



MORGANTOWN PLANNING COMMISSION

April 9, 2015
6:30 PM
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Wyant, 3rd Ward

Bill Petros, 4th Ward

Mike Shuman, 5th Ward

Ken Martis, Admin.

Bill Kawecky, City Council

STAFF REPORT

CASE NO: TX15-02 / Administrative / Urban Agriculture

REQUEST:

Administratively requested Zoning Text Amendments to Article 1329.02 “Definitions”, Article 1331.05 “Permitted Land Uses”, and Article 1331.06 “Supplemental Regulations Pertaining to Permitted Land Uses Table” as they relate to encouraging urban agriculture.

BACKGROUND and ANALYSIS:

The urban agriculture movement has gained momentum across the country growing out from small neighborhoods on to regional organized operations in large metropolitan cities like Detroit, Michigan. On a much larger and multifaceted scale, community leaders and residents in the greater Detroit area have committed to restoring, renovating, and greening their way out of significant economic crisis and overcoming an estimated 30,000 acres of distressed land.¹

The movement has also matured from local “Grow Local / Eat Local” and “Locavore” campaigns to a real concern over vulnerabilities within our country’s food system. Emerging interest and attention appears to be focused on reforming our centralized, industrial system of food production to a more bio-regional approach.

However, according to the American Planning Association, there has been a limited number of municipalities across the country that have moved urban agriculture onto their respective planning agendas and a very small percentage of cities and counties including food elements in their comprehensive plans.²

As in all things, transformative movements start small. Through the Morgantown Municipal Green Team, a group of interested volunteers have championed the identification of regulatory barriers in City Code and the City’s Planning and Zoning Code that either prohibit or overly restrict urban agriculture uses and opportunities. At the risk of inadvertently omitting someone, the following volunteers have contributed to this endeavor:

- William Beasley
- John Bird
- Pamela Cubberly
- Ruth Heavener
- Matthew Held
- Katlynn Hildreth
- James Kotcon
- Lisa Lagana
- Jenny Selin
- H.R. Scott

The City of Charleston, West Virginia recently undertook a similar exercise, which, according to Charleston City Neighborhood Planner Geoffrey Plagemann, was successful in changing Charleston’s land-use policies and developing partnerships within the community to promote urban agriculture.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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The following impacts of urban agriculture have been identified:³

Social Impacts

- Creating Safe Places/ Reducing Blight
- Access to Land
- Community Development/Building Social Capital
- Education and Youth Development Opportunities
- Cross-Generational and Cultural Integration

Health Impacts

- Food Access and Security
- Increased Fruit and Vegetable Consumption
- Food and Health Literacy
- General Well-Being (Mental Health and Physical Activity)

Economic Impacts

- Job Creation, Training, and Business Incubation
- Market Expansion for Farmers
- Economic Savings on Food
- Savings for Municipal Agencies
- Increased Home Values

Addendum A of this report represents the collective effort of these local volunteers and City Administration. The addendum is marked "DRAFT" so that revisions can be made, if necessary, as the Planning Commission hears from the interests and expertise represented in the volunteers who have moved this colloquy forward.

The Planning Commission's workshop to discuss this issue that was scheduled for 01 APR 2015 was canceled due to limited availability of Commissioners. Staff hopes that an open and effective discussion develops during the Commission's 09 APR 2015 hearing in lieu of a separate workshop as originally desired and directed by the Commission.

STAFF RECOMMENDATION:

Assuming no further revisions are developed during the hearing, Staff respectfully advises the Planning Commission to forward a favorable recommendation to City Council to amend the Planning and Zoning Code as presented in Addendum A of this report.

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¹ <http://www.msnbc.com/morning-joe/urban-farming-takes-hold-blighted-motor>

² Hodgson, K. (2012). Planning for Food Access and Community-Based Food Systems: A National Scan and Evaluation of Local Comprehensive and Sustainability Plans. American Planning Association Report, 1–175.

³ <http://asi.ucdavis.edu/resources/publications/UA%20Lit%20Review-%20Golden%20Reduced%2011-15.pdf>

URBAN AGRICULTURE ORDINANCES
WHEREAS CLAUSES

Purpose and Background of the Legislation

WHEREAS, the City of Morgantown is committed to increasing access to fresh, locally grown, wholesome foods for all residents; and,

WHEREAS, to ensure the health and safety of all its residents, the City seeks to create and encourage programs and policies that sustain greater local food security and improve access to healthy food in underserved neighborhoods; and,

WHEREAS, urban agriculture contributes to the local economy by generating living-wage jobs, sales of food at farmers markets, grocery stores, and on-site farm stands and offering the opportunity for resident entrepreneurship in creating food-related small-business; and,

WHEREAS, urban agriculture provides a tool for improving the City's quality-of-life by reducing the negative impact of vacant lots, buildings and unused rooftops and helps to support neighborhood stabilization and recovery; and,

WHEREAS, urban agriculture at a residential scale provides a valuable supplement to a family food budget; and,

WHEREAS, urban agriculture at a community scale provides an invaluable opportunity for students to learn about nutrition and where food comes from; and,

WHEREAS, new technologies for growing food, including indoor growing technologies such as aquaponic and hydroponics, are the basis for new agricultural opportunities, partnerships, and research.

URBAN AGRICULTURE ORDINANCE 1

Planning and Zoning Code

Article 1329.02 DEFINITION OF TERMS.

For this ordinance, the following words and phrases shall have the meaning respectively prescribed to them by this section. If not defined herein, or within other sections of this ordinance, terms used in this ordinance shall have the meanings provided in any standard dictionary or American Planning Association publication as determined by the Planning Director.

~~AGRICULTURAL ACTIVITY — Farming, including plowing, tillage, cropping, installation of best management practices, seeding, animal and poultry husbandry, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting).~~

~~AGRICULTURE, COMMERCIAL – The farming, cultivating, harvesting, husbandry, aquaponic and hydroponic farming, and/or production principally for the sale to others of plants, animals, or their products, including but not limited to: forage and sod crops, grain and feed crops, dairy animals, and dairy products; livestock, including dairy and beef cattle, poultry, sheep, swine, horses, ponies, mules, and goats; including the breeding and grazing of all such animals; bees and apiary products; fruits of all kinds including grapes, nuts, and berries; vegetables; nursery, floral ornamental and greenhouse products, and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing, and trapping. COMMERCIAL AGRICULTURE shall not include poultry or swine production or animal feedlot operations.~~

~~AGRICULTURE, HOME – The gardening and/or production, principally for use or consumption of the property owner or resident, of plants, certain animals, or their products and for sale to others where such sales are incidental. Such gardening and/or production includes, but is not limited to, fruits of all kinds including grapes, nuts, and berries; vegetables; floral ornamental and non-commercial greenhouse products; bees and apiary products; and, for household use of the property owner or resident only, chickens and rabbits. These uses do not require a permit or license except where the City Code generally requires a building permit or other permit; provided, that permits and/or approvals must be issued, if applicable, for an ACCESSORY STRUCTURE and/or HOME OCCUPATION.~~

~~AQUAPONICS – The cultivation of fish and plants together in a constructed, re-circulating ecosystem utilizing natural bacterial cycles to convert fish waste to plant nutrients and considered a COMMERCIAL AGRICULTURE use.~~

~~APIARY – The keeping or propagation of honeybee colonies for collection of honey or other bee products.~~

~~COMMUNITY GARDENS – A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family. A neighborhood-based development with the primary purpose of providing space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use. The responsibility of managing maintenance and operations of COMMUNITY GARDEN sites shall be that of the land owner or designated public or civic entity, nonprofit organization or other community-based organization. Processing and storage of plants or plant products are prohibited on site. Gardening tools and supplies may be stored within an accessory structure that is in compliance with Article 1331.08 of this ordinance.~~

~~HOME GARDENING~~ — ~~The growing of vegetables, produce or other plants on individual private lots, by the owner or resident of the lot, for personal enjoyment or consumption, or for sale at off-premise locations such as farmers' markets, produce stands, etc. Such activities may occur in any zoning district without permits. This activity is distinguished from AGRICULTURAL ACTIVITY in that the latter is primarily commercial in intent and nature.~~

HONEYBEE COLONY – A natural group of honeybees having one (1) hive and its contents, including bees, a queen or queens, comb, and appliances.

HYDROPONICS – The cultivation of plants in nutrient solution rather than soil.

DRAFT

URBAN AGRICULTURE ORDINANCE 2

Planning and Zoning Code

Article 1331.05 PERMITTED LAND USES.

The table and supplemental regulations of the Permitted Land Use Table are incorporated in this section and are adopted as the basic land use regulations for the City. The table and supplemental regulations identify the types of land uses that are permitted within the City and any applicable conditions and limitations.

To determine the zone(s) in which a particular use is allowed, find the use in the list of uses along the left-hand side of the Permitted Land Use Table and read across the use row to find the zone column designations.

Legend:

P.....Use is permitted by right in a particular zone; a permit is required.

A.....Use is permitted as an accessory use in a particular zone; a permit is required.

CUse is allowed only as a conditional use in a particular zone subject to the limitations and conditions specified; a permit is required.

The uses listed in the Permitted Land Use Table are defined in the Definitions section (Article 1329).

A description of the supplemental regulations immediately follows the Permitted Land Use Table.

Table 1331.05.01 Permitted Land Uses

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Agricultural Activity	P										P	
Community Gardens	P	P	P	P	C	P	C	C	C	C	C	28
Agriculture, Commercial	C										C	33
Agriculture, Home	P	P	P	P	P	P	P	P	P	P	P	34
Greenhouse, Noncommercial	A	A	A	A	A	A	A	A	A	A	PA	

Article 1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE.

(33) The following regulations are specific to COMMERCIAL AGRICULTURE development:

- (a) The Board of Zoning Appeals must determine COMMERCIAL AGRICULTURE use to be compatible with the area and may limit its hours of operation.
- (b) The use shall not create unacceptable congestion or traffic hazards on the neighboring streets.
- (c) The use shall not create a nuisance due to noise, smoke, electrical interference, dust, or obnoxious odor.

- (d) Land devoted to the use shall be well-maintained, regularly cleared of debris and free of excessively tall weeds and grass as provided in the International Property Maintenance Code (IPMC).
 - (e) Principal and accessory structures for the use shall be subject to applicable building and fire code requirements and any applicable rules and regulations and shall be well maintained.
- (34) The following regulations are specific to HOME AGRICULTURE development:
- (a) The use shall not create a nuisance due to noise, dust, or obnoxious odor.
 - (b) Land devoted to the use shall be well-maintained, regularly cleared of debris and free of excessively tall weeds and grass as provided in the International Property Maintenance Code (IPMC).
 - (c) Noncommercial greenhouses, pens, coops, honeybee structure or similar structures are subject to applicable building code requirements and Article 1331.08 of this ordinance and shall be well maintained.
 - (d) Hoop houses, cold frames, or other similar structures shall be allowed as accessory structures subject to applicable building code requirements and Article 1331.08 of this ordinance, shall be well maintained, and the cover shall be removed and stored when plants are not being cultivated.
 - (e) Rooftop HOME AGRICULTURE uses are subject to all applicable building and fire codes. Building permits and other applicable permits must be obtained before beginning any use, where required by City Code.
 - (f) Chickens. A maximum of six (6) hens may be kept on parcels smaller than one (1) acre. Roosters are prohibited. Ownership, care and control of hens shall be the responsibility of a resident of the dwelling on the parcel. State health regulations may further limit the number and/or manner of keeping hens.
 - (g) Honeybees and Apiary. A maximum of three (3) colonies may be kept on parcels smaller than one (1) acre; except, when more than three (3) colonies are being split for the purpose of being distributed to other permitted locations and not for more than six (6) consecutive weeks. Ownership, care and control of the honeybees shall be the responsibility of a resident of the dwelling on the parcel. State health regulations may further limit the number and/or manner of keeping bees.
 - (h) Rabbits. A maximum of three (3) rabbits, ten (10) weeks of age and older, may be kept on parcels smaller than one (1) acre; provided, not more than one (1) rabbit, ten (10) weeks of age and older, is male. Ownership, care and control of the rabbits shall be the responsibility of a resident of the dwelling on the parcel. State health regulations may further limit the number and/or manner of keeping rabbits.
 - (i) Hoofed Animals. Hoofed animals, including but not limited to cattle, horses, goats, sheep, pigs, deer, and donkeys, are prohibited with the exception of miniature pet pigs, which shall be considered a "small animal" relating to COMMERCIAL KENNEL uses.
 - (j) HOME OCCUPATION approval is required for the incidental sale of HOME AGRICULTURE production.

URBAN AGRICULTURE ORDINANCE 3

City Code

Article 505.02 KEEPING ANIMALS: PENS AND STABLES.

- (a) ~~Rabbits. No person shall confine, keep or house live rabbits, exceeding two in number, within the City, in any pen, coop or structure located within 120 feet of the residence or dwelling of any other person without the consent of such person in writing.~~
- ~~(b)~~ (a) Permitting Pens to Become Offensive. No person shall permit any yard, kennel, pen, coop, honeybee structure or other similar structures wherein live animals may be confined, kept or housed to become or be offensive, noxious or deleterious to health.
- (c) ~~Chickens. No person shall confine, keep or house chickens or other domestic fowl, exceeding two in number, in any pen, coop or structure located within eighty feet of the residence or dwelling of any other person without the consent in writing of such other person; provided, that this section shall not be construed to prohibit the proprietor of any market, hotel, restaurant, boarding house or residence from keeping or confining for sale or slaughter chickens or other fowls in a pen or coop within such prescribed limit for a period not exceeding ten days; provided that such pen or coop is thoroughly cleaned at least once during each forty eight hour period and rendered free from offensive, noxious or deleterious odors.~~
- (d) ~~Permitting Coops to Become Offensive. No person shall permit any pen, coop or other structure wherein chickens or other fowl may be confined, kept or housed, to become offensive, noxious or deleterious to health.~~
- (e) (b) Stables. Whoever shall keep a stable within the City shall cause all the stable manure produced thereat to be kept within such stable until hauled away, and he shall in no case allow such manure to accumulate in such quantities or condition as to become offensive, or deleterious to health; and all manure so kept within the stable shall be protected from flies by means of screens or other fly-excluding devices. The floor of every stable shall be kept free from standing or seeping stable liquids, excrements and other offensive matters.