional Resources

African Heritage Food Co-op

www.Facebook.com/AHFCBuffalo

Common Roots Urban Farm

www.commonrootsurbanfarm.com

Cornell Cooperative Extension
of Erie County

www.erie.cce.cornell.edu

Farmer Pirates

www.farmerpirates.com

Grassroots Gardens WNY

www.grassrootsgardens.org

Massachusetts Avenue Project

www.mass-ave.org

Urban Fruits and Veggies

www.urbanfv.com

Urban Roots Community
Garden Center

www.urbanroots.org

Wilson Street Urban Farm

www.wilsonstreeturbanfarm.wordpress.com

Notes

¹ New York State has adopted a “Right to Farm” policy, which was originally focused on preventing urban encroachment on rural farm lands, but broadly supports the development and use of land for farming within the state.¹ Erie County has enacted similar legislation which declares that “farmers may lawfully engage in agricultural practices within Erie County at all such times and all such locations as are reasonably necessary to conduct the business of agriculture.”

² Buffalo Green Code, Chapter 496, Unified Development Ordinance, Dec. 2016, (see Table 6A) http://www.buffalogreencode.com/December_2016/UDO_Dec_2016.pdf.

³ Buffalo Green Code, Chapter 496, Section 6.1.7(A).

⁴ NY Agr & Markets Law § 31.

⁵ Ibid, § 31-h.

⁶ Ibid, § 31-j.

⁷ Grassroots Gardens Home Page Mission Statement, <https://www.grassrootsgardens.org>.

⁸ Ibid.

⁹ Buffalo City Code §309-8.

¹⁰ Interview with Fratello.

¹¹ Ibid.

¹² Email from Mike Raleigh, Farmer Pirates (Oct. 29, 2017).

¹³ Cornell Garden Guidance, available at: <http://gardening.cals.cornell.edu/garden-guidance/foodgarden/>.

¹⁴ Cornell Vegetable Growing Guides, available at: <http://www.gardening.cornell.edu/homegardening/scene0391.html>.

¹⁵ “Safe Roots Two: A Guide to Growing in Western New York,” Grassroots Gardens WNY, Urban Roots Garden Center, available at: https://www.grassrootsgardens.org/uploads/2/6/3/8/26383225/saferootsguide2_8_29_2016.pdf.

¹⁶ Farmer Pirates Home Page Mission Statement, <http://www.farmerpirates.com>.

¹⁷ “Sources and Impacts of Contaminants in Soil,” Cornell Waste Management Institute, Apr. 15, 2009, <http://cwmi.css.cornell.edu/sourcesandimpacts.pdf>.

¹⁸ “Soil Contaminants and Best Practices for Healthy Gardens,” Cornell Waste Management Institute, Oct. 20, 2009, http://cwmi.css.cornell.edu/Soil_Contaminants.pdf.

¹⁹ “Safe Roots: A Guide to Gardening in the City,” Grassroots Gardens of Buffalo, Urban Roots Garden Center, available at: https://www.grassrootsgardens.org/uploads/2/6/3/8/26383225/saferootsguidenon_print_version.pdf.

²⁰ Cornell Cooperative Extension Soil Testing Resources, available at: <http://erie.cce.cornell.edu/gardening/soil-testing-resources>.

²¹ Soil pH Testing at Cornell Cooperative Extension, available at: https://s3.amazonaws.com/assets.cce.cornell.edu/attachments/554/S-1_How_to_Obtain_a_Soil_Sample.pdf?1399658940.

²² Lee Reich, “The Four Things You Need to Know About Soil pH,” *Fine Gardening*, Issue 105, available at: <http://www.finegardening.com/four-things-you-need-know-about-soil-ph>.

²³ “Soil Contaminants”

²⁴ Soil Testing, available at: <http://dairyone.com/analytical-services/agronomy-services/soil-testing/>.

²⁵ “Soil Contaminants”

²⁶ Ibid.

²⁷ Interview with Fratello.

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- ²⁸ Ibid.
- ²⁹ Buffalo Green Code, Chapter 496, Section 6.1.7(B).
- ³⁰ Ibid at Table 6A.
- ³¹ Ibid at 6.1.7(B)(1).
- ³² City Zoning Ordinances and Districts, available at: https://www.city-buffalo.com/Home/City_Departments/Office_of_Strategic_Planning/RegulatoryBoards/ZoningBoardAppeals/CityZoningOrdinancesandDistricts.
- ³³ City GIS Maps, available at: <http://gis.city-buffalo.com/cobapps/publicapps/HTML5/default.html>.
- ³⁴ Buffalo Green Code, Chapter 496, Section 6.1.7(B)(4).
- ³⁵ Ibid at Section 6.1.7(B)(5).
- ³⁶ Ibid at Section 6.1.7(B)(2) and (3).
- ³⁷ Interview with Fratello.
- ³⁸ Letter from Cheryl B. Thayer, Chair, Food Policy Council of Buffalo & Erie County, to Buffalo Common Council (June 1, 2017).
- ³⁹ Buffalo City Code § 199; § 511.
- ⁴⁰ Ibid at § 199-3.
- ⁴¹ § 199-4.
- ⁴² § 199-5.
- ⁴³ § 199-6.
- ⁴⁴ NY Agr & Markets Law § 160-r.
- ⁴⁵ NY Agr & Markets Law, § 157-160.
- ⁴⁶ § 199-7.
- ⁴⁷ § 199-11, 12, 13.
- ⁴⁸ Buffalo Green Code, Chapter 496, Section 8.3.8(B)(1).
- ⁴⁹ Urban Fruits and Veggies Home About Us see, <http://urbanfv.com>
- ⁵⁰ Massachusetts Avenue Project Mobile Market see, <http://mass-ave.org/programs/mobile-market/>
- ⁵¹ Farmers Market Coalition Resources see, <https://farmersmarketcoalition.org/education/qanda/>
- ⁵² USDA Local Food Directory see, <https://www.ams.usda.gov/local-food-directories/farmersmarkets>
- ⁵³ Downtown Country Market see, <http://www.buffaloplace.com/market>
- ⁵⁴ Elmwood Village Farmers Market Vendor Information see, <http://www.elmwoodmarket.org/vendor-information/>
- ⁵⁵ The Broadway Market Vendor Information see, http://broadwaymarket.org/?page_id=301.
- ⁵⁶ North Buffalo Farmers Market Location, https://www.northbuffalofarmersmarket.com/visit_us.
- ⁵⁷ University Community Farmers Market Homepage Information Section see, <http://ourheights.org/farmersmarket/>.
- ⁵⁸ Buffalo City Code § 309-3.



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