

Planning Commission

Staff Report

April 20, 2021



Case No:	21-LDC-0003
Project Name:	LDC Reform Amendments Phase I – Urban Agriculture
Applicant:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	All Council Districts
Case Manager:	Chris French, AICP, Planning and Design Supervisor

REQUEST

An amendment to Chapter 1, Part 2 Definitions, Chapter 4, Part 3 Permitted Uses With Special Standards and Chapter 4, Part 4 to reduce barriers to urban agriculture.

SUMMARY/BACKGROUND

The LDC Reform Report associated with this text amendment is attached to the agenda item for reference. This report outlines the equity review to this amendment and background research conducted. This amendment was developed from comments received during the LDC Reform public engagement process.

The purpose of this amendment is to reduce barriers to the development of urban agriculture activities, like community gardens, market gardens, and farmers markets within the LDC. This is a further refinement of existing LDC provisions that address these uses.

PLANNING COMMITTEE MEETING

The Planning Committee held two meetings regarding the LDC Reform Phase 1 amendments; the first on February 8, 2021 and the second on March 22, 2021.

STAFF ANALYSIS

Significant changes were made to this proposed text amendment since the release of the LDC Reform Report. These changes are based on comments received during the public comment period.

The first major change is the addition of the urban agriculture definition and replacement of the community garden permitted use with special standards with the urban agriculture permitted use with special standards. This change would allow the urban agriculture use in any zoning district as long as the special standards are met. These standards are intended to reduce potential nuisances and also includes standards related to keeping and animals and processing animals for personal consumption. The second change is the replacement of market gardens with a broader use called Farmers Market, Fruit and Vegetable Stands, and Similar Uses. This use replaces the market garden use and would be allowed in all zoning districts as long as all

special standards are met. The special standards include provisions to limit potential nuisances. In addition, this use requires notice to adjoining property owners prior to final action by staff to allow neighbors to provide comments to the applicant.

APPLICABLE PLANS AND POLICIES

This amendment to the LDC text is consistent with the following policy of Plan 2040:

Community Form Policy 1.26: Review Land Development Code to ensure flexibility for use of urban agriculture to promote access to fresh food especially in areas known as food deserts as identified by the Louisville Metro Health Equity Report.

Community Facilities Policy 2.14: Encourage the use of vacant lots as small parks and community gardens.

Livability Policy 2.7: Address issue of food deserts. Develop policies and programs that encourage full service grocery stores to locate in identified food deserts and support innovative efforts to provide access to fresh food, such as: urban agriculture, community gardens and farmers' markets. Encourage communities to use vacant lots for gardens to enhance access to fresh foods.

NOTIFICATION

Notice was published in accordance with KRS 100. In addition, email notice through the GovDelivery system was provided plus notifications through public and group meetings held by or attended by the staff of Planning and Design Services.

STAFF CONCLUSIONS

The proposed amendment, as set forth in a Resolution (Attachment 1); staff recommends that the Planning Commission approve this resolution and forward it to the Louisville Metro Council and all other jurisdictions with zoning authority within Jefferson County.

ATTACHMENTS

1. LDC Reform Urban Agriculture Resolution

PLANNING COMMISSION RESOLUTION 21-LDC-0003

A RESOLUTION BY THE PLANNING COMMISSION RECOMMENDING APPROVAL OF LAND DEVELOPMENT CODE TEXT AMENDMENTS TO CHAPTER 1, PART 2, CHAPTER 4, PART 3, AND CHAPTER 4, PART 4 FOR URBAN AGRICULTURE TO THE LOUISVILLE METRO COUNCIL AND OTHER JURISDICTIONS WITH ZONING AUTHORITY.

WHEREAS, the Louisville Metro Council adopted a resolution on August 20, 2020 directing the Planning Commission to review the Land Development Code (LDC) and develop recommendations for more equitable and inclusive development; and

WHEREAS, the Louisville Metro Planning Commission adopted a resolution on August 25, 2020 directing Planning and Design Services staff review the LDC and develop recommendations for more equitable and inclusive development; and

WHEREAS, Planning and Design Services staff received multiple comments during the LDC Reform public engagement process regarding urban agriculture and the current barriers that exist within the LDC; and

WHEREAS, the comprehensive plan, Plan 2040, includes Community Form Policy 1.26, which recommends a review of the LDC to ensure flexibility for use of urban agriculture; this amendment provides that review and recommended changes to ensure greater flexibility; and

WHEREAS, Plan 2040, includes Community Facilities Policy 2.14, which encourages the use of vacant land for community gardens; this proposed amendment would provide greater flexibility in the regulation of urban agricultural uses such as community gardens; and

WHEREAS, Plan 2040, includes Livability Goal 2.7, which supports innovative efforts to provide fresh food for food deserts such urban agriculture, community gardens, and farmer's markets; this proposed amendment would provide greater flexibility in design needed for these types of developments; and

WHEREAS, the Planning Commission finds that the proposed text amendments to the LDC meet the goals, objectives, and policies of the comprehensive plan, Plan 2040.

NOW, THEREFORE, BE IT RESOLVED BY THE LOUISVILLE METRO PLANNING COMMISSION AS FOLLOWS:

[Additions](#)

[Deletions](#)

SECTION I: Chapter 1, Part 2 of the LDC, Section 1.2.2, is amended as follows:

...

Conservation Use - Uses within land and water areas designated for the purpose of conserving or protecting natural resources or environmental quality such as open space, nature study, passive recreation, wildlife habitat, nature preserve, wetlands protection and mitigation areas and other similar uses. In order to accomplish this objective, the following uses shall be permitted:

- A. Public passive parks;
- B. Public lands designated for open space or conservation; C. Open Space buffers between incompatible uses;
- D. Private recreational or open space lands which have had development rights conveyed to the public, or for which a covenant is executed insuring that only open space or passive park uses shall be permitted;
- E. Water conservation areas, potable water well fields, retention/ detention ponds and other stormwater control structures, and public improvements that may be approved by the affected Public Works Official as long as the Conservation Area is not detrimentally impacted; and
- F. Single-family dwellings and customary accessory buildings.
- G. Restorative Agriculture practices such as permaculture, areas with perennial crops, orchards, native plants and pollinator gardens.

...

Urban Agriculture – Agricultural activities that are not otherwise permitted and regulated by KRS. This may include any size tract of land, in any form district.

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SECTION II: Chapter 4, Part 3 of the LDC, Section 4.3.17 Community Gardens and 4.3.18 Market Gardens, are deleted and replaced with the following:

4.3.17 Urban Agriculture

Urban Agriculture may be permitted as a use with special standards within all zoning districts in conformance with the following special standards.

A. No activities shall take place within a required stream buffer of a perennial stream or wetland as specified in Chapter 4, Part 8.

B. Lighting for security purposes may be provided in accordance with the standards contained in this Code.

C. Composting shall be limited to plant materials generated on the site as well as materials such as plant-based food waste, wood chips, pre-composted materials or soil brought onto the site to enhance these plant materials. Compost may only be generated for use on site. Compost piles shall be set back in accordance with the form district regulations for structures and shall be surrounded with a fence or other appropriate enclosure to prevent migration of compost materials due to wind, slope or water-based erosion.

D. Water for purposes of maintaining the garden and for dust suppression shall be available on the site, either in the form of a water collection system or an on-site or off- site connection to the municipal water service.

E. There shall be no more than one non-illuminated freestanding sign not to exceed 12 square feet in area and not to exceed 6 feet in height. The sign may be up to 24 square feet in area and 8 feet in height if setback beyond the minimum front yard setback.

F. Greenhouses, hoopouses, cold frames, chicken coops, garden sheds, washing/packing structures, rainwater storage systems, aquaculture areas, seasonal farm stands or similar structures shall be permitted. Structures greater than 200 SF must be setback at least 5' from any adjacent residentially zoned or used property, but shall otherwise be exempt from building setbacks except as necessary to meet sight triangle requirements as determined by Public Works.

G. Agriculture involving animals shall be permitted only in conformance with applicable state law and local ordinances including but not limited to those related to the keeping of animals and noise. Slaughtering and processing of animals is permitted for personal use only subject to applicable local, state and federal law. Sale of live animals is permitted subject to local, state and federal law.

H. Sites shall be operated so as not to create a nuisance condition for adjacent properties due to vibration or odor. Dust and noise shall be managed consistent with state law and local ordinance, and visible fugitive dust crossing property lines shall be corrected by sprinkling with water. The premises shall be kept free of debris at all times.

I. Selling agricultural goods produced on the site is permitted as an accessory use. Sales may only take place between 7 AM and 10 PM.

4.3.18 Farmers Markets, Fruit and Vegetable Stands, and Similar Uses

Farmers Markets, fruit and vegetable stands, and similar uses may be permitted as a use with special standards within all zoning districts in conformance with the following special standards.

A. No activities shall take place within a required stream buffer of a perennial stream or wetland as specified in Chapter 4, Part 8.

B. Lighting for security purposes may be provided in accordance with the standards contained in this Code.

C. Composting shall be limited to plant materials generated on the site as well as materials such as plant-based food waste, wood chips, pre-composted materials or soil brought onto the site to enhance these plant materials. Compost may only be generated for use on site. Compost piles shall be set back in accordance with the form district regulations for structures and shall be surrounded with a fence or other appropriate enclosure to prevent migration of compost materials due to wind, slope or water-based erosion.

D. Water for purposes of maintaining the garden and for dust suppression shall be available on the site, either in the form of a water collection system or an on-site or off- site connection to the municipal water service.

E. There shall be no more than one non-illuminated freestanding sign not to exceed 12 square feet in area and not to exceed 6 feet in height, or up to the standards for commercial uses in the applicable form district, whichever is greater.

F. Greenhouses, hoop houses, cold frames, chicken coops, garden sheds, washing/packing structures, rainwater storage systems, aquaculture areas, seasonal farm stands or similar structures shall be permitted. Structures greater than 200 SF must be setback at least 5' from any adjacent residentially zoned or used property, but shall otherwise be exempt from building setbacks except as necessary to meet sight triangle requirements as determined by Public Works.

G. Agriculture involving animals shall be permitted only in conformance with applicable state law and local ordinances including but not limited to those related to the keeping of animals and noise. Slaughtering and processing of animals is permitted for personal use only subject to applicable local, state and federal law. Sale of live animals is permitted subject to local, state and federal law.

H. Sites shall be operated so as not to create a nuisance condition for adjacent properties due to vibration or odor. Dust and noise shall be managed consistent with state law and local ordinance, and visible fugitive dust crossing property lines shall be corrected by sprinkling with water. The premises shall be kept free of debris at all times.

I. Selling agricultural goods produced on or off the site is permitted. Sales may only take place between 7 AM and 10 PM.

J. No outdoor sales, storage or display areas shall be located in the sight distance triangle as defined in Chapter 5 Part 1 of the Land Development Code or located in any manner that would restrict or limit adequate sight distances for interior vehicular traffic movement as determined by the Works Department.

K. All parking areas shall be a hard and durable surface. Any new permanent parking areas shall be screened and buffered per Chapter 10, Part 2.

L. Applications for farmers markets, fruit and vegetable stands and similar uses must be submitted with the Planning Director or Designee to document compliance with the above-listed standards. Notice of the proposed farmers market, fruit and vegetable stand or similar use shall be provided to 1st tier property owners and persons and groups that have registered with Planning and Design Services to receive notices of development actions. The notice shall be sent by first class mail not less than fourteen (14) calendar days prior to the date of final action by the Planning Director or designee. The operator(s) and property owner should consider any comments and feedback received and make any reasonable and permitted change to the operations and/or the site.

SECTION III: Chapter 4, Part 4 of the LDC, Section 4.4.3.A.4.e, is amended as follows:

A. Fences and Walls

...

4. No person shall install, construct, maintain, or permit the installation, construction or maintenance of barbed wire fence or fence including barbed wire or razor wire components, partially or wholly upon property owned, occupied or controlled by such person, firm, corporation or other legal entity except in accordance with the following standards.

...

e. Agricultural uses regulated and permitted by KRS are exempt from items a through d above.

SECTION IV: This resolution shall take effect upon its passage and approval.

Chair