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# Campbell River Land Guide:

## Accessing City Land for Food Growing and Gardening



Please note: *This guide provides general information only. It is not legal advice. Please consult a lawyer when developing and signing any legal agreements.*

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## Defining Urban Agriculture:

Urban agriculture is the practise of growing, processing and distributing food within an urban area for commercial or community building purposes. City gardens in parks and boulevards do not generally produce food, but provide open space, gathering places, and sites for growing flowers and trees. Urban agriculture repurposes these spaces as places to grow food.

### Forms of Urban Agriculture:

1. **Community Gardens:** public, or publically visible spaces that grow healthy local food and also promote community building, enhance local ecosystems and foster a unique sense of place. These gardens become focal points in the community which allow for food and environmental education opportunities, and are administered by community groups, associations, or NGOs.
2. **Urban Food Plot:** semi-intensive agricultural operations that involve the growing, harvesting and sale of fruits, vegetables, and other edible plants, which can be used for commercial purposes. These gardens help to ensure access to local food within the City's urban containment boundary.
3. **Food Forest:** projects that use ecosystem interactions to grow a large quantity and diversity of food in small spaces. These projects nurture high levels of biodiversity and productivity since they are human-made edible ecosystems that mirror the functions and relationships in forest ecosystems.
4. **Urban Orchard:** compact spaces in the city that are devoted to the cultivation of fruit or nut trees.
5. **Urban Farm:** intensive agricultural operations within a city that generally focus on plant-based food production while providing green space. The limited raising of animals, such as hens or aquaponics, can also be incorporated depending on City zoning and allowable uses.
6. **Demonstration Garden:** places that allow for novice gardeners to participate in hands-on-experience surrounding topics like organic gardening, composting, rain-water collection, and permaculture. They can also provide interactive examples on site, such as native plant displays, edible landscaping, and companion planting.
7. **Stewardship/Restoration Initiatives:** initiatives that repair damaged, disrupted or threatened ecosystems, or protect and enhance an ecosystems natural characteristics, while converting its degraded spaces into natural areas. These types of initiatives are often paired with uses which nurture community interactions on site, such as community gardens, trails, and demonstration gardens.
8. **Garden Rentals:** A garden rental is a small to medium sized piece of land that is available for the small-scale production of food or ornamental plants. This is an individual garden plot which may be available free of charge, or for a nominal fee. While these are typically found in backyards, they can also be paired with other forms of urban agriculture such as community allotment gardens, where individual plots of land are rented from a larger property.

## Background<sup>1</sup>

Urban agriculture has existed in some form for hundreds of years. In North America, community gardens had their origins in the relief gardens of the Depression, and the Liberty and Victory Gardens of the two World Wars. These were significant sources of food for urban and rural dwellers, helping to meet demand during hard times and free up resources and food supplies to feed the troops overseas. Community gardens began as a social movement to reclaim and green urban spaces during the 1960s and 1970s. These neighbourhood revitalization efforts have since blossomed into the modern community garden movement, with thousands of gardens in the US and Canada today.



Source: [www.w1propaganda.com/ww1-poster/come-garden-dad](http://www.w1propaganda.com/ww1-poster/come-garden-dad)

Today, community gardens supplement a food and agriculture system that is vulnerable to disruption in many ways. Community gardens maximize their potential when they are part of an integrated set of activities and programs. Integrating community gardens with things like pedestrian pathways, recreation areas, and designated greenways can aid in the effort to promote local food security and build healthy, resilient communities.

## Agreement examples:

There are many types of agreements that can be used for both community gardens, as well as other forms of urban agriculture. These are often subject to the type of activity and the land ownership.

| Type of Agreement                  | Description  | Public Land | Private Land |
|------------------------------------|--|-------------|--------------|
| <b>Verbal Agreement</b>            | A verbal contract between two parties.   | X           | ✓            |
| <b>Letter of Agreement</b>         | A letter from the lessee to the owner that describes the operation plans for the land, and term of the lease.  | X           | ✓            |
| <b>Memorandum of Understanding</b> | A letter is signed by both parties outlining the terms of the agreement.   | X           | ✓            |
| <b>Rental Agreement</b>            | A formal description of the land, identity of parties and their signatures, and any special provisions. It is often witnessed, notarized and recorded. Rental agreements are often month to month, with no set period of occupation. | X           | ✓            |
| <b>Lease Agreement</b>             | A formal description of the land, identity of parties and their signatures, terms and length of lease and any special provisions. It is often witnessed, notarized and recorded.   | ✓           | ✓            |
| <b>License of Occupation</b>       | A formal description of the land, identity of parties and their signatures, terms and length of lease, liability and duties, and any special provisions. It is often witnessed, notarized and recorded.                              | ✓           | ✓            |

<sup>1</sup> Dig It! (<http://www.toolkit.bc.ca/sites/default/files/DIG%20IT-%20MAY%208-FINAL%20WITH%20LOGOS.pdf>) Accessed 28/05/2014

## Accessing City Land

In 2014 the City of Campbell River launched the *Food Map*. The map includes an inventory of public land that has the potential to be used for urban agriculture see <http://foodmap.campbellriver.ca>. These listings are not guaranteed, but serve as a starting point for interested groups. It is strongly recommended that interested groups contact the City at [sustainability@campbellriver.ca](mailto:sustainability@campbellriver.ca) prior to developing a concept plan. City staff can assist you with your proposal before submitting a formal application which can save you time and resources.

## Type of Agreement

The City will consider issuing Licence of Occupation Agreements for public lands with agriculture potential provided that the applicant provides all required documentation in their concept plan, the applicant can demonstrate that proposed use will benefit the community, and the public has been provided with an opportunity to comment on the proposal. There is no guarantee that an application will result in a Licence of Occupation being issued, even if the proposed site is included as a potential location on the *Food Map*.

## Public Access

In instances where there is a pre-existing public use on the site (ie. in a City park), urban agriculture activities will be considered a feature of the park. For example, under a community orchard model or food forest, the operation will generally be open to the public as an edible feature on public land. In some instances private features may be permitted - such is the case at Laughing Willow Community Garden. It is an attractive community amenity that has private and shared garden plots. These plots grow produce for the local food bank and soup kitchen.

## Funding

Applicants are expected to cover all costs including any additional infrastructural costs (ie. extending/upgrading a waterline) associated with their proposal. Consider all of the funding options, including provincial and federal grants that may be applicable to your project or consider crowd-sourced funding options on sites like *kickstarter.com*, *gofundme.com*, *indiegogo.com*, and others.

### **Example:**

*Spring Ridge Commons (Victoria, BC) is a permaculture demonstration site and community food forest. The site contains over 100 species of plants, most of which have food and/or medicinal values. It is intended to be a place where community members can meet, engage and grow on land held in common by the community.*

*The commons is leased from the City by a neighbourhood association that has partnered with an agricultural non-profit to manage the site, and provide skill building and networking opportunities for the public.*

## Urban Agriculture for Profit

As outlined in the Community Charter, BC municipal governments are not generally able to provide assistance or subsidies to agri-businesses. For this reason, urban agriculture on public property is anticipated to be restricted to activities that do not generate a profit or use any income to cover their operations and deliver community services. In the event that a business model is proposed to the City, the applicant must include a business plan with their application, and will be responsible for the costs of an assessor to establish a fair rental price.

## Developing your Plan

A concept plan must be submitted to accompany any proposal to establish urban agriculture on City properties. It is strongly recommended that you consult with City staff at [sustainability@campbellriver.ca](mailto:sustainability@campbellriver.ca) in the initial development of your project proposal. City staff can discuss your vision for the site and provide input before you formally submit your concept plan to the Sustainability Department.

When applying to establish urban agriculture on any City property you must include a concept plan to City staff prior to submitting your concept plan to City Council. Your concept plan will be examined by staff and a follow up meeting will be scheduled after the internal review. You may choose to adjust your plan to meet staff recommendations or proceed to Council as a delegation. Council will have access to both the staff report and your concept plan.

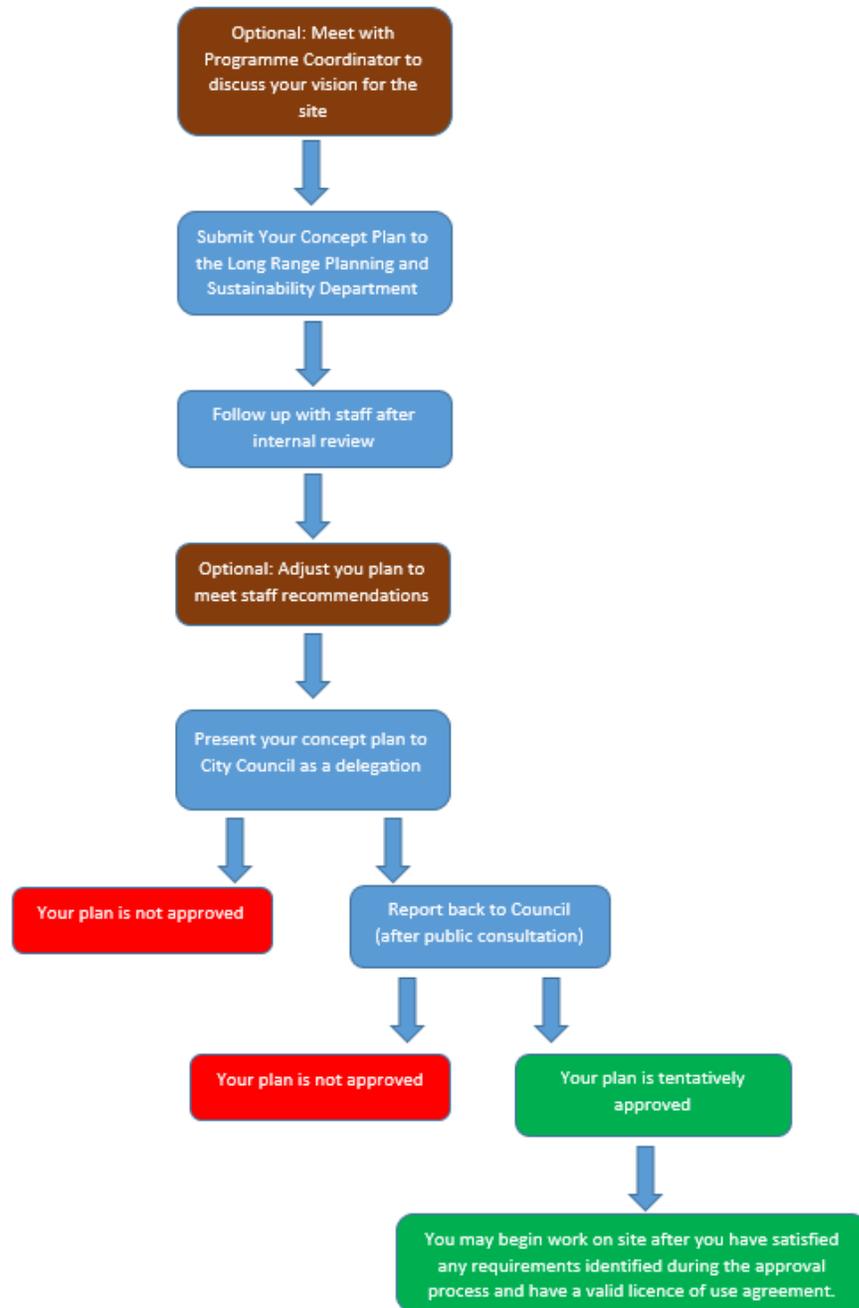
Applications will not be limited to the sites listed on the *Food Map*; however, the spaces listed on the *Food Map* have gone through an initial review by City staff to establish their potential. If you pursue land that is not listed in the database it is strongly recommended that you meet with City staff to identify any barriers or opportunities on site. Applications will not be required for private land listings on the *Food Map*. Private land is listed for informational purposes only. Interested parties are responsible for creating their own agreements and ensuring that their intended use does not conflict with City regulations or bylaws.

*The Moteith/Oak Bay Community Native Plant Demonstration Garden is a combination of a demonstration site, restoration initiative and community garden on southern Vancouver Island.*

*A local community association serves as active caretakers of the site which is owned by the District. They have restored the nearby creekside riparian area, and buffered the creek with a native plant garden that functions as a community amenity. Private allotment garden rentals are also available outside of the native plant and riparian areas.*

*The gardeners work cooperatively with the District of Oak Bay and Bowker Creek Initiative to create and maintain the garden.*

## City Land Application Process:



For more information contact: [sustainability@campbellriver.ca](mailto:sustainability@campbellriver.ca)

## Leasing Private Land (Land Owner)

Making your land available for urban agriculture can provide many benefits to landowners. Depending on your agreement, you may receive access to fresh food, maintenance in exchange for garden space, and more. Anyone can register their property on the *Food Map*. This can include large properties suited to farm uses, but it can also include vacant lots, backyards, raised garden beds and more. Businesses may also list land on the map, provided that the agricultural use does not conflict with City regulations or bylaws.

*Urban farms and community gardens can play an important role in educating community members about their food system. Social programming, regular open houses, skilling building workshops and farm tours are some of the opportunities that can be made available so the community can see and take part in the project.*

## Considerations

Not all properties are suitable for farming, but even smaller parcels, developed suburban areas, land with poorer soils and on slopes or wooded acreages can be workable depending on the operation.<sup>2</sup> Be sure to note your land's key features. Be clear about the type of use you want to see, and the expectations you have for a lessee. For example, is your intention to rent land to a farmer, or is your target a community group or individual who can establish a community garden? This may have impacts on insurance. General Public Liability Insurance may be required to cover incidents that happen on the property, while Commercial Liability Insurance may be required if your operation has commercial components. Be sure to check with your insurance provider when preparing your concept plan.

## Benefits for Farmers

Good farmland is increasingly difficult for farmers to access — especially new farmers. Purchasing land can be prohibitively expensive. By making your land available for urban agriculture or farming, you will be contributing to the local food and farm economy. There may also be economic advantages to having your land in agricultural use and a farm tenant or community or non-profit group can share the burden of property maintenance and contribute desired improvements. SPIN Farming is also worth considering. This provides young farmers with access to growing space throughout the community where produce is grown for profit. In some cases land owners receive access to a percent of the vegetables or profits in exchange for providing space.

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<sup>2</sup> A Landowner's Guide to Leasing Land for Farming (<http://landforgood.org/wp-content/uploads/LFG-Landowners-Guide-To-Leasing-To-A-Farmer-Handbook.pdf>) Accessed 28/05/2014

## Lease Agreements

The two common types of lease arrangements are crop share and cash lease arrangements. A cash lease creates a fixed arrangement which will not decline in poor production years. A crop share arrangement provides the landlord with a per cent of the earnings from production. You may want to request that the lessee's provide a business plan that demonstrates the long-term feasibility of the operation prior to leasing land.<sup>3</sup>

There is a full range of possible roles for the landowner in a tenant's farming operation. One possibility is that the landlord co-owns the agricultural business. At the other end of the spectrum, the landlord may only receive the rent and never participate in the business. In some cases, leased land may qualify for farm status. The farmer's entire operation must meet the income as prescribed by the BC Assessment authority.<sup>4</sup>

Land that is leased to a farmer may qualify for farm class if:<sup>5</sup>

- the owner applies to have land classified as a farm;
- the owner and lessee enter into a lease;
- the leased land makes a reasonable contribution to the farm operation; and
- the lessee – farmer meets the income and sales requirements.



<sup>3</sup> A Guide to Crop Land Leasing Agreements (<http://www.gov.mb.ca/agriculture/business-and-economics/contracts-and-leases/pubs/overviewcroplandleasing.pdf>) Accessed 28/05/2014

<sup>4</sup> A Landowner's Guide to Leasing Land for Farming (<http://landforgood.org/wp-content/uploads/LFG-Landowners-Guide-To-Leasing-To-A-Farmer-Handbook.pdf>) Accessed 28/05/2014

<sup>5</sup> Farm Classification in BC (<http://www.bcassessment.ca/public/Fact%20Sheets/Farm%20Classification%20in%20British%20Columbia.pdf>) Accessed 28/05/2014

## Leasing Private Land (For Renter/Lessee)

While leasing/renting land may be a viable alternative to purchasing land, a business plan may be required as part of your application package to demonstrate that you can make lease payments on private lands if you are including a commercial component. The City will not require a concept plan for private lands. Be sure you know what type of agreement the property owner is expecting so that you can determine if your initiative is a viable option.



### Farm Rental Checklist<sup>6</sup>

- ✓ **Access:** How will you access the property? Does the site have adequate entry and exit for necessary equipment in every season and time of day during? Might access be blocked at any time?
- ✓ **Agricultural support services:** How far from the property are hardware stores, feed suppliers, mechanics, farmers markets, hired equipment operators or other support businesses or services?
- ✓ **Equipment usage:** Is equipment included in the agreement? Might the landowner do custom work with his own equipment? Where can equipment be stored?
- ✓ **Housing:** Is housing included in the lease agreement? Is building a residence an option? Is there housing nearby?
- ✓ **Infrastructure:** What agricultural infrastructure, such as sheds, fencing, irrigation lines or coolers, is on site that could be available to the operation? How will infrastructure maintenance, repairs and improvements be handled between the two parties? If you will be investing in improvements, will you be compensated?
- ✓ **Property boundaries:** What land is included? How will the boundaries be defined and monitored?
- ✓ **Restrictions/restricted areas:** Are there sensitive areas such as wetlands, water bodies, or wildlife within the property? Are there areas of the property where the farmer will not be allowed to operate? What limitations does local zoning apply to agriculture?
- ✓ **Water resources:** All potential sources of water for farm and food growing operations should be identified, including those currently used or those that could be developed. For example, a hillside seep could be improved as a spring, a river or stream, a well, or a hookup to a public utility and should be identified from the outset.
- ✓ **Crops/Livestock:** What can you actually grow on the site? See if you can arrange to visit the area and assess the lay of the land. Also, be sure to check local bylaws and zoning for requirements before considering livestock operations.

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<sup>6</sup> A Landowner's Guide to Leasing Land for Farming (<http://landforgood.org/wp-content/uploads/LFG-Landowners-Guide-To-Leasing-To-A-Farmer-Handbook.pdf>) Accessed 28/05/2014

## Farmland Access Agreements:<sup>7</sup>

Some agreements for the use of land create rights to the land, called “interests in land”, while others are simply contracts to permit actions to be taken on the land. The kinds of tools that can be made available include:

- preventing a landowner from forcing a tenant to leave before the agreed time is up,
- suing for unpaid rent, and
- taking and eventually selling property belonging to a tenant for unpaid rent.

The Land Conservancy in British Columbia provides an overview of various types of farmland access agreements. These can be found in “A Guide to Farmland Access Agreements – Leases, Profits a Prendre, Licences and Memoranda of Understanding.” See the resources section for a link.

According to the Land Conservancy: If you work through the questions in their guidebook section, you will have gone a long way toward defining your legal relationship. You may also save yourself time and money in legal fees if an issue develops.

## Farming on City Land:

Please be aware that *Division 2: Section 24 – 25*, of the [Community Charter](#) generally restricts the City of Campbell River from providing assistance, such as a grant, exemption, etc. to businesses. This means that any licence of use or rental agreement for an agricultural business on City land must be valued based on the full market value of the property, as if it were privately owned. Discuss your project with City staff prior to developing a full concept plan.

Applicants will be required to cover the costs of an assessment to determine a rental fee that reflects the fair market value. This restriction does not apply to non-profit societies in British Columbia; however, non-profit societies are regulated by the [Society Act](#), which limits their ability to distribute any gain, profit or assets to its members. Staff at City Hall cannot provide legal advice; it is recommended that you seek assistance from legal counsel to interpret the *Society Act* and to provide guidance in deciding what type of entity would best suit your requirement.

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<sup>7</sup> A Guide to Farmland Access Agreements (<http://blog.conservancy.bc.ca/wp-content/uploads/2010/04/A-guide-to-farmland-access-agreements.pdf>) Accessed 28/05/2014, and A Landowner’s Guide to Leasing Land for Farming (<http://landforgood.org/wp-content/uploads/LFG-Landowners-Guide-To-Leasing-To-A-Farmer-Handbook.pdf>) Accessed 28/05/2014

## Useful Resources:

- 1) **Young Agrarians** - Land Access Guide:
  - ❖ <http://youngagrarians.org/tools/land/>
- 2) **UBCM** – Dig it! A Practical Toolkit:
  - ❖ <http://www.toolkit.bc.ca/sites/default/files/DIG%20IT-%20MAY%208-FINAL%20WITH%20LOGOS.pdf>
- 3) **Greenhorns** – A Landowner’s Guide to Leasing Land for Farming:
  - ❖ [http://www.thegreenhorns.net/wp-content/files\\_mf/1344531092landownersguide.pdf](http://www.thegreenhorns.net/wp-content/files_mf/1344531092landownersguide.pdf)
- 4) **Farmstart** – Accessing Land for Farming in Ontario:
  - ❖ <http://www.farmstart.ca/wp-content/uploads/Accessing-Land-for-Farming-in-ON-Guidebook-REV4.pdf>
- 5) **Cornell University** – How Much Should you Charge for Renting Farmland:
  - ❖ <http://www.cceontario.org/cce-site-documents/Charge-Renting-Farmland.pdf>
- 6) **Community Social Planning Council** – Agriculture Parks Model for the CRD:
  - ❖ [http://www.communitycouncil.ca/sites/default/files/CRFAIR2013\\_Policy\\_Brief\\_3-Agriculture\\_Parks\\_Model\\_for\\_the\\_CRD\\_0.pdf](http://www.communitycouncil.ca/sites/default/files/CRFAIR2013_Policy_Brief_3-Agriculture_Parks_Model_for_the_CRD_0.pdf)
- 7) **Urban Farming Guidebook** – Urban Farming Guidebook:
  - ❖ <http://www.refbc.com/sites/default/files/Urban-Farming-Guidebook-2013.pdf>
- 8) **Farm Folk City Folk** – A Guide to Farmland Access Agreements:
  - ❖ <http://www.farmfolkcityfolk.ca/community-farms-program/a-guide-to-farmland-access-agreements/>
- 9) **BC Assessment** – Farm Classification Lease Form:
  - ❖ <http://www.bcassessment.ca/forms/Documents/Farm%20Class%20Lease%20Form.pdf>
- 10) **BC Assessment** – Classifying Land Leased to Farmers:
  - ❖ <http://www.bcassessment.ca/public/Fact%20Sheets/Classifying%20Land%20Leased%20to%20Farmers.aspx>
- 11) **AgriFood BC** – Leasing Arrangements:
  - ❖ <http://www.agrifoodbc.ca/communities/42-leasing-arrangements-12/2785>
- 12) **Ministry of Agriculture** – Frequently Asked Questions:
  - ❖ <http://www.agf.gov.bc.ca/faq/>
- 13) **Community Farms Program** – Whole Farm Plan Guide:
  - ❖ [http://www.communityfarms.ca/PDFs&LinkedDocuments/wfp\\_final\\_adapted.pdf](http://www.communityfarms.ca/PDFs&LinkedDocuments/wfp_final_adapted.pdf)
- 14) **Government of Manitoba** – Questions to Ask Before Buying or Leasing Farmland:
  - ❖ <http://www.gov.mb.ca/agriculture/business-and-economics/business-management/questions-to-ask-before-buying-or-leasing-farmland.html>
- 15) **Government of Saskatchewan** – Land Rental Agreements - FAQs:
  - ❖ <http://www.agriculture.gov.sk.ca/Default.aspx?DN=71d3c9a6-b80e-497f-bdfc-cec3ebeb8b86>
- 16) **Linking Land and Farmers** – Farm Lease Agreements
  - ❖ <http://llaf.ca/lease/>