

**Project: Urban Agriculture Code Change
Proposed Regulatory Changes
Updated February 12, 2013**

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Proposed Land Use Code Changes:

Urban Agriculture Code Changes

Section 3.8.31 Urban Agriculture

Applicability: These standards apply to all urban agriculture land uses, except those urban agriculture land uses that are approved as a part of a site-specific development plan.

Standards:

- (1) *License required.* An urban garden shall be permitted only after the owner or applicant for which the garden is proposed has obtained a urban garden license from the City. The fee for such a license shall be the fee established in the Development Review Fee Schedule. The fee for such a license shall be the fee established in the Development Review Fee Schedule, and unless abandoned or surrendered. If active operations have not been carried on for a period of twenty-four (24) consecutive months, the license shall be deemed to be abandoned regardless of intent to resume active operations. The Director may revoke any urban garden license issued by the City if the holder of such license is in violation of any of the provisions contained in Subsection (2) below, provided that the holder of the license shall be entitled to the administrative review of any such revocation under the provisions contained in Chapter 2, Article VI of the City Code.
- (2) *General Standards.* Urban agriculture shall be allowed as a permitted use in all zone districts, provided that all of the following conditions are met:
 - (a) *Mechanized equipment.* All mechanized equipment used on the urban garden must be in compliance with Chapter 20, Article II of the City Code regarding noise levels.
 - (b) *Parking.* An urban garden shall provide additional off-street parking area adequate to accommodate all parking demands created by the urban garden.
 - (c) *Chemicals and Fertilizers.* Synthetic pesticides or herbicides may be applied only in accordance with state and federal regulations. All chemicals shall be stored in an enclosed, locked structure when the site is unattended. No synthetic pesticides or herbicides are allowed to be applied within a Natural Habitat Buffer Zone.

- (d) Trash/compost. Trash and compost receptacles shall be screened from adjacent properties by utilizing landscaping, fencing or storage within structures and all trash shall be removed from the site weekly. Compost piles and containers shall be set back at least ten feet from any property line when urban agriculture abuts a residential land use.
 - (e) Maintenance. No person shall fail to maintain the urban agriculture land use in an orderly manner, including necessary watering, pruning, pest control and removal of dead or diseased plant materials and otherwise maintain the garden in compliance with the provisions of Chapter 20 of the Municipal Code.
 - (f) Water conservation and conveyance. To the extent reasonable feasible, the use of use sprinkler irrigation between the hours of 10:00 a.m. and 6:00 p.m. shall be minimized. Drip irrigation or watering by hand may be done at any time. The site must be designed and maintained so that water is conveyed off-site into a city right-of-way or drainage system without adversely affecting downstream property.
 - (g) Identification/contact information. A clearly visible sign shall be posted near the public right of way that includes the name, contact information of the garden manager or coordinator, and if synthetic pesticide or herbicide is used, the name of the chemical and the frequency of application. The contact information for the garden manager or coordinator shall be kept on file with the City. All urban agriculture signs must comport with Section 3.8.7 of this Land Use Code.
 - (h) If produce from an urban agriculture land use is proposed to be distributed throughout the City, the applicant must provide a list of proposed Food Membership Distribution Sites in the application.
 - (i) Floodplains. If urban agriculture is proposed within a floodplain, then a Floodplain Use Permit is required in accordance with Chapter 14 of the Municipal Code.
 - (j) Additional Impact Mitigation. Measures such as landscaping, fencing, or setbacks to mitigate potential visual, noise, or odor impacts on adjoining property may be required by the Director. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line. Where an urban agriculture land use abuts a residential use, there shall be a minimum five (5) foot setback between the operation and the property line.
- (3) *Notice.* At the time of an initial application, mailed notice, posted notice, and a neighborhood meeting are required if an urban agriculture land use is proposed within a residential zone (N-C-L, N-C-M, U-E, R-F, R-L, L-M-N, M-M-N, H-M-N, N-C-B, R-C and P-O-L) or if the urban garden exceeds 0.5 acres in size. Such notice and neighborhood meeting shall be conducted in accordance with Sections 2.2.2 and 2.2.6 of this Land Use Code. Additional notice and a neighborhood meeting may be required by the Director at the time of license reissuance.

Article IV Zone Districts

Staff is proposing to allow urban agriculture in all zone districts, subject to the standards in Section 3.8.31 above. Agricultural activities will be removed from the two zone districts in which it is currently allowed; instead, all urban agriculture activities (see definition below) will be regulated through the standards above.

Farmers Markets:

Staff is proposing that farmers markets be allowed, in addition to the existing zone districts, in the LMN (Low Density Mixed-Use Neighborhood) and MMN (Medium Density Mixed-Use Neighborhood) zone districts. However, staff is recommending that these uses be allowed only if located within a neighborhood center, park, or central feature or gathering place to ensure that the traffic and other nuisance issues, as identified through the survey, are minimized. Staff is also proposing that farmers markets be allowed in the HMN (High Density Mixed-Use Neighborhood) district, which is limited in its geographic extent and would not likely pose the same concerns as in the other zone districts.

Article V Definitions¹

~~*Agricultural activity* shall mean farming, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); the grazing or raising of livestock (except in feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise.~~

Development shall mean the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or, except as is authorized in Section 1.4.7, the dividing of land into two (2) or more parcels.

(1) Development shall also include:

- (a) any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;
- (b) any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
- (c) any change in use of land or a structure;
- (d) any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
- (e) the commencement of drilling (except to obtain soil samples), mining, stockpiling of fill materials, filling or excavation on a parcel of land;
- (f) the demolition of a structure;
- (g) the clearing of land as an adjunct of construction;
- (h) the deposit of refuse, solid or liquid waste, or fill on a parcel of land.
- (i) the installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property.
- (j) the construction of a roadway through or adjoining an area that qualifies for protection by the establishment of limits of development.

(2) *Development* shall *not* include:

- (a) work by the City, or by the Downtown Development Authority (if within the jurisdictional boundary of the Downtown Development Authority and if such work has been agreed upon in writing by the City and the Authority), or work by a highway or

¹ Note that any font with a line through it (strikeout) is proposed to be deleted; any items highlighted in yellow are proposed to be added.

road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way, or on land adjacent to the right-of-way if such work is incidental to a project within the right-of-way;

(b) work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on public easements or rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks or the like; provided, however, that this exemption shall not include work by a public utility in constructing or enlarging mass transit or railroad depots or terminals or any similar traffic-generating activity;

(c) the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;

(d) the use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products; for raising or feeding livestock (other than in feedlots); or for other agricultural uses or purposes, provided none of the above creates a nuisance and except that an urban agriculture license is required in accordance with Section 3.8.31 of this Land Use Code;

(e) a change in the ownership or form of ownership of any parcel or structure;

(f) the creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

(3) When appropriate in context, development shall also mean the act of developing or the result of development.

Farm animals shall mean animals commonly raised or kept in an agricultural, rather than an urban, environment including, but not limited to, chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules; provided, however, that chicken hens, numbering six (6) or fewer, and ducks based on the lot size thresholds outlined in Chapter Six, Section 4-117 of the Municipal Code, and two (2) pygmy or dwarf goats shall not be considered to be farm animals.

Food membership distribution site shall mean urban agriculture land uses where people purchase a share of the produce. The farmer or gardener delivers the produce to one location and individuals pick up their shares from the distribution site.

Urban agriculture shall mean a garden or farm where any kind of lawful plant is grown. The food can be used for personal consumption, sale, and/or donation, except that the term urban agriculture does not include the cultivation, storage, and sale of crops, vegetables, plants and flowers produced on the premises in accordance with Section 3.8.1 of this Land Use Code. Urban agriculture is a miscellaneous use that does not include plant nursery and greenhouse as a principal use and that is subject to licensing in accordance with Section 3.8.31 of this Land Use Code.

Proposed Municipal Code Changes:

Regarding chickens and ducks, staff initially proposed that the number of chickens allowed be scaled to the size of the lots and that ducks be allowed within that scaled number. During the open house, attendees requested that staff scale the number of chickens and ducks similar to what Denver has proposed. Based on further discussions with Animal Control, staff is now proposing the following scaling structure for chickens and ducks based on lot size:

- Less than ½ acre – up to eight chickens and/or ducks, combined (this would allow everyone in the City to have up to eight chickens and/or ducks, similar to the City of Denver);
- Between ½ acre and 1 acre – up to twelve chickens and/or ducks; and
- More than 1 acre – 6 chickens and/or ducks per each additional ½ acre above a one-acre lot size, however, when more than twelve chickens and/or ducks are requested, then all abutting property owners must be notified prior to the issuance of a license to ensure compatibility with the neighbors.

Regarding space requirements for chickens and ducks, numerous resources have documented that ducks need 4 sq. ft. per animal to thrive. In addition, based on staff discussions from an enforcement perspective, it was determined that increasing the size of poultry coops required for chickens and ducks would be more easily managed if 4 sq. ft. per animal was provided instead of 2 sq. ft. per chicken and 4 sq. ft. per duck. In addition, as humane conditions were one of the concerns of the survey respondents, staff is recommending that the regulations regarding the keeping of chicken hens and ducks stipulate 4 sq. ft. of spacing per animal.

In regards to goats, staff is proposing that two pygmy or dwarf (African Pygmy and Nigerian Dwarf breeds) goats be allowed per lot in the City. As goats are herding animals, a minimum of two goats is required to prevent nuisances. Staff is also proposing, based on the feedback from Steamboat Springs staff and from additional research, that a minimum of 150 sq. ft. be provided per goat allowed, for a total of 300 sq. ft. Additional standards to ensure compatibility, e.g., a 15' setback from any property line and having adequate fencing, and humane conditions are outlined in the draft Municipal Code Ordinance.

With regard to bees, numerous citizens requested that the requirement that hives be only Langstroth-style hives be removed, since it is an antiquated standard. Numerous other communities, including Larimer County, regulate beekeeping based on removable frame hives. Staff is recommending that the hive requirement be updated to reflect more recent best practices and require removable frame hives instead of Langstroth-style hives. In addition, citizens have requested additional time to dispose of or combine nucleus colonies. Instead of 30 days to dispose of or combine the colony, staff is recommending allowing residents up to 60 days.