

ORDINANCE NO. 077, SERIES 2021

AN ORDINANCE AMENDING CHAPTERS 1 AND 4 OF THE METRO LAND DEVELOPMENT CODE RELATING TO URBAN AGRICULTURE AS SUGGESTED IN PLAN 2040 COMPREHENSIVE PLAN (“PLAN 2040”).

SPONSORED BY: COUNCIL MEMBER MADONNA FLOOD

WHEREAS, Plan 2040 was adopted by the Legislative Council of the Louisville/Jefferson County Metro Government (the “Council”) effective January 1, 2019; and

WHEREAS, Plan 2040 includes Community Form Policy 1.26 that recommends a review of the Land Development Code (“LDC”) to ensure flexibility for use of urban agriculture to promote access to fresh food especially in areas known as food deserts; and

WHEREAS, Plan 2040 includes Community Facilities Policy 2.14 that encourages the use of vacant lots as community gardens; and

WHEREAS, Plan 2040 includes Livability Goal 2.7 that supports innovative efforts to provide fresh food for food deserts such as urban agriculture, community gardens and farmers’ markets; and

WHEREAS, the Council passed Resolution 82, Series 2020 directing the Louisville Metro Planning Commission (the “Planning Commission”) and its staff to undertake a review of the LDC and develop recommendations thereto to the Council to reform the LDC for more equitable and inclusive development; and

WHEREAS, the Planning Commission adopted a resolution on August 25, 2020 directing Planning and Design Services staff to 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, Planning and Design Services staff reviewed the LDC and developed text amendments to Chapter 1, Part 2, Chapter 4, Part 3, and Chapter 4, Part 4 of the LDC regarding urban agriculture and the current barriers that exist within the LDC; and

WHEREAS, the proposed text amendments went to the Planning Committee of the Planning Commission for public meetings on February 8, 2021 and March 22, 2021; and

WHEREAS, the Planning Commission on April 20, 2021 recommended that the Council adopt the proposed text amendments to the LDC as set forth in Planning Commission Resolution No. 20-LDC-0003; and

WHEREAS, Council approves and accepts the recommendation of the Planning Commission as set forth in Planning Commission Resolution No. 20-LDC-0003.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

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; and

G. Restorative Agriculture practices such as permaculture, areas with perennial crops, orchards, native plants and pollinator gardens.

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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, hoophouses, 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

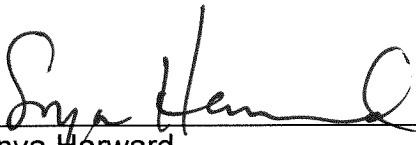
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4. No person shall install, construct, maintain, or permit the installation, construction or maintenance of barbed wire fence or fence including barbed wire or razor wire components, partially or wholly upon property owned, occupied or controlled by 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.

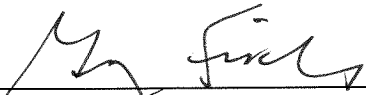
SECTION IV: This Ordinance shall take effect upon its passage and approval.



Sonya Harward
Metro Council Clerk



David James
President of the Council



Greg Fischer
Mayor

6/14/2021

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: M. Holliday Hopkins

O-200-21 – LDC Amendments for Urban Agriculture (lf)

**LOUISVILLE METRO COUNCIL
READ AND PASSED
June 10, 2021**